

**Reprint  
as at 25 May 2021**



## **New Zealand Public Health and Disability Act 2000**

Public Act      2000 No 91  
Date of assent      14 December 2000  
Commencement      see section 2

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Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Health.**

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## **1 Title**

This Act is the New Zealand Public Health and Disability Act 2000.

## **Part 1**

### **Preliminary provisions**

## **2 Commencement**

- (1) Sections 8, 106, and 114 come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on 1 January 2001.

## **3 Purpose**

- (1) The purpose of this Act is to provide for the public funding and provision of personal health services, public health services, and disability support services, and to establish new publicly-owned health and disability organisations, in order to pursue the following objectives:
  - (a) to achieve for New Zealanders—
    - (i) the improvement, promotion, and protection of their health:
    - (ii) the promotion of the inclusion and participation in society and independence of people with disabilities:
    - (iii) the best care or support for those in need of services:
  - (b) to reduce health disparities by improving the health outcomes of Maori and other population groups:
  - (c) to provide a community voice in matters relating to personal health services, public health services, and disability support services—
    - (i) by providing for elected board members of DHBs:
    - (ii) by providing for board meetings and certain committee meetings to be open to the public:
    - (iii) by providing for consultation on strategic planning:
  - (d) to facilitate access to, and the dissemination of information to deliver, appropriate, effective, and timely health services, public health services and programmes, both for the protection and the promotion of public health, and disability support services.

- (2) The objectives stated in subsection (1) are to be pursued to the extent that they are reasonably achievable within the funding provided.
- (3) To avoid any doubt, nothing in this Act—
  - (a) entitles a person to preferential access to services on the basis of race; or
  - (b) limits section 73 of the Human Rights Act 1993 (which relates to measures to ensure equality).
- (4) In giving effect to the purposes set out in subsection (1), the Crown and DHBs must endeavour to promote the integration of all health services, especially primary and secondary services.
- (5) In giving effect to the purposes set out in subsection (1), the Crown and DHBs must endeavour to provide for health services to be organised at either a local, regional, or national level depending on the optimum arrangement for the most effective delivery of properly co-ordinated health services.

#### 4 Treaty of Waitangi

In order to recognise and respect the principles of the Treaty of Waitangi, and with a view to improving health outcomes for Maori, Part 3 provides for mechanisms to enable Maori to contribute to decision-making on, and to participate in the delivery of, health and disability services.

#### 5 Outline

- (1) In general terms, this Act relates to, and reorganises, the public health and disability sector.
- (2) Ministerial responsibilities (Part 2) include—
  - (a) determining health and disability strategies (section 8):
  - (b) negotiating and entering into agreements under which the Crown provides a person money in return for the person providing or arranging for the provision of health services or disability support services (section 10):
  - (c) establishing and appointing committees (section 11), including—
    - (i) a national advisory committee on health and disability (section 13):
    - (ii) a health workforce advisory committee (section 15):
    - (iii) a national advisory committee on health and disability support services ethics (section 16):
    - (iv) mortality review committees (section 18 and Schedule 5).
- (3) District Health Boards (**DHBs**) are established (Part 3 and Schedules 1 to 3), and take over functions like those of Hospital and Health Services (**HHSs**), which are dissolved (Part 7). DHBs—

- (a) have boards that include members elected by the community and representation of Maori:
  - (b) will provide, or fund the provision of, health services and disability support services:
  - (c) have the objective of reducing health disparities by improving health outcomes for Maori and other New Zealanders:
  - (d) are statutory entities rather than companies:
  - (e) are accountable in a number of ways (under the Crown Entities Act 2004 and sections 38 to 42), for example, through plans prepared under section 38, and statements of intent.
- (4) The board of each DHB must have 3 permanent advisory committees (the community and public health advisory committee, disability support advisory committee, and hospital advisory committee (sections 34 to 36 and Schedule 4)), but may also establish other committees (Schedule 3—clause 38(1)).
  - (5) A statutory entity called the Pharmaceutical Management Agency (**Pharmac**) is established (Part 4—sections 46 to 53, and sections 61 to 69, and Schedule 6), and takes over functions relating to the pharmaceutical schedule from the company called Pharmaceutical Management Agency Limited, which is dissolved (Part 7).
  - (6) A statutory entity called the New Zealand Blood and Organ Service (**NZBOS**) is established (sections 54 to 56 and 61 to 69 of Part 4 and Schedule 6). NZBOS's functions include managing the donation, collection, processing, and supply of blood and controlled human substances, providing oversight and clinical governance of the organ donation system, and providing support to the transplantation system.
  - (7) A Crown entity called the Health Promotion Agency (**HPA**) is established (Part 4—sections 57 to 59).
  - (7A) A statutory entity called the Health Quality and Safety Commission (**HQSC**) is established (Part 4—sections 59A to 59E, 60, 61, 66, 67, and 69 and Schedule 6), and has functions that relate to the improvement of the quality and safety of health and disability support services.
  - (8) Inquiry boards may be appointed by the Minister of Health to conduct an inquiry into, and report to the Minister on, matters like the funding or provision of health services or disability support services, or the management of any publicly-owned health and disability organisation (Part 5—sections 72 to 86).
  - (9) The Health Funding Authority (**HFA**) is dissolved, and its functions, employees, and assets and liabilities transferred to the Crown, acting through the Ministry of Health (Part 7). However, funding of the provision of health services or disability support services may be further devolved under this Act.
  - (10) Subsections (1) to (9) are only a guide to the general scheme and effect of this Act.

Section 5(3)(d): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(3)(e): amended, on 24 February 2011, by section 4(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2011 No 118).

Section 5(3)(e): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(5): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(6): replaced, on 30 November 2020, by section 14 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 5(7): replaced, on 1 July 2012, by section 4 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Section 5(7A): inserted, on 9 November 2010, by section 4(2) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

## 6 Interpretation

(1) In this Act, unless the context otherwise requires,—

**board**, in relation to a publicly-owned health and disability organisation, means the members of the board of the organisation

**board committee**, in relation to the board of a DHB, means the community and public health advisory committee, disability support advisory committee, or hospital advisory committee, and any other committee of the board appointed under clause 38(1) of Schedule 3

**board member**, in relation to a publicly-owned health and disability organisation, means a member of the board of that organisation

**community and public health advisory committee** means a committee established under section 34

**conflict of interest**, in relation to a person and a DHB, includes—

- (a) the person's interest in a transaction (within the meaning of subsection (2)) of the DHB; and
- (b) the person's interest that would, if the person were a member of the board of the DHB or a member of a committee of that board or a delegate of that board, be an interest in a transaction (within the meaning of subsection (2)) of the DHB; and
- (c) to avoid any doubt, the employment or engagement of the person, or of the person's spouse or partner, as an employee or contractor of the DHB

**Crown** means Her Majesty the Queen in right of New Zealand

**Crown entity subsidiary** has the meaning set out in the second column of section 7(1)(c) of the Crown Entities Act 2004

**Crown funding agreement** has the meaning given to it by section 10

**DHB** means an organisation established as a DHB by or under section 19

**Director-General** means the chief executive or acting chief executive under the Public Service Act 2020 of the Ministry of Health

**disability support advisory committee** means a committee established under section 35

**disability support services** includes goods, services, and facilities—

- (a) provided to people with disabilities for their care or support or to promote their inclusion and participation in society, and independence; or
- (b) provided for purposes related or incidental to the care or support of people with disabilities or to the promotion of the inclusion and participation in society, and independence of such people

**eligible people** means people who are eligible to receive services funded under this Act, as specified by the Minister in a direction issued under section 103 of the Crown Entities Act 2004

**good employer** has the same meaning as in section 118 of the Crown Entities Act 2004

**health practitioner**—

- (a) has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003; and
- (b) includes—
  - (i) a former health practitioner within the meaning of that section; and
  - (ii) a person who is receiving training or gaining experience under the supervision of a health practitioner

**health professional body** has the same meaning as that given to the term authority by section 5(1) of the Health Practitioners Competence Assurance Act 2003

**health services** means personal health services and public health services

**hospital advisory committee** means a committee established under section 36

**HPA** means the Health Promotion Agency established by section 57

**HQSC** means the Health Quality and Safety Commission established by section 59A(1)

**inquiry board** has the meaning specified in section 72(1)

**Maori**, in sections 29(4), 34, 35, and 36, and clause 38(2) of Schedule 3, means a person of the Maori race of New Zealand, and includes any descendant of such a person

**Minister** means the Minister of Health

**Ministry of Health** means the department of the public service referred to by that name

**monitor**, in relation to a Crown funding agreement and in relation to the functions specified in section 23(1)(i) and in section 25,—

- (a) means to analyse on the basis of information provided under any relevant agreement and any other relevant substantiated information; and
- (b) includes assessing the timeliness of provision of information required to be provided under any agreement

**New Zealand disability strategy** means a strategy referred to in section 8(2)

**New Zealand health strategy** means a strategy referred to in section 8(1)

**NZBOS** means the New Zealand Blood and Organ Service established by section 54

**partner**, in the phrase “spouse or partner” and in related contexts, means a civil union partner or de facto partner

**personal health** means the health of an individual

**personal health services** means goods, services, and facilities provided to an individual for the purpose of improving or protecting the health of that individual, whether or not they are also provided for another purpose; and includes goods, services, and facilities provided for related or incidental purposes

**Pharmac** means the Pharmaceutical Management Agency established by section 46

**pharmaceutical** means a medicine, therapeutic medical device, or related product or related thing

**pharmaceutical schedule** means the list of pharmaceuticals for the time being in force that states, in respect of each pharmaceutical, the subsidy that the Crown intends to provide for the supply of that pharmaceutical to a person who is eligible for the subsidy

**provider** means a person who provides, or arranges the provision of, services

**public health** means the health of all of—

- (a) the people of New Zealand; or
- (b) a community or section of such people

**public health services** means goods, services, and facilities provided for the purpose of improving, promoting, or protecting public health or preventing population-wide disease, disability, or injury; and includes—

- (a) regulatory functions relating to health or disability matters; and
- (b) health protection and health promotion services; and
- (c) goods, services, and facilities provided for related or incidental functions or purposes

**publicly available**, in relation to a document, means that the document is promptly provided on request by any person on payment of a charge, if any, that is reasonable

**publicly-owned health and disability organisation** means a DHB, Pharmac, NZBOS, HPA, and HQSC

**resident population**, in relation to a DHB, means the eligible people residing in the geographical area of the DHB (as specified in Schedule 1)

**service agreement** has the meaning given to it by section 25

**services** means health services and disability support services

**statement of intent** means a statement of intent prepared in accordance with the Crown Entities Act 2004 and section 42 or section 67

**transaction**, in relation to a DHB, means—

- (a) the exercise or performance of a function, duty, or power of the DHB; or
  - (b) an arrangement, agreement, or contract to which the DHB is a party; or
  - (c) a proposal that the DHB enter into an arrangement, agreement, or contract.
- (2) For the purposes of this Act, a person who is a member of a board of a DHB or a member of a committee of such board or a delegate of such board is **interested in a transaction** of a DHB if, and only if, the board member or member of the committee or the delegate—
- (a) is a party to, or will derive a financial benefit from, the transaction; or
  - (b) has a financial interest in another party to the transaction; or
  - (c) is a director, member, official, partner, or trustee of another party to, or person who will or may derive a financial benefit from, the transaction, not being a party that is—
    - (i) the Crown; or
    - (ii) a publicly-owned health and disability organisation; or
    - (iii) a body that is wholly owned by 1 or more publicly-owned health and disability organisations; or
  - (d) is the parent, child, spouse or partner of another party to, or person who will or may derive a financial benefit from, the transaction; or
  - (e) is otherwise directly or indirectly interested in the transaction.
- (3) A person is not interested in a transaction for the purposes of subsection (2)—
- (a) if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under this Act or another Act; or
  - (b) because he or she receives remuneration or other benefits authorised under this Act or another Act.

Section 6(1) **annual plan**: repealed, on 24 February 2011, by section 5(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 6(1) **board**: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **CHFA**: repealed, on 1 July 2012, by section 5(1) of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Section 6(1) **conflict of interest**: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **conflict of interest** paragraph (a): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **conflict of interest** paragraph (b): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **conflict of interest** paragraph (c): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 6(1) **conflict of interest** paragraph (c): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **Crown entity subsidiary**: inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **Crown entity subsidiary**: amended, on 18 July 2013, by section 42 of the Crown Entities Amendment Act 2013 (2013 No 51).

Section 6(1) **Director-General**: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 6(1) **district strategic plan**: repealed, on 24 February 2011, by section 5(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 6(1) **eligible people**: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **good employer**: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **health practitioner**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 6(1) **health professional body**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 6(1) **HPA**: inserted, on 1 July 2012, by section 5(3) of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Section 6(1) **HQSC**: inserted, on 9 November 2010, by section 5(2) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 6(1) **Ministry of Health**: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 6(1) **NZBOS**: inserted, on 30 November 2020, by section 15(1) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 6(1) **NZBS**: repealed, on 30 November 2020, by section 15(1) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 6(1) **partner**: inserted, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 6(1) **publicly-owned health and disability organisation**: amended, on 30 November 2020, by section 15(2) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 6(1) **publicly-owned health and disability organisation**: amended, on 1 July 2012, by section 5(2) of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Section 6(1) **publicly-owned health and disability organisation**: amended, on 9 November 2010, by section 5(3) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 6(1) **RHMU**: repealed, on 17 May 2005, by section 5(1) of the New Zealand Public Health and Disability Amendment Act 2005 (2005 No 63).

Section 6(1) **sitting day**: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **spouse**: repealed, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 6(1) **statement of intent**: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **subsidiary**: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **transaction**: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **transaction** paragraph (a): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **transaction** paragraph (b): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(1) **transaction** paragraph (c): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(2)(d): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 6(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **7 Act to bind the Crown**

This Act binds the Crown.

# **Part 2 Responsibilities of Minister**

## **8 Health and disability strategies**

- (1) The Minister must determine a strategy for health services, called the New Zealand health strategy, to provide the framework for the Government's overall direction of the health sector in improving the health of people and communities; and the Minister may amend or replace that strategy at any time.
- (2) The Minister of the Crown who is responsible for disability issues must determine a strategy for disability support services, called the New Zealand disability strategy, to provide the framework for the Government's overall direction of the disability sector in improving disability support services; and may amend or replace that strategy at any time.
- (3) Before determining the New Zealand health strategy or the New Zealand disability strategy, or amending or replacing either of them, the relevant Minister must consult any organisations and individuals that the Minister considers appropriate.

- (4) The relevant Minister must in each year report on progress in implementing the New Zealand health strategy or the New Zealand disability strategy, as the case may require.
- (5) The relevant Minister must make publicly available, and present to the House of Representatives, a copy of any strategy, amendment, replacement, or report as soon as practicable after the strategy, amendment, replacement, or report has been determined or made under this section.

## 9 Strategies for standards and quality assurance programmes

- (1) The Minister must, as soon as reasonably practicable after the commencement of this section, determine a strategy for the development and use of—
  - (a) nationally consistent standards and quality assurance programmes for health services and consumer safety; and
  - (b) nationally consistent performance monitoring of health services and consumer safety against those standards and programmes.
- (2) Before determining the strategy, or amending or replacing it, the Minister must consult any organisations that the Minister considers appropriate.
- (3) The Minister must in each year report on progress in implementing the strategy.
- (4) The Minister must make publicly available, and present to the House of Representatives, a copy of any strategy, amendment, replacement, or report as soon as practicable after the strategy, amendment, replacement, or report has been determined or made.

## 10 Crown funding agreements

- (1) In this Act, **Crown funding agreement** means an agreement that the Crown enters into with any person, under which the Crown agrees to provide money in return for the person providing, or arranging for the provision of, services specified in the agreement.
- (2) The Minister may, on behalf of the Crown,—
  - (a) negotiate and enter into a Crown funding agreement containing any terms and conditions that may be agreed; and
  - (b) negotiate and enter into an agreement that amends a Crown funding agreement; and
  - (c) monitor performance under a Crown funding agreement.
- (2A) *[Repealed]*
- (3) Except to the extent that the Minister determines by written notice to the Ministry of Health, the Ministry of Health may exercise the Minister's powers under subsection (2) on the Minister's behalf.
- (4) Nothing in this section limits section 39 or section 64 or any other enactment, or any powers that the Minister or the Crown has under any enactment or rule of law.

- (5) As soon as practicable after giving a notice under subsection (3), the Minister must publish a copy of the notice in the *Gazette*.
- (6) *[Repealed]*  
Section 10(2A): repealed, on 1 July 2014, by section 72 of the Crown Entities Amendment Act 2013 (2013 No 51).  
Section 10(6): repealed, on 1 July 2014, by section 72 of the Crown Entities Amendment Act 2013 (2013 No 51).

## 11 Ministerial committees

- (1) The Minister may by written notice—
- (a) establish any committee that the Minister considers necessary or desirable for any purpose relating to this Act or its administration or to any services; and
  - (b) appoint any person to be a member or chairperson of the committee; and
  - (c) terminate the committee or the appointment of a member or chairperson of the committee.
- (2) Every committee established under this section (other than the committees referred to in sections 13 to 16) has the functions that the Minister determines by written notice to the committee.
- (3) Every committee established under this section—
- (a) consists of such members as the Minister determines; and
  - (b) may, subject to any written directions that the Minister gives to the committee, regulate its procedure in any manner that the committee thinks fit.
- (4) Each member of a committee established under this section is appointed on any terms and conditions (including terms and conditions as to remuneration and travelling allowances and expenses) that the Minister determines by written notice to the member.
- (5) Nothing in this section or in sections 13 to 16 limits any powers that the Minister has under any other enactment or rule of law.

Section 11(2): amended, on 23 April 2011, by section 6(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 11(5): amended, on 23 April 2011, by section 6(2) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

## 12 Information about committees to be made public

- (1) As soon as practicable—
- (a) after giving a notice establishing any committee under section 11, the Minister must present to the House of Representatives a copy of the notice that includes or has attached to it the following information:
    - (i) the name of the committee; and

- (ii) the number of members of the committee:
  - (b) after giving a notice appointing any person to be a member or chairperson of a committee established under section 11, the Minister must present to the House of Representatives a copy of the notice that includes or has attached to it the following information:
    - (i) the name of the chairperson of the committee; and
    - (ii) the names of the members of that committee.
- (2) As soon as practicable after giving a notice terminating any committee established under section 11, the Minister must present to the House of Representatives a copy of the notice that includes or has attached to it the following information:
  - (a) the name of the committee terminated; and
  - (b) the reason or reasons for the termination of the committee.
- (3) As soon as practicable after giving a notice under section 11(2) determining a function of a committee established under section 11, the Minister must present to the House of Representatives a copy of the notice that includes or has attached to it the following information:
  - (a) the functions of the committee; and
  - (b) any other terms of reference or directions (other than directions as to procedure).
- (4) As soon as practicable after giving, under section 11(3)(b), a written direction as to the procedure of a committee established under section 11, the Minister must present to the House of Representatives a copy of the direction.
- (5) In every annual report of the Ministry of Health, the Ministry must—
  - (a) give the following information in respect of every committee established under section 11:
    - (i) the name of the committee:
    - (ii) the name of the chairperson of the committee:
    - (iii) the name of every member of the committee; and
  - (b) indicate whether there is a committee established under section 11 that has not reported to the Minister in the year to which the report relates.

### **13 National advisory committee on health and disability**

- (1) The Minister may appoint a committee established under section 11, to be known as the national advisory committee on health and disability, to advise the Minister on—
  - (a) the kinds, and relative priorities, of public health services, personal health services, and disability support services that should, in the committee's opinion, be publicly funded; and

- (b) other matters relating to public health, including—
    - (i) personal health matters relating to public health; and
    - (ii) regulatory matters relating to public health; and
  - (c) any other matters that the Minister specifies by notice to the committee.
- (2) The advice given by the committee to the Minister under subsection (1) is to be formulated after consultation by the committee with any members of the public, persons involved in the provision of services, and other persons that the committee considers appropriate.
  - (3) The committee must, at least once each year, deliver to the Minister a report setting out its advice on the matters referred to in subsection (1)(a) and (b).
  - (4) As soon as practicable after giving a notice under subsection (1)(c) or receiving a report under subsection (3), the Minister must present a copy of the notice or report to the House of Representatives.

#### **14 Public health advisory committee**

- (1) The national advisory committee on health and disability must establish a committee called the public health advisory committee to provide independent advice to the Minister and to the national advisory committee on health and disability on the following matters:
  - (a) public health issues, including factors underlying the health of people and communities:
  - (b) the promotion of public health:
  - (c) the monitoring of public health:
  - (d) any other matters the national advisory committee on health and disability specifies by notice to the committee.
- (2) The advice given by the public health advisory committee is to be formulated after consultation by the committee with any interested organisation or individual that the committee considers appropriate.
- (3) The Minister must make publicly available, and present to the House of Representatives, a copy of any advice given by the public health advisory committee.

#### **15 Health workforce advisory committee**

- (1) The Minister may appoint a committee established under section 11 to advise the Minister on health workforce issues that the Minister specifies by notice to the committee.
- (2) The advice given by the committee to the Minister under subsection (1) is to be formulated after consultation by the committee with persons involved in the provision of services and any other persons that the committee considers appropriate.

- (3) As soon as practicable after giving a notice under subsection (1), the Minister must present a copy of the notice to the House of Representatives.
- (4) The committee must, at least once a year, deliver to the Minister a report setting out its advice on the matters referred to it under subsection (1).
- (5) As soon as practicable after receiving a report under subsection (4), the Minister must present a copy of the report to the House of Representatives.

#### **16 National advisory committee on health and disability support services ethics**

- (1) The Minister must, by written notice, appoint a national advisory committee on the ethics governing health and disability support services for the purpose of obtaining advice on ethical issues of national significance in respect of any health and disability matters (including research and health services).
- (2) The national advisory committee appointed under subsection (1) must determine nationally consistent ethical standards across the health sector and provide scrutiny for national health research and health services.
- (3) For the purpose of obtaining advice on specific ethical issues of national, regional, or public significance in respect of any health or disability matters, the Minister may, by written notice, appoint any 1 or more of the following committees:
  - (a) 1 or more committees established under section 11:
  - (b) the ethics committee of the Health Research Council established under section 24 of the Health Research Council Act 1990—  
to consider matters specified by the Minister and to report to the Minister or a person specified by the Minister.
- (4) Before a committee appointed under subsection (1) or subsection (3) gives advice, the committee must consult with any members of the public, persons involved in the funding or provision of services, and other persons that the committee considers appropriate.
- (5) As soon as practicable after giving a notice under subsection (1) or subsection (3), the Minister must present a copy of the notice to the House of Representatives.
- (6) Any committee appointed under this section must, at least once a year, deliver to the Minister a report setting out its activities and summarising its advice on the matters referred to it under this section.
- (7) As soon as practicable after receiving a report under subsection (6), the Minister must present a copy of the report to the House of Representatives.

**17 National health epidemiology and quality assurance advisory committee**

*[Repealed]*

Section 17: repealed, on 23 April 2011, by section 7 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

**18 Mortality review committees**

*[Repealed]*

Section 18: repealed, on 23 April 2011, by section 7 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

**Part 3  
District Health Boards**

**19 Establishment of DHBs**

- (1) This section establishes each of the organisations named in column 1 of Schedule 1 as a DHB in respect of the geographical area specified in that schedule for the organisation.
- (2) Schedule 1 may be amended by Order in Council.
- (3) The Governor-General may, by Order in Council, divide any geographical area specified in Schedule 1 for a DHB into 2 or more constituencies, and determine—
  - (a) the boundaries of each constituency, whether by reference to a current or former local government unit or otherwise; and
  - (b) the number of members of the board of the DHB that are to be elected by the electors of each constituency.
- (4) An Order in Council under this section may not take effect in the period commencing after 30 April in a year in which triennial elections under the Local Electoral Act 2001 are to be held and ending with the close of the 58th day after polling day appointed for those elections if the Order—
  - (a) alters a geographical area specified in Schedule 1; or
  - (b) divides such an area into constituencies; or
  - (c) alters a constituency; or
  - (d) changes the number of members to be elected by the electors of a constituency.
- (5) With the written permission of the Minister, a DHB may adopt an operating name that is different from the name of the DHB specified in Schedule 1.

Section 19(4): amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

**20 Process for restructuring geographical areas of DHBs**

- (1) Whenever, at any time after 31 December 2001, the Minister or 1 or more DHBs or any other person proposes to alter the geographical area of any DHB, the Minister, or DHBs, or other person must consult with the public in the area affected.
- (2) The consultation under subsection (1) must include—
  - (a) producing a discussion document explaining the proposed change, and including a discussion of any advantages or disadvantages that may flow from the implementation of the proposal; and
  - (b) giving the public in the area affected and in other parts of New Zealand that may be affected an opportunity to make submissions on the proposal.
- (3) Before the proposal is finalised, the person who issued the discussion document must—
  - (a) fully consider any submissions received in response to the document; and
  - (b) publish in any affected area an analysis of the submissions and the person's conclusions and recommendations on the proposal.
- (4) A person (other than the Minister) who prepares a discussion document or publishes a report of the kind referred to in subsection (3) must deliver a copy of the discussion document or the report to the Minister, as soon as practicable after the preparation of the document or report.
- (5) As soon as practicable after issuing or receiving a copy of a discussion document or report under this section, the Minister must present to the House of Representatives a copy of the document or report.
- (6) No Order in Council that alters the geographical area of a DHB may be made under section 19 unless the requirements of this section have been followed.

**21 Application of Crown Entities Act 2004 to DHBs**

- (1) Each DHB is a Crown entity owned by the Crown for the purposes of section 7 of the Crown Entities Act 2004.
- (2) The Crown Entities Act 2004 applies to each DHB except to the extent that this Act expressly provides otherwise.
- (3) As provided elsewhere in this Act, the following sections of the Crown Entities Act 2004 do not apply to DHBs, or their boards, board members, committee members or employees:
  - (a) section 38 (removal of elected members):
  - (b) section 60(1) (applications by board members to restrain action):
  - (c) sections 62 to 72 (conflicts of interest):
  - (d) sections 73 to 76 (delegations):

- (e) section 78 (provisions in Schedule 5):
- (f) section 96 (acquisition of subsidiaries):
- (g) section 100 (acquisition of shares or other interests):
- (h) sections 116 and 117(2) to (3) (employment of employees and chief executives):
- (i) sections 120 to 126 (immunities, indemnities, and insurance):
- (j) section 161 (in relation to shares and interests covered by section 28):
- (k) *[Repealed]*
- (l) Schedule 5 (board procedure for statutory entities).

Section 21: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 21(3)(h): replaced, on 31 October 2018, by section 19 of the State Sector and Crown Entities Reform Act 2018 (2018 No 31).

Section 21(3)(k): repealed, on 1 July 2014, by section 72 of the Crown Entities Amendment Act 2013 (2013 No 51).

## 22 Objectives of DHBs

- (1) Every DHB has the following objectives:
  - (a) to improve, promote, and protect the health of people and communities:
  - (b) to promote the integration of health services, especially primary and secondary health services:
  - (ba) to seek the optimum arrangement for the most effective and efficient delivery of health services in order to meet local, regional, and national needs:
  - (c) to promote effective care or support for those in need of personal health services or disability support services:
  - (d) to promote the inclusion and participation in society and independence of people with disabilities:
  - (e) to reduce health disparities by improving health outcomes for Maori and other population groups:
  - (f) to reduce, with a view to eliminating, health outcome disparities between various population groups within New Zealand by developing and implementing, in consultation with the groups concerned, services and programmes designed to raise their health outcomes to those of other New Zealanders:
  - (g) to exhibit a sense of social responsibility by having regard to the interests of the people to whom it provides, or for whom it arranges the provision of, services:

- (h) to foster community participation in health improvement, and in planning for the provision of services and for significant changes to the provision of services:
  - (i) to uphold the ethical and quality standards commonly expected of providers of services and of public sector organisations:
  - (j) to exhibit a sense of environmental responsibility by having regard to the environmental implications of its operations:
  - (k) to be a good employer in accordance with section 118 of the Crown Entities Act 2004.
- (2) Each DHB must pursue its objectives in accordance with any plan prepared under section 38, its statement of intent, and any directions or requirements given to it by the Minister under section 33, 33A, or 33B of this Act, or section 103 of the Crown Entities Act 2004, or under section 107 of the Crown Entities Act 2004.

Section 22(1)(ba): inserted, on 9 November 2010, by section 8(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 22(1)(k): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 22(2): amended, on 24 February 2011, by section 8(2) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 22(2): amended, on 24 February 2011, by section 8(3) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 22(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## 23 Functions of DHBs

- (1) For the purpose of pursuing its objectives, each DHB has the following functions:
- (a) to ensure the provision of services for its resident population and for other people as specified in its Crown funding agreement:
  - (b) to actively investigate, facilitate, sponsor, and develop co-operative and collaborative arrangements with persons in the health and disability sector or in any other sector to improve, promote, and protect the health of people, and to promote the inclusion and participation in society and independence of people with disabilities:
  - (ba) to collaborate with relevant organisations to plan and co-ordinate at local, regional, and national levels for the most effective and efficient delivery of health services:
  - (c) to issue relevant information to the resident population, persons in the health and disability sector, and persons in any other sector working to improve, promote, and protect the health of people for the purposes of paragraphs (a) and (b):

- (d) to establish and maintain processes to enable Maori to participate in, and contribute to, strategies for Maori health improvement:
  - (e) to continue to foster the development of Maori capacity for participating in the health and disability sector and for providing for the needs of Maori:
  - (f) to provide relevant information to Maori for the purposes of paragraphs (d) and (e):
  - (g) to regularly investigate, assess, and monitor the health status of its resident population, any factors that the DHB believes may adversely affect the health status of that population, and the needs of that population for services:
  - (h) to promote the reduction of adverse social and environmental effects on the health of people and communities:
  - (i) to monitor the delivery and performance of services by it and by persons engaged by it to provide or arrange for the provision of services:
  - (j) to participate, where appropriate, in the training of health practitioners and other workers in the health and disability sector:
  - (k) to provide information to the Minister for the purposes of policy development, planning, and monitoring in relation to the performance of the DHB and to the health and disability support needs of New Zealanders:
  - (l) to provide, or arrange for the provision of, services on behalf of the Crown or any Crown entity within the meaning of the Crown Entities Act 2004:
  - (m) to collaborate with pre-schools and schools within its geographical area on the fostering of health promotion and on disease prevention programmes:
  - (n) to perform any other functions it is for the time being given by or under any enactment, or authorised to perform by the Minister by written notice to the board of the DHB after consultation with it.
- (2) The Minister must, as soon as practicable after giving a notice to a DHB under subsection (1)(n), publish in the *Gazette*, and present to the House of Representatives, a copy of the notice.
- (3) Subsection (1)(c), (f), and (k) is subject to the Privacy Act 2020.
- (4) Subsection (1)(c) and (f) does not require a DHB to provide any information that could properly be withheld under the Official Information Act 1982, if a request for that information were made under that Act.
- (5) A DHB that, in reliance on subsection (4), decides not to provide relevant information must advise the persons concerned of that decision.
- (6) To avoid any doubt, subsection (1)(d) does not limit the capacity of a DHB to establish and maintain processes to enable other population groups to partici-

pate in, and contribute to, strategies for the improvement of the health of those groups.

- (7) In performing any of its functions in relation to the supply of pharmaceuticals, a DHB must not act inconsistently with the pharmaceutical schedule.
- (8) In subsection (1)(ba), **relevant organisations** means 1 or more organisations that a DHB considers relevant to the provision of health services at a local, regional, or national level (for example, a DHB, the Ministry of Health, or an organisation that provides services under a service agreement).

Section 23(1)(ba): inserted, on 9 November 2010, by section 9(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 23(1)(j): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 23(1)(l): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 23(3): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 23(8): added, on 9 November 2010, by section 9(2) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

## 24 Co-operative agreements and arrangements

- (1) Except as provided in subsection (2), for the purpose of performing its function under section 23(1)(b), a DHB may enter into a co-operative agreement or arrangement with any person (whether or not that person is involved in the health sector) in order to—
  - (a) assist the DHB to meet its objectives set out in section 22; or
  - (b) enhance health or disability outcomes for people; or
  - (c) enhance efficiencies in the health sector.
- (2) A DHB may not enter into a co-operative agreement or arrangement under subsection (1) unless,—
  - (a) if the consent of the Minister or authority by regulations is required for that agreement or arrangement by section 28, that consent or authority exists; or
  - (b) in any other case, the DHB is authorised to enter into the agreement or arrangement by a plan prepared under section 38, or by the Minister.
- (3) Any authority given by the Minister for the purposes of subsection (2) may be given subject to any conditions the Minister specifies.
- (4) The Minister must, within 6 months of the commencement of this section, produce guidelines to be followed by DHBs in establishing co-operative agreements or arrangements under subsection (1) so that DHBs follow processes that are fully transparent and designed to ensure that DHBs accomplish their objectives in ways that—
  - (a) take full account of all issues concerned; and

- (b) are effective and efficient so as to maximise the benefit to the public or group whom the agreements or arrangements are intended to benefit.
- (5) In determining whether or not to enter into co-operative agreements or arrangements under subsection (1), DHBs must comply fully with any guidelines issued under subsection (4).
- (6) As soon as practicable after issuing the guidelines for DHBs under subsection (4), the Minister must present to the House of Representatives a copy of those guidelines.

Section 24(2)(b): amended, on 24 February 2011, by section 10 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

## 25 Service agreements

- (1) In this Act, **service agreement** means an agreement under which 1 or more DHBs agree to provide money to a person in return for the person providing services or arranging for the provision of services.
- (2) A DHB may, if permitted to do so by a plan prepared under section 38 and in accordance with that plan,—
  - (a) negotiate and enter into service agreements containing any terms and conditions that may be agreed; and
  - (b) negotiate and enter into agreements to amend service agreements.
- (3) A DHB that has entered into a service agreement must monitor the performance under that agreement of the other parties to that agreement.

Section 25(2): amended, on 24 February 2011, by section 11 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

### *Boards of DHBs*

## 26 Role of board

- (1) The board of a DHB has the role set out in section 25 of the Crown Entities Act 2004.
- (2) *[Repealed]*
- (3) The board of a DHB must delegate to the chief executive of the DHB, under clause 39 of Schedule 3, the power to make decisions on management matters relating to the DHB, but any such delegation may be made on such terms and conditions as the board thinks fit.
- (4) This section does not limit clause 44 of Schedule 3.

Section 26(1): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 26(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**27 Duties of board**

- (1) The board of a DHB must ensure that the DHB acts in a manner consistent with any relevant plan prepared under section 38, and any directions under section 33, 33A, or 33B of this Act or section 103 or section 107 of the Crown Entities Act 2004.
- (2) The duty in subsection (1)—
  - (a) applies in addition to the duties of the board in sections 49 to 52 of the Crown Entities Act 2004; and
  - (b) is a collective duty owed to the Minister for the purposes of section 58 of the Crown Entities Act 2004.
- (3) Despite section 60(1) of the Crown Entities Act 2004, a member of a board of a DHB may not apply for a court order under that section.

Section 27: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 27(1): amended, on 24 February 2011, by section 12 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

**28 Shares in bodies corporate or interests in associations**

- (1) Except with the consent of the Minister or in accordance with regulations made under this Act, no DHB may—
  - (a) hold any shares or interests in a body corporate or in a partnership, joint venture, or other association of persons; or
  - (b) settle, or be or appoint a trustee of, a trust.
- (2) The Minister's consent under subsection (1) may be given subject to any conditions the Minister specifies.
- (3) Conditions specified by the Minister under subsection (2) must be consistent with section 97 of the Crown Entities Act 2004.
- (4) Sections 96 and 100 of the Crown Entities Act 2004 do not apply to DHBs.
- (5) Section 161 of the Crown Entities Act 2004 applies to DHBs except in relation to acquisition of securities that are covered by this section.

Section 28(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 28(4): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 28(5): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**29 Membership of boards**

- (1) The board of each DHB consists of—
  - (a) 7 members elected in accordance with Schedule 2; and

- (b) up to 4 members appointed by the Minister under section 28(1)(a) of the Crown Entities Act 2004.
- (2) If, at an election of members of a board of a DHB, fewer than 7 members are elected or no members are elected, the Minister may, in accordance with the procedure in section 28 of the Crown Entities Act 2004, appoint persons who were eligible to stand in that election to fill the vacant elected member positions, and the persons so appointed hold office in all respects as if they had been elected under this Act.
- (3) Where a vacancy occurs in an elective position on a board, the Minister may, in accordance with the procedure in section 28 of the Crown Entities Act 2004, appoint a person for the remainder of the term of office of the person who vacated office, and the provisions of this Act applying to elected members apply to the person so appointed.
- (4) In making appointments to a board, the Minister must endeavour to ensure that—
  - (a) Maori membership of the board is proportional to the number of Maori in the DHB’s resident population (as estimated by Statistics New Zealand); and
  - (b) in any event, there are at least 2 Maori members of the board.
- (5) Subsection (4) does not limit section 29 of the Crown Entities Act 2004.
- (6) Section 31(1)(c) of the Crown Entities Act 2004 applies as if the reference in that section to “interests” were replaced by a reference to “conflicts of interest” (as defined in section 6 of this Act).

Section 29(1)(b): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 29(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 29(3): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 29(5): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 29(6): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **30 Crown monitors to sit on boards**

- (1) If the Minister considers that it is desirable to do so for the purpose of assisting in improving the performance of a DHB, the Minister may appoint 1 or more persons (in this section called **Crown monitors**) in relation to that DHB.
- (2) A board of a DHB must—
  - (a) permit each Crown monitor appointed by the Minister in relation to the DHB to attend any meeting of the board; and

- (b) provide the Crown monitor with copies of all notices, documents, and other information that is provided to board members.
- (3) The functions of a Crown monitor are to—
  - (a) observe the decision-making processes, and the decisions of the board:
  - (b) assist the board in understanding the policies and wishes of the Government so that they can be appropriately reflected in board decisions:
  - (c) advise the Minister on any matters relating to the DHB, the board, or its performance.
- (4) The appointment of a person as a Crown monitor is on terms and conditions agreed between the Minister and the person.
- (5) A Crown monitor may provide to the Minister any information that the Crown monitor obtains in the course of acting as such.
- (6) Subsection (5) is subject to the Privacy Act 2020.

Section 30(6): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

### **31 Replacement of board by commissioner**

- (1) Where the Minister is seriously dissatisfied with the performance of a board of a DHB, the Minister may, by written notice to the board and the commissioner, dismiss all members of the board and replace the board with a commissioner.
- (1A) The Minister may also replace the board with a commissioner, by written notice to the board and the commissioner, if all the members of the board of a DHB are removed from office under this Act and the Crown Entities Act 2004.
- (2) Where the Minister replaces a board with a commissioner, the commissioner has all the functions, duties, powers, and protections of the board and of a member of the board except that—
  - (a) clauses 14 to 35 of Schedule 3 do not apply to a commissioner; and
  - (b) where the commissioner has an interest of the kind described in section 6(2), the commissioner must make the required disclosure to the Minister, and the Minister, under clause 37 of that schedule, must notify any waiver or modification of clause 36(2) of that schedule to the commissioner.
- (3) A commissioner may appoint, on any terms and conditions that may be agreed, up to 3 deputy commissioners, each of whom must be a person who would be eligible to be appointed by the Minister to a board of a DHB.
- (4) The Minister may at any time, by written notice, dismiss a commissioner from office, and a commissioner may at any time, by written notice, dismiss a deputy commissioner from office with the agreement of the Minister.
- (5) All the provisions of this Act and the Crown Entities Act 2004 that apply to appointed members of a board apply, with any necessary modifications, to a commissioner and a deputy commissioner.

- (6) A commissioner and any deputy commissioner hold office only until the persons elected at the next election of members of boards take office as board members.

Section 31(1A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 31(5): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **32 Ministerial directions**

- (1) Subpart 1 of Part 3 of the Crown Entities Act 2004 applies to the giving of Ministerial directions.
- (2) Without limiting subsection (1), the Minister may, under that Act, give a DHB any directions—
- (a) that specify the persons who are eligible to receive services funded under this Act; and
  - (b) that the Minister considers necessary or expedient in relation to any matter relating to the DHB; and
  - (c) that are consistent with the objectives and functions of the DHB.
- (3) No direction may require the supply to any person of any information relating to an individual that would enable the identification of the individual.

- (4) Section 33, and not this section nor Part 3 of the Crown Entities Act 2004, applies to a direction that would more appropriately be given under section 33.

Section 32: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **33 Minister may require provision of services**

- (1) The Minister may, from time to time, by written notice to a DHB, require the DHB to provide or arrange for the provision of any services that are specified in the notice, but the notice may not—
- (a) require the supply of services to any named individuals or organisations; or
  - (b) require the supply of services by any named individuals or organisations (other than any DHB); or
  - (c) specify the price for any services.
- (2) Before giving the notice, the Minister must—
- (a) have regard to section 22 and section 23, the New Zealand health strategy, the New Zealand disability strategy, and any plan prepared under section 38 that the DHB is a party to; and
  - (b) consult the board of the DHB as to the services that are to be required to be provided or arranged, and the cost and funding of those services.

- (3) A notice under subsection (1) is a direction for the purposes of the Crown Entities Act 2004 and must be published in the *Gazette* and presented to the House of Representatives in accordance with section 115 of that Act.

Section 33(2)(a): amended, on 24 February 2011, by section 13 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 33(3): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **33A Proposals and directions in relation to administrative, support, and procurement services**

- (1) A proposal stating how administrative, support, and procurement services within the public health and disability sector should be obtained may be submitted to the Minister by the Director-General or any person or body approved by the Minister for the purpose.
- (2) If the Minister has reason to believe that the proposal will enhance the effective and efficient operation of the public health and disability sector and should be implemented, the Minister must—
- (a) consider whether the proposal can be reasonably implemented without a direction under subsection (3); and
  - (b) consult any DHB that is not already a party to the proposal and is likely to be affected by it; and
  - (c) consult any other person or body that the Minister considers appropriate.
- (3) If the Minister considers that the proposal cannot be reasonably implemented otherwise, he or she may give a direction to 1 or more DHBs—
- (a) stating how administrative, support, and procurement services must be obtained (for example, specifying a process to be followed in obtaining those services); or
  - (b) stating who must provide particular administrative, support, and procurement services for the DHB or DHBs.
- (4) The direction must be in writing and must be signed by the Minister and the Minister of Finance.
- (5) Sections 113 and 114(3)(a) of the Crown Entities Act 2004 do not apply to this section.
- (6) In this section, **administrative, support, and procurement services**—
- (a) means services that do not relate directly to, but are necessary for, the provision of care to patients or care or support to people with disabilities; and
  - (b) without limiting the generality of paragraph (a), includes any of the following:
    - (i) procurement of non-clinical and clinical supplies:
    - (ii) financial services:

- (iii) human resources and payroll services:
- (iv) clerical services:
- (v) facilities management, engineering, and maintenance services:
- (vi) information systems and technology.

Section 33A: inserted, on 24 February 2011, by section 14 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

*Ministerial directions to all DHBs*

Heading: inserted, on 24 February 2011, by section 14 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

**33B Minister may give directions to all DHBs**

- (1) The Minister may give a direction to all DHBs to comply with stated requirements for the purpose of supporting government policy on improving the effectiveness and efficiency of the public health and disability sector.
- (2) The direction must be in writing and must be signed by the Minister and the Minister of Finance.
- (3) Before giving the direction, the Minister must, to the extent (if any) that the Minister considers necessary in the circumstances,—
  - (a) consult all DHBs; and
  - (b) consult persons that the Minister considers are representative of the interests of persons likely to be substantially affected by the proposed direction.
- (4) As soon as practicable after giving the direction, the Minister must—
  - (a) notify all DHBs that the direction has been given and that it will come into force subject to subsection (5); and
  - (b) present a copy of the direction to the House of Representatives.
- (5) The direction comes into force 15 sitting days after it is presented to the House of Representatives unless the House of Representatives resolves, in that period, to disapply the direction.
- (6) Every DHB must give effect to the direction as soon as it comes into force.
- (7) As soon as practicable after the direction comes into force, the Minister must ensure that a copy of it is published in the *Gazette* and on an Internet site operated by the Ministry of Health.
- (8) If the direction does not come into force, the Minister must, as soon as practicable, notify all DHBs that the direction has been disappplied and that it will not come into force.
- (9) Section 113 of the Crown Entities Act 2004 applies to a direction given under this section as if it were a Ministerial direction given under that Act.
- (10) No direction may be given under this section to Crown entity subsidiaries.

- (11) For the purposes of section 115(5) of the Crown Entities Act 2004, the procedure set out in this section is a procedure for giving directions.

Compare: 2004 No 115 ss 107–111, 113

Section 33B: inserted, on 24 February 2011, by section 14 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

### *Committees*

#### **34 Community and public health advisory committees**

The board of a DHB must, within 3 months of the commencement of this Act, establish a committee, to advise on health improvement measures, called the community and public health advisory committee, and must provide for Maori representation on the committee.

#### **35 Disability support advisory committees**

The board of a DHB must, within 3 months of the commencement of this Act, establish a committee, to advise on disability issues, called the disability support advisory committee, and must provide for Maori representation on the committee.

#### **36 Hospital advisory committees**

The board of a DHB must, within 3 months of the commencement of this Act, establish a committee, to advise on matters relating to hospitals, called the hospital advisory committee, and must provide for Maori representation on the committee.

### *Accountability of DHBs*

#### **37 Responsibility of board**

*[Repealed]*

Section 37: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **38 Planning framework and requirements**

- (1) The Minister—
- (a) must direct every DHB to prepare a plan for each financial year beginning on or after 1 July 2011; and
  - (b) may direct a DHB to prepare or contribute to 1 or more other plans.
- (2) Every plan—
- (a) must address—
    - (i) local, regional, and national needs for health services; and
    - (ii) how health services can be properly co-ordinated to meet those needs; and

- (iii) the optimum arrangement for the most effective and efficient delivery of health services; and
  - (b) must demonstrate how a DHB that is a party to the plan is to give effect to the purposes of this Act; and
  - (c) must demonstrate how a DHB that is a party to the plan is to operate in a financially responsible manner; and
  - (d) must reflect the overall direction set out in, and not be inconsistent with, the New Zealand health strategy and the New Zealand disability strategy.
- (3) A DHB that is a party to a plan must comply with any requirements (including any procedural requirements) relating to the plan that are stated in regulations (if any).
- (4) The plan is finalised once it is—
  - (a) approved by the Minister after he or she is satisfied that the requirements of subsections (2) and (3) have been met; and
  - (b) signed by the Minister and every DHB that is a party to the plan.
- (5) A DHB that is a party to the plan must give effect to it and any amendments to it.
- (6) The plan may be amended at any time in the same manner as it was made.
- (7) A DHB that is a party to the plan must ensure that the plan and any amendments to it are publicly available as soon as is reasonably practicable after the plan is finalised.
- (8) In making the plan (and any amendments to it) publicly available, a DHB may omit any information that may properly be withheld under the Official Information Act 1982 if a request for that information were made under that Act.

Section 38: substituted, on 24 February 2011, by section 15 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

### **39 Resolution of disputes over contents of plan**

- (1) The Minister may act under subsection (2) if, after the Minister directs 1 or more DHBs to prepare or contribute to a plan under section 38,—
  - (a) 2 or more DHBs that are parties to the plan cannot agree on its contents; or
  - (b) 1 or more DHBs that are parties to the plan and the Minister cannot agree on its contents.
- (2) If subsection (1) applies, the Minister may establish an advisory body and refer the dispute to it for its consideration and advice.
- (3) The advisory body must consist of at least 3 members, each appointed by the Minister on any terms and conditions (including terms and conditions as to remuneration and travelling allowances and expenses) that the Minister determines by written notice to the member.

- (4) The Minister must—
- (a) make a decision on the dispute by taking into account the advice given by the advisory body; and
  - (b) as soon as practicable after making the decision, publish the decision in general terms on an Internet site operated by the Ministry of Health.

- (5) A DHB that is a party to the dispute must give effect to the Minister's decision.  
Section 39: substituted, on 24 February 2011, by section 15 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

#### **40 Consultation on proposed changes to annual plan**

*[Repealed]*

Section 40: repealed, on 24 February 2011, by section 15 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

#### *Financial provisions*

#### **41 DHBs to operate in financially responsible manner**

- (1) Every DHB must operate in a financially responsible manner and, for this purpose, must endeavour to cover all its annual costs (including the cost of capital) from its net annual income.
- (2) This section does not limit section 51 of the Crown Entities Act 2004.

Section 41(1): substituted, on 23 April 2011, by section 16 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 41(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **42 Accountability documents under Crown Entities Act 2004**

- (1) Each DHB must prepare statements of intent, annual financial statements, and annual reports in accordance with Part 4 of the Crown Entities Act 2004 and regulations made under section 92(1)(d) of this Act.
- (2) Without limiting sections 141 to 149 of the Crown Entities Act 2004, every statement of intent of a DHB must include provisions stating the procedure for any disposal of land transferred to, or vested in, the DHB under the Health Sector (Transfers) Act 1993.
- (3) Without limiting section 151 of the Crown Entities Act 2004, every annual report of a DHB must contain—
  - (a) *[Repealed]*
  - (b) a report on the extent to which the DHB has met its other objectives under section 22; and
  - (c) a report on the performance of the hospital and related services it owns, including the amount of any capital investment made or required; and
  - (d) *[Repealed]*

- (e) *[Repealed]*
  - (f) *[Repealed]*
  - (g) the names of any bodies corporate, partnerships, joint ventures, or other associations of persons, or trusts with which the DHB is involved in accordance with section 28(1) or any other provision of this Act; and
  - (h) a list of all shares or interests held in bodies corporate, partnerships, joint ventures, or other associations of persons, or trusts named in accordance with paragraph (g); and
  - (i) a statement of how the DHB has given effect and intends to give effect to its functions specified in section 23(1)(b) to (e).
- (4) For the purposes of section 151(1)(j) of the Crown Entities Act 2004, the annual report of a DHB must disclose any interests to which a permission, waiver, or modification given under clause 36(4) or clause 37(1) of Schedule 3 or clause 38(4) or clause 39(1) of Schedule 4 relates, together with a statement of who gave the permission, waiver, or modification, and any conditions of amendments to, or revocation of, the permission, waiver, or modification.

Section 42 heading: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 42(1): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 42(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 42(3): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 42(3)(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 42(3)(d): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 42(3)(e): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 42(3)(f): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 42(4): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **43 Auditor**

*[Repealed]*

Section 43: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Miscellaneous*

### **44 Provision of information**

- (1) Without limiting sections 133 and 134 of the Crown Entities Act 2004, the Minister of Finance may, by written notice, require any DHB to supply to that

Minister or any other person or class of persons that the Minister specifies, any economic or financial forecasts or other economic or financial information relating to the DHB or any or all of its Crown entity subsidiaries that the Minister specifies in the notice, and the DHB must comply with the requirement.

- (2) *[Repealed]*
- (3) No requirement of the Minister under this section may require the supply of any information that would infringe the privacy of any natural person or deceased natural person, unless the person (or a representative of the deceased person) has consented to the supply.
- (4) Subsection (3) applies despite section 134 of the Crown Entities Act 2004.

Section 44(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 44(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 44(4): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **45 Other provisions in schedules**

- (1) Schedules 2 and 3 apply in respect of DHBs.
- (2) Schedule 4 applies to each community and public health advisory committee, disability support advisory committee, and hospital advisory committee.
- (3) Section 78 and Schedule 5 of the Crown Entities Act 2004 do not apply to the board of a DHB.

Section 45(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **Part 4**

#### **Other publicly-owned health and disability organisations**

##### *Pharmaceutical Management Agency*

#### **46 Pharmac**

- (1) An organisation called the Pharmaceutical Management Agency (**Pharmac**) is established.
- (2) Pharmac is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to Pharmac except to the extent that this Act expressly provides otherwise.
- (4) Pharmac is owned by the Crown.

Section 46(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 46(3): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 46(4): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **47 Objectives of Pharmac**

The objectives of Pharmac are—

- (a) to secure for eligible people in need of pharmaceuticals, the best health outcomes that are reasonably achievable from pharmaceutical treatment and from within the amount of funding provided; and
- (b) any other objectives it is given by or under any enactment, or authorised to perform by the Minister by written notice to the board of Pharmac after consultation with it.

#### **48 Functions of Pharmac**

The functions of Pharmac are to perform the following within the amount of funding provided to it and in accordance with its statement of intent (including the statement of forecast service performance) and (subject to section 65) any directions given under the Crown Entities Act 2004:

- (a) to maintain and manage a pharmaceutical schedule that applies consistently throughout New Zealand, including determining eligibility and criteria for the provision of subsidies:
- (b) to manage incidental matters arising out of paragraph (a), including in exceptional circumstances providing for subsidies for the supply of pharmaceuticals not on the pharmaceutical schedule:
- (c) to engage as it sees fit, but within its operational budget, in research to meet the objectives set out in section 47(a):
- (d) to promote the responsible use of pharmaceuticals:
- (e) any other functions it is for the time being given by or under any enactment, or authorised to perform by the Minister by written notice to the board of Pharmac after consultation with it.

Section 48: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **49 Pharmac to consult in implementing objectives and carrying out functions**

In carrying out its functions under section 48, Pharmac must, when it considers it appropriate to do so,—

- (a) consult on matters that relate to the management of pharmaceutical expenditure with any sections of the public, groups, or individuals that, in the view of Pharmac, may be affected by decisions on those matters; and
- (b) take measures to inform the public, groups, and individuals of Pharmac's decisions concerning the pharmaceutical schedule.

**50 Board of Pharmac to establish advisory committees**

- (1) The board of Pharmac must establish the following advisory committees under clause 14(1)(a) of Schedule 5 of the Crown Entities Act 2004:
  - (a) a pharmacology and therapeutics advisory committee to provide objective advice to Pharmac on pharmaceuticals and their benefits:
  - (b) a consumer advisory committee to provide input from a consumer or patient point of view.

(2) *[Repealed]*

(3) *[Repealed]*

- (4) Despite clause 14(1)(a) of Schedule 5 of the Crown Entities Act 2004, the members of the pharmacology and therapeutics advisory committee are appointed by the Director-General in consultation with the board of Pharmac.

Section 50(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 50(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 50(3): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 50(4): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**51 Publication of notices**

The Minister must, as soon as practicable after giving a notice under section 47 or section 48, publish in the *Gazette*, and present to the House of Representatives, a copy of the notice.

**52 Membership of board**

- (1) The board of Pharmac consists of up to 6 members appointed under section 28 of the Crown Entities Act 2004.

(2) *[Repealed]*

(3) *[Repealed]*

Section 52(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 52(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 52(3): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**53 Exemption from Part 2 of Commerce Act 1986**

- (1) In this section, unless the context otherwise requires,—

**agreement—**

- (a) includes any agreement, arrangement, contract, covenant, deed, or understanding, whether oral or written, whether express or implied, and whether or not enforceable at law; and
- (b) without limiting the generality of paragraph (a), includes any contract of service and any agreement, arrangement, contract, covenant, or deed, creating or evidencing a trust

**pharmaceuticals** means substances or things that are medicines, therapeutic medical devices, or products or things related to pharmaceuticals.

- (2) It is declared that nothing in Part 2 of the Commerce Act 1986 applies to—
  - (a) any agreement to which Pharmac is a party and that relates to pharmaceuticals for which full or part-payments may be made from money appropriated under the Public Finance Act 1989; or
  - (b) any act, matter, or thing, done by any person for the purposes of entering into such an agreement; or
  - (c) any act, matter, or thing, done by any person to give effect to such an agreement.

*New Zealand Blood Service*

**54 NZBOS**

- (1) This section establishes the New Zealand Blood and Organ Service.
- (2) NZBOS is the same organisation that, immediately before the commencement of the Organ Donors and Related Matters Act 2019, was known as the New Zealand Blood Service.
- (3) NZBOS is owned by the Crown.
- (4) The Crown Entities Act 2004 applies to NZBOS except to the extent that this Act provides otherwise.

Section 54: replaced, on 30 November 2020, by section 16 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

**55 Functions of NZBOS**

- (1) The functions of NZBOS are—
  - (a) to manage the donation, collection, processing, and supply of blood, controlled human substances, and related or incidental matters, in accordance with its statement of intent (including the statement of forecast service performance) and (subject to section 65) any directions given under the Crown Entities Act 2004; and
  - (b) if it is an appointed entity (as defined in section 55 of the Human Tissue Act 2008), to perform the functions for which it is for the time being responsible under section 63 of that Act; and

- (ba) to provide oversight and clinical governance of the organ donation system, to provide support to the transplantation system, and to manage any related or incidental matters, in accordance with its statement of intent (including the statement of forecast service performance) and (subject to section 65) any directions given under the Crown Entities Act 2004; and
  - (c) to undertake any other functions it is for the time being given by or under any enactment, or authorised to perform by the Minister by written notice to the board of NZBOS after consultation with it, in accordance with its statement of intent (including the statement of forecast service performance) and (subject to section 65) any directions given under the Crown Entities Act 2004.
- (2) The Minister must, as soon as practicable after giving a notice under subsection (1), publish in the *Gazette*, and present to the House of Representatives, a copy of the notice.
- (3) In this section, **blood** and **controlled human substance** have the same meaning as in section 55 of the Human Tissue Act 2008.

Section 55 heading: amended, on 30 November 2020, by section 17(1) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 55(1): amended, on 30 November 2020, by section 17(2) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 55(1)(a): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 55(1)(b): amended, on 1 November 2008, by section 92 of the Human Tissue Act 2008 (2008 No 28).

Section 55(1)(ba): inserted, on 30 November 2020, by section 17(3) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 55(1)(c): amended, on 30 November 2020, by section 17(2) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 55(1)(c): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 55(3): amended, on 1 November 2008, by section 92 of the Human Tissue Act 2008 (2008 No 28).

## 56 Membership of board

- (1) The board of NZBOS consists of up to 7 members appointed under section 28 of the Crown Entities Act 2004.
- (2) *[Repealed]*
- (3) *[Repealed]*

Section 56(1): amended, on 30 November 2020, by section 18 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 56(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 56(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 56(3): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Health Promotion Agency*

Heading: replaced, on 1 July 2012, by section 6 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

#### **57 Health Promotion Agency established**

- (1) An organisation called the Health Promotion Agency (**HPA**) is established.
- (2) HPA is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The board of HPA consists of not fewer than 5 and not more than 7 members appointed under section 28 of the Crown Entities Act 2004.
- (4) The Crown Entities Act 2004 applies to HPA except to the extent that this Act expressly provides otherwise.

Section 57: replaced, on 1 July 2012, by section 6 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

#### **58 Functions, duties, and powers of HPA**

- (1) HPA must lead and support activities for the following purposes:
  - (a) promoting health and wellbeing and encouraging healthy lifestyles:
  - (b) preventing disease, illness, and injury:
  - (c) enabling environments that support health and wellbeing and healthy lifestyles:
  - (d) reducing personal, social, and economic harm.
- (2) HPA has the following alcohol-specific functions:
  - (a) giving advice and making recommendations to government, government agencies, industry, non-government bodies, communities, health professionals, and others on the sale, supply, consumption, misuse, and harm of alcohol so far as those matters relate to HPA's general functions:
  - (b) undertaking or working with others to research the use of alcohol in New Zealand, public attitudes towards alcohol, and problems associated with, or consequent on, the misuse of alcohol.
- (3) Section 103(1) of the Crown Entities Act 2004 does not apply to HPA's functions under subsection (2), but HPA must have regard to any government policy that relates to those functions if so directed by the Minister.
- (4) HPA must also—
  - (a) assume the property, rights, and liabilities of the Alcohol Advisory Council and the Health Sponsorship Council that are transferred to HPA by section 17 of the New Zealand Public Health and Disability Amendment Act 2012; and

- (b) undertake any other functions that it is for the time being authorised to perform by the Minister by written notice to the board of HPA after consultation with the board.

Section 58: replaced, on 1 July 2012, by section 6 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

## 59 Provisions relating to grants, sponsorship, and other matters

- (1) HPA may—
  - (a) make grants to any body, association, or person engaged in any activity in any field with which HPA is concerned:
  - (b) make advances to any such body, association, or person, on any terms and conditions as to the payment of interest, the repayment of principal, the giving of security, and otherwise that HPA thinks fit:
  - (c) charge any fees (if any) that it may from time to time think reasonable for any material published by it and made available to the public:
  - (d) without further appropriation by Parliament, spend in any year any funds received by HPA in the previous year and not spent by HPA in the previous year:
  - (e) commit itself to spend any money by way of sponsorship, subject to subsection (2).
- (2) The power to spend money by way of sponsorship is subject to the following limitations:
  - (a) HPA must have the money in hand at the time; and
  - (b) HPA must not, in any year (the **current year**), commit itself to spend by way of sponsorship in the next succeeding year more than 25% of the amount of the money appropriated by Parliament for the purposes of HPA for the current year.
- (3) In this section, **sponsorship** means, in broad terms, the provision of assistance by HPA to any person or organisation and, in return, the promotion by that person or organisation of health and wellbeing and healthy lifestyles in a manner agreed by HPA.
- (4) For the purpose of subsection (3),—
  - (a) such assistance by HPA may (without limitation) take the form of—
    - (i) money, whether by way of grant or otherwise; or
    - (ii) goods and services; or
    - (iii) trophies, prizes, awards, and scholarships:
  - (b) such promotion by the person or organisation receiving assistance may (without limitation) take the form of—
    - (i) publicising messages relating to health and wellbeing and healthy lifestyles; or

- (ii) publicising messages relating to ill-health and unhealthy lifestyles; or
  - (iii) promoting HPA's aims and objectives.
- (5) This section (other than subsection (2)) does not limit sections 16 and 17 of the Crown Entities Act 2004.

Section 59: replaced, on 1 July 2012, by section 6 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

### *Levies*

Heading: inserted, on 1 July 2012, by section 6 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

#### **59AA Levies for alcohol-related purposes**

- (1) Levies may be imposed for the purpose of enabling HPA to recover costs it incurs—
- (a) in addressing alcohol-related harm; and
  - (b) in its other alcohol-related activities.
- (2) Schedules 4A and 4B apply for the purpose of this section.

Section 59AA: inserted, on 1 July 2012, by section 6 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

### *Health Quality and Safety Commission*

Heading: inserted, on 9 November 2010, by section 17 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

#### **59A Health Quality and Safety Commission**

- (1) An organisation called the Health Quality and Safety Commission (**HQSC**) is established.
- (2) HQSC is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to HQSC except to the extent that this Act expressly provides otherwise.

Section 59A: inserted, on 9 November 2010, by section 17 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

#### **59B Objectives of HQSC**

The objectives of HQSC are to lead and co-ordinate work across the health and disability sector for the purposes of—

- (a) monitoring and improving the quality and safety of health and disability support services; and
- (b) helping providers across the health and disability sector to improve the quality and safety of health and disability support services.

Section 59B: inserted, on 9 November 2010, by section 17 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

### **59C Functions of HQSC**

- (1) The functions of HQSC are—
  - (a) to advise the Minister on how quality and safety in health and disability support services may be improved; and
  - (b) to advise the Minister on any matter relating to—
    - (i) health epidemiology and quality assurance; or
    - (ii) mortality; and
  - (c) to determine quality and safety indicators (such as serious and sentinel events) for use in measuring the quality and safety of health and disability support services; and
  - (d) to provide public reports on the quality and safety of health and disability support services as measured against—
    - (i) the quality and safety indicators; and
    - (ii) any other information that HQSC considers relevant for the purpose of the report; and
  - (e) to promote and support better quality and safety in health and disability support services; and
  - (f) to disseminate information about the quality and safety of health and disability support services; and
  - (g) to perform any other function that—
    - (i) relates to the quality and safety of health and disability support services; and
    - (ii) HQSC is for the time being authorised to perform by the Minister by written notice to HQSC after consultation with it.
- (2) In performing its functions HQSC must, to the extent it considers appropriate, work collaboratively with—
  - (a) the Ministry of Health; and
  - (b) the Health and Disability Commissioner; and
  - (c) providers; and
  - (d) any groups representing the interests of consumers of health or disability support services; and
  - (e) any other organisations, groups, or individuals that HQSC considers have an interest in, or will be affected by, its work.
- (3) The Minister must, as soon as practicable after giving a notice to HQSC under subsection (1)(g)(ii), publish in the *Gazette*, and present to the House of Representatives, a copy of the notice.

Section 59C: inserted, on 9 November 2010, by section 17 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

#### **59D Membership of board**

The board of HQSC consists of at least 7 members appointed under section 28 of the Crown Entities Act 2004.

Section 59D: inserted, on 9 November 2010, by section 17 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

#### **59E HQSC may appoint mortality review committees**

- (1) HQSC may appoint 1 or more committees to carry out any of the following functions that HQSC specifies by notice to the committee:
  - (a) to review and report to HQSC on specified classes of deaths of persons, or deaths of persons of specified classes, with a view to reducing the numbers of deaths of those classes or persons, and to continuous quality improvement through the promotion of ongoing quality assurance programmes:
  - (b) to advise on any other matters related to mortality that HQSC specifies in the notice.
- (2) A committee appointed under subsection (1) (a **mortality review committee**) must develop strategic plans and methodologies that—
  - (a) are designed to reduce morbidity and mortality; and
  - (b) are relevant to the committee's functions.
- (3) HQSC—
  - (a) must, at least annually, provide the Minister with a report on the progress of mortality review committees; and
  - (b) must include each such report in HQSC's next annual report.
- (4) The provisions of Schedule 5 apply in relation to a mortality review committee.
- (5) Every person who fails, without reasonable excuse, to comply with a requirement imposed under Schedule 5 by the chairperson of a mortality review committee commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (6) Every person who discloses information contrary to Schedule 5 commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (7) Any member of a registered occupational profession who commits an offence under subsection (5) or (6) is liable to any disciplinary proceedings of that profession in respect of the offence, whether or not he or she is fined under that subsection.

Section 59E: inserted, on 9 November 2010, by section 17 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 59E(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 59E(6): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### *Other provisions*

#### **60 Interpretation**

In sections 61 to 69, **organisation** means each of the following organisations:

- (a) Pharmac:
- (b) NZBOS:
- (c) HPA:
- (d) HQSC.

Section 60(b): amended, on 30 November 2020, by section 19 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 60(c): replaced, on 1 July 2012, by section 7 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Section 60(d): added, on 9 November 2010, by section 18 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

#### **61 Role of board**

The board of an organisation has the role set out in section 25 of the Crown Entities Act 2004.

Section 61: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **62 Duties of board members**

*[Repealed]*

Section 62: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **63 Shares in bodies corporate or interests in associations**

*[Repealed]*

Section 63: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **64 Annual plans**

*[Repealed]*

Section 64: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **65 Restrictions on directions by Minister**

- (1) *[Repealed]*
- (2) *[Repealed]*
- (3) No direction may be given to Pharmac under section 103 of the Crown Entities Act 2004 that would—

- (a) require Pharmac to purchase a pharmaceutical from a particular source or at a particular price; or
  - (b) provide any pharmaceutical or pharmaceutical subsidy or other benefit to a named individual.
- (4) No direction under section 103 of the Crown Entities Act 2004 may be issued to NZBOS unless it concerns—
- (a) NZBOS's role in providing oversight and clinical governance of the organ donation system and in providing support to the transplantation system; or
  - (a) *[Repealed]*
  - (b) protecting the gift status, donation, collection, processing, and supply of blood or controlled human substances (as defined in section 55 of the Human Tissue Act 2008); or
  - (c) withdrawal of contaminated blood or contaminated controlled human substances from supply.
- (4A) Despite anything in the Crown Entities Act 2004, subsection (4) does not limit—
- (a) the ability of the Minister to direct NZBOS under section 147 of that Act; or
  - (b) section 107 of that Act.
- (5) *[Repealed]*
- (6) Directions given under section 20 of the Health Sector (Transfers) Act 1993 to RHMU are deemed to be directions given under section 103 of the Crown Entities Act 2004.

Section 65 heading: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 65(1): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 65(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 65(3): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 65(4): amended, on 30 November 2020, by section 20(1) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 65(4): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 65(4)(a): inserted, on 30 November 2020, by section 20(2) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 65(4)(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 65(4)(b): amended, on 1 November 2008, by section 92 of the Human Tissue Act 2008 (2008 No 28).

Section 65(4A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 65(4A)(a): amended, on 30 November 2020, by section 20(1) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 65(5): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 65(6): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 65(6): amended, on 1 January 2001, pursuant to section 4(3) of the Health Sector (Transfers) Amendment Act 2000 (2000 No 92).

## **66 Pharmac, NZBOS, and HPA to operate in financially responsible manner**

- (1) Every organisation must operate in a financially responsible manner and for this purpose must endeavour to cover all its annual costs (including the cost of capital) from its net annual income.
- (1A) Subsection (1) does not apply to HQSC in respect of costs, which are to be met by the Ministry of Health in a financially responsible manner that allows HQSC to carry out its functions to a high standard.
- (2) This section does not limit section 51 of the Crown Entities Act 2004.

Section 66 heading: amended, on 30 November 2020, by section 21 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 66 heading: amended, on 1 July 2012, by section 8 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Section 66(1): substituted, on 9 November 2010, by section 19(2) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 66(1A): inserted, on 9 November 2010, by section 19(3) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 66(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **67 Accountability documents under Crown Entities Act 2004**

The statements of intent, annual financial statements, and annual reports of an organisation under the Crown Entities Act 2004 must comply with any regulations made under section 92(1)(d) of this Act.

Section 67: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **68 Auditor**

*[Repealed]*

Section 68: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **69 Provision of information**

- (1) Without limiting section 133(2) of the Crown Entities Act 2004, the Minister of Finance may from time to time, by written notice, require any organisation to supply to that Minister, or any other person or class of persons that the Minister

specifies, any economic or financial forecasts or other economic or financial information relating to the organisation or any or all of its Crown entity subsidiaries that the Minister specifies in the notice, and the organisation must comply with the requirement.

- (2) *[Repealed]*
- (3) No requirement of the Minister under this section may require the supply of any information that would infringe the privacy of any natural person or deceased natural person, unless the person (or a representative of the deceased person) has consented to the supply.
- (4) Subsection (3) applies despite section 134 of the Crown Entities Act 2004.

Section 69(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 69(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 69(4): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **70 Further provisions**

The provisions set out in Schedule 6 apply in respect of Pharmac, NZBOS, HPA, and HQSC.

Section 70: amended, on 30 November 2020, by section 22 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 70: amended, on 1 July 2012, by section 9 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Section 70: amended, on 9 November 2010, by section 20 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

## **Part 4A Family care policies**

*[Repealed]*

Part 4A: repealed, on 30 September 2020, by section 4 of the New Zealand Public Health and Disability Amendment Act 2020 (2020 No 61).

### **70A Purpose of this Part**

*[Repealed]*

Section 70A: repealed, on 30 September 2020, by section 4 of the New Zealand Public Health and Disability Amendment Act 2020 (2020 No 61).

### **70B Interpretation**

*[Repealed]*

Section 70B: repealed, on 30 September 2020, by section 4 of the New Zealand Public Health and Disability Amendment Act 2020 (2020 No 61).

**70C Persons generally not to be paid for providing support services to family members**

*[Repealed]*

Section 70C: repealed, on 30 September 2020, by section 4 of the New Zealand Public Health and Disability Amendment Act 2020 (2020 No 61).

**70D Family care policy**

*[Repealed]*

Section 70D: repealed, on 30 September 2020, by section 4 of the New Zealand Public Health and Disability Amendment Act 2020 (2020 No 61).

**70E Claims of unlawful discrimination in respect of this Act or family care policy precluded**

*[Repealed]*

Section 70E: repealed, on 30 September 2020, by section 4 of the New Zealand Public Health and Disability Amendment Act 2020 (2020 No 61).

**70F Certificates relating to family care policies**

*[Repealed]*

Section 70F: repealed, on 30 September 2020, by section 4 of the New Zealand Public Health and Disability Amendment Act 2020 (2020 No 61).

**70G Savings**

*[Repealed]*

Section 70G: repealed, on 30 September 2020, by section 4 of the New Zealand Public Health and Disability Amendment Act 2020 (2020 No 61).

## **Part 5 Inquiries**

### *Inquiries and investigations under Commissions of Inquiry Act 1908*

**71 Minister may appoint Commission under Commissions of Inquiry Act 1908 to conduct inquiry or investigation**

- (1) The Minister may appoint 1 or more persons as a Commission under the Commissions of Inquiry Act 1908 to conduct an inquiry or investigation into, and report to the Minister on, 1 or more of the following:
- (a) the funding or provision of health services, disability support services, or both;
  - (b) the management of any publicly-owned health and disability organisation;
  - (c) a complaint or matter that arises or may arise under this Act or out of the administration of this Act.

- (2) Any appointment under subsection (1) may be made subject to any terms and conditions (being terms and conditions not inconsistent with any enactment) the Minister determines.
- (3) Sections 11 and 12 of the Commissions of Inquiry Act 1908 (which relate to costs) do not apply to any Commission appointed under subsection (1).
- (4) There may be paid out of money appropriated by Parliament for the purpose to any person or persons appointed under subsection (1)—
  - (a) remuneration not within paragraph (b) for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework; and
  - (b) reimbursement for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member.
- (4A) For the purposes of subsection (4), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.
- (5) Any Commission appointed under subsection (1) may regulate its procedure in any manner (being a manner not inconsistent with any enactment or with any terms and conditions determined under subsection (2)) it thinks fit.
- (6) Nothing in this section limits any powers that the Minister has under any enactment or rule of law.

Compare: 1993 No 22 s 47

Section 71(4): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 71(4A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Special health inquiries*

#### **72 Minister may appoint inquiry board to conduct special health inquiry**

- (1) The Minister may appoint a person or persons (an **inquiry board**) to conduct an inquiry into, and report to the Minister on, 1 or more of the following:
  - (a) the funding or provision of health services, disability support services, or both;
  - (b) the management of any publicly-owned health and disability organisation;
  - (c) a complaint or matter that arises or may arise under this Act or out of the administration of this Act.
- (2) For the purposes of subsection (1)(a), the services need not be or have been funded or provided—
  - (a) under this Act; or
  - (b) after the commencement of this section.

- (3) The Director-General may, without further authority than this subsection, exercise the Minister's powers under subsection (1) in relation to a proposed inquiry, and, if the Director-General does so, then, in relation to the inquiry, it is only the Director-General who—
- (a) may exercise the Minister's powers under sections 73 to 75; and
  - (b) must perform the Minister's duties under those sections.
- (4) The Director-General must not exercise the Minister's powers under sections 73 to 75, and perform the Minister's duties under those sections, in accordance with subsection (3), unless the Director-General has first consulted the Minister about the Director-General doing so.
- (5) Nothing in this section, or sections 73 to 75, limits any powers that the Minister, or the Director-General, has under any other enactment or rule of law.

**73 Consultation required before inquiry board appointed to inquire into certain matters**

- (1) Subsection (2) applies if the Minister proposes to appoint an inquiry board under section 72(1) to inquire into a matter—
- (a) that is being investigated by the Health and Disability Commissioner; or
  - (b) that is the subject of proceedings—
    - (i) that relate to an alleged breach of the Code of Health and Disability Services Consumers' Rights; and
    - (ii) that are known to the Health and Disability Commissioner; or
  - (c) that includes a complaint—
    - (i) that is made against, or that directly involves, a health practitioner (within the meaning of section 4 of the Health and Disability Commissioner Act 1994); and
    - (ii) that is the subject of proceedings before the appropriate health professional body (within the meaning of section 38(2) of that Act).
- (2) If this subsection applies, the Minister must, before appointing the inquiry board, consult the Health and Disability Commissioner or, as the case requires, the appropriate health professional body, on the proposed appointment.
- (3) If the Minister proposes to appoint an inquiry board under section 72(1) to inquire into a matter in which the Ministry of Health is, or was, or may be, or may have been, involved, the Minister must seek advice on the proposed appointment from any adviser independent from the Ministry of Health (for example, the Solicitor-General) the Minister thinks fit.

Section 73(1)(c)(i): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

#### **74 Discussion required before inquiry board appointed**

Before appointing an inquiry board under section 72(1), the Minister must select a person as prospective sole or principal member of the proposed inquiry board, and discuss with the person—

- (a) the content of the terms of reference for the proposed inquiry (including the time by which the inquiry board must finally report); and
- (b) whether the inquiry should be conducted in an inquisitorial or in an adversarial manner, and any other instructions as to procedure to be given under section 75(3)(b); and
- (c) the terms and conditions of appointment of the sole or principal member of the proposed inquiry board; and
- (d) whether the inquiry board needs any additional member (or additional members) and, if so, who might be appointed as an additional member (or as additional members) of the inquiry board; and
- (e) the support personnel, resources, and services that the proposed inquiry board is likely to need to be able to conduct the inquiry in accordance with—
  - (i) the instructions proposed to be given under section 75(3)(b); and
  - (ii) the requirements stated in sections 78 and 79.

Section 74(b): amended, on 23 April 2011, by section 21 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

#### **75 Establishment and alteration of inquiry**

- (1) After the discussions referred to in section 74, the Minister may, under section 72(1), appoint a person as sole or principal member of the inquiry board on mutually acceptable terms and conditions.
- (2) If, after the discussions referred to in section 74, the Minister considers an inquiry board needs a member or members in addition to the sole or principal member, the Minister may, under section 72(1), appoint any person or persons as an additional member or as additional members of the inquiry board on mutually acceptable terms and conditions.
- (3) On appointing an inquiry board for an inquiry under section 72(1), the Minister must—
  - (a) set the terms of reference for the inquiry (including the time by which the inquiry board must finally report); and
  - (b) give the following procedural instructions that the inquiry board (and its support personnel) must, together with the procedural requirements stated in sections 78 and 79, apply and follow during the inquiry:
    - (i) an instruction referred to in section 77(a); and
    - (ii) an instruction referred to in section 77(g) if (and only if)—

- (A) the instruction referred to in section 77(a) given by the Minister is that the inquiry be conducted in an inquisitorial manner; and
  - (B) the Minister thinks fit to give an instruction referred to in section 77(g); and
  - (iii) any other instruction or instructions referred to in section 77 that the Minister thinks fit to give.
- (4) In any inquiry the Minister may, at any time after appointing the inquiry board,—
- (a) alter the inquiry board (including the sole or principal member) appointed:
  - (b) alter the terms of reference set (including the time by which the inquiry board must finally report):
  - (c) add, to the instructions already given to the inquiry board under subsection (3)(b), further instructions referred to in any paragraph (except paragraph (a) or paragraph (g)) of section 77.

#### **76 Protection of inquiry board**

No member of an inquiry board (or of the support personnel for an inquiry board) has any civil liability for anything the member does or says or reports, or omits to do or say or report, in good faith in pursuance or intended pursuance of his or her duties as a member of the inquiry board (or of the support personnel for the inquiry board).

Compare: 1908 No 25 s 3

#### **77 Instructions as to procedure**

The instructions referred to in section 75(3)(b) are—

- (a) that the inquiry be conducted in an inquisitorial or in an adversarial manner:
- (b) that the inquiry be conducted efficiently and with as much expedition as is possible, while retaining procedural flexibility:
- (c) that the inquiry board avoid unnecessary formality:
- (d) that, to the extent reasonably possible, costs of the inquiry be kept within reasonable bounds:
- (e) that the inquiry board recognise tikanga Maori where appropriate:
- (f) that the inquiry board receive any evidence written or spoken in Maori (but the fact that this instruction has, or has not, been given to the inquiry board is not to affect the application (if any) of Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 in proceedings before the inquiry board):

- (g) that the questioning of witnesses (other than by the inquiry board or its support personnel) be available only if—
  - (i) a person's interests may be adversely affected by evidence or a statement of a witness or, and in exceptional circumstances only, a refusal to allow questioning would otherwise contravene natural justice; and
  - (ii) no other procedure would protect adequately the person's interests or avoid the other contravention of natural justice:
- (h) that the inquiry board hold public hearings in places specified by the Minister, subject to the inquiry board's powers under section 79 to hold hearings in private and prohibit publication or disclosure of proceedings:
- (i) that witnesses who give information in a hearing be given a transcript of the hearing relating to the information and a reasonable chance to clarify the information or to provide any relevant further information:
- (j) that the inquiry board have the powers under section 82 to investigate and the power under section 83 to summon witnesses.

Section 77(f): amended, on 30 April 2016, by section 50 of Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 (2016 No 17).

## **78 Further requirements as to procedure**

In any inquiry, the inquiry board must—

- (a) give witnesses notice before a hearing of matters in respect of which they will be asked questions in the hearing:
- (b) give persons who are the subject of damaging or adverse allegations a reasonable chance to respond to those allegations:
- (c) draw to a person's attention any proposed criticisms by the inquiry board of the person, so that the person has a reasonable chance to respond to those criticisms.

## **79 Inquiry hearings and evidence generally to be public**

- (1) Each hearing an inquiry board conducts for the purposes of its inquiry must be held in public.
- (2) Subsection (1) is subject to subsections (3) to (5).
- (3) An inquiry board that considers it proper to do so after having had regard to the interests of any person and to the public interest may—
  - (a) hold all or any part of a hearing in private:
  - (b) make an order prohibiting the publication or disclosure of any report or account of all or any part of the proceedings before it, whether held in public or in private:

- (c) make an order prohibiting the publication or disclosure of all or any part of any evidence given, or any books, papers, documents, or records produced, at any hearing.
- (4) An inquiry board may make an order under subsection (3)(b) or (c) on its own initiative or an application by any person for the purpose.
- (5) If an inquiry board makes an order under subsection (3), the inquiry board must state in the order—
  - (a) the inquiry board’s reasons for making the order; and
  - (b) in the case of an order made under subsection (3)(b) or (c), the time (if any) at which, or the circumstances (if any) in which, the order ceases to have effect.
- (6) If an inquiry board makes an order, under subsection (3)(b) or (c), in respect of information, that information must not while that order has effect be made available under any of the Local Government Official Information and Meetings Act 1987, the Official Information Act 1982, or the Privacy Act 2020.
- (7) An inquiry board may at any time deliberate in private as to its decision on any matter or question arising in the course of the inquiry.
- (8) Nothing in this section prevents an inquiry board from at any time seeking information or questioning people outside a hearing as to where information relevant to the inquiry might be obtained.

Section 79(6): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

## **80 Supplementary procedure**

In any inquiry, the inquiry board may adopt further procedures for the inquiry that are not inconsistent with—

- (a) instructions given under subsections (3)(b) and (4)(c) of section 75:
- (b) the requirements stated in sections 78 and 79.

## **81 Evidence**

- (1) An inquiry board may receive as evidence any statement, document, information, or matter that, in the inquiry team’s opinion, may help it meet its terms of reference, whether or not the statement, document, information, or matter would be admissible in a court of law.
- (2) An inquiry board may take evidence on oath.
- (3) An inquiry board may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the inquiry board thinks fit, verifying it by oath.

Compare: 1908 No 25 s 4B

## **82 Powers to investigate**

- (1) If the Minister has given an inquiry board an instruction referred to in section 77(j) then, for the purposes of its inquiry, the inquiry board or any person authorised by it in writing to do so may—
  - (a) inspect and examine any books, papers, documents, records, or things (for example, medical equipment, parts of or substances from a human body, or specimens):
  - (b) require any person to produce for examination any books, papers, documents, records, or things (for example, medical equipment, parts of or substances from a human body, or specimens) in the person's possession or control, and to allow copies of or extracts from any of those books, papers, documents, or records to be made:
  - (c) require any person to give, in a form approved by or acceptable to the inquiry board, any information or particulars it requires, and any copies of or extracts from any books, papers, documents, or records referred to in paragraph (b).
- (2) The inquiry board may, if it thinks fit, require that any written information or particulars or any copies or extracts given under this section be verified by statutory declaration or another means the inquiry board identifies.
- (3) Every person has the same privileges in relation to the giving of information to the inquiry board, the answering of questions put by the inquiry board, and the production of books, papers, documents, records, and things to the inquiry board, as witnesses have in courts of law.

Compare: 1908 No 25 s 4C

## **83 Power to summon witnesses**

- (1) If the Minister has given an inquiry board an instruction referred to in section 77(j) then, for the purposes of its inquiry, the inquiry board may issue a summons requiring any person to—
  - (a) attend and give evidence; and
  - (b) produce any books, papers, documents, records, or things in the person's possession or control that are relevant to the subject of the inquiry.
- (2) A witness is not required to attend and give evidence or produce any things in accordance with a summons issued under subsection (1) unless, at the time of the service of the summons or at some other reasonable time before the day on which the attendance of the witness would, apart from this subsection, be required, there is tendered or paid to the witness a sum in respect of the witness' allowances and travelling expenses in accordance with the scale prescribed for the time being by regulations made under the Criminal Procedure Act 2011.

- (3) The summons must be in writing and state the place and time at which the witness is required to attend.
- (4) The inquiry board may issue a summons on its own initiative or an application by any person for the purpose.
- (5) The power to issue the summons may be exercised by—
  - (a) the sole or principal member of the inquiry board; or
  - (b) any other member of the inquiry board purporting to act by direction or with the authority of the principal member of the inquiry board.

Compare: 1908 No 25 s 4D

Section 83(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

#### **84 Service of summons**

- (1) A summons to a witness may be served by—
  - (a) delivering it to the witness; or
  - (b) leaving it at the witness' usual place of residence; or
  - (c) posting it by registered post addressed to the witness at the witness' usual place of residence.
- (2) The summons must be served at least 10 days before the day on which the attendance of the witness is required.
- (3) A summons served under subsection (1)(c) must be treated as having been served at the time when the letter would be delivered in the ordinary course of post.

Compare: 1908 No 25 s 5

#### **85 Protection of witnesses**

Every witness giving evidence, and every counsel or agent or other person appearing, before an inquiry board, has the same privileges and immunities as witnesses and counsel in courts of law.

Compare: 1908 No 25 s 6

#### **86 Offences**

- (1) Every person commits an offence who, after being summoned to attend to give evidence before an inquiry board or to produce to it any books, papers, documents, records, or things, without sufficient cause,—
  - (a) fails to attend in accordance with the summons; or
  - (b) refuses to be sworn or to give evidence, or having been sworn refuses to answer any question that the person is lawfully required by the inquiry board or any member of it to answer concerning the subject of the inquiry; or
  - (c) fails to produce any such book, paper, document, record, or thing.

- (2) Every person commits an offence who without lawful excuse contravenes any order made by an inquiry board under section 79(3)(b) or (c).
- (3) Every person commits an offence who—
  - (a) wilfully obstructs or hinders an inquiry board or any member of it or any authorised person in any inspection or examination of books, papers, documents, records, or things, under section 82(1)(a); or
  - (b) without sufficient cause, fails to comply with any requirement of an inquiry board or any authorised person made under section 82(1)(b) or (c).
- (4) Every person commits an offence who wilfully interrupts or obstructs any hearing conducted by an inquiry board.
- (5) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$10,000.

Compare: 1908 No 25 s 9(1)–(3)

Section 86(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **Part 6**

### **Miscellaneous provisions**

#### **87 Saving of certain transactions**

The validity or enforceability of any deed, agreement, right, or obligation entered into, or incurred by, the Crown or a publicly-owned health and disability organisation is not affected by a failure by the Crown or the organisation to comply with—

- (a) any provision in sections 3, 4, or 8, or Parts 3 and 4; or
- (b) any regulations made under section 92(1)(e); or
- (c) any provision of Schedules 3 to 6; or
- (d) any provision in any statement of intent or plan prepared under section 38; or
- (e) any direction or requirement given under this Act or any other Act.

Section 87(d): amended, on 24 February 2011, by section 22 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

#### **88 Arrangements relating to payments**

- (1) Where the Crown or a DHB gives notice of the terms and conditions on which the Crown or the DHB will make a payment to any person or persons, and, after notice is given, such a payment is accepted by any such person from the Crown or DHB, then—
  - (a) acceptance by the person of the payment constitutes acceptance by the person of the terms and conditions; and

- (b) compliance by the person with the terms and conditions may be enforced by the Crown or DHB (as the case may be) as if the person had signed a deed under which the person agreed to the terms and conditions.
- (2) Any terms and conditions of which notice is given under subsection (1), unless they expressly provide otherwise, are deemed to include a provision to the effect that 12 weeks' notice must be given of any amendment or revocation of the terms and conditions.
- (3) Every notice, and every amendment or revocation of a notice, must be published in the *Gazette* before the notice, amendment, or revocation takes effect; and, as soon as practicable, the Minister must present a copy to the House of Representatives.
- (4) No notice may be issued under this section that would bind Pharmac or NZBOS.

Section 88(4): amended, on 30 November 2020, by section 23 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

### **89 Principles of national consistency applicable to notices under section 88**

- (1) The principles stated in subsection (2) apply to the Crown and to a DHB whenever the Crown or a DHB proposes to issue a notice under section 88.
- (2) The principles are—
  - (a) that it is desirable to maintain national consistency in the terms and conditions set in respect of the same or substantially the same services; but
  - (b) that it needs to be recognised that there are circumstances when there is good reason to depart from terms and conditions set in respect of the same or substantially the same services, including, without limitation,—
    - (i) special circumstances relating to a geographical area; or
    - (ii) the need to adjust the amounts payable for services; or
    - (iii) the need to update standards set for services.
- (3) A DHB may not issue a notice under section 88 without the written approval of the Minister if the proposed notice—
  - (a) relates to services in respect of which the DHB has not previously issued a notice; or
  - (b) sets terms and conditions in respect of particular services that depart from terms and conditions set out in an existing notice in respect of the same or substantially the same services; or
  - (c) differentiates between persons or classes of person accepting payment under section 88.
- (4) The Minister's approval may be given subject to any conditions the Minister specifies.

- (5) Any notice under section 88 that departs from an existing notice in the manner referred to in subsection (3)(b) or differentiates in the manner referred to in subsection (3)(c) must include a statement of the reasons for the departure or differentiation.
- (6) In this section, **existing notice** means a notice issued under section 88, or continued by section 112(3), that is for the time being in force.
- (7) The Minister must present to the House of Representatives a copy of any approval given under this section.

## **90 Exclusion of liability**

- (1) A member of a board, or of a committee of a board, of a publicly-owned health and disability organisation is not liable for any liability, or act or omission, of the organisation.
- (2) A member of a board, or of a committee of a board, of a publicly-owned health and disability organisation is not liable to the organisation for any act or omission done or omitted in his or her capacity as a member, if he or she acted in good faith, and with reasonable care, in pursuance of the functions of the organisation.
- (2A) Section 59(3) of the Crown Entities Act 2004 (which provides that a statutory entity may bring an action against a member for breach of an individual duty) does not apply to a member of a publicly-owned health and disability organisation, unless it is shown by that publicly-owned health and disability organisation that the person did not act with good faith, or with reasonable care.
- (3) Every member of the board, or of any committee of the board, of a publicly-owned health and disability organisation is indemnified by the organisation—
  - (a) for costs and damages for any civil liability arising from any action brought by a third party in respect of any act or omission done or omitted in his or her capacity as a member, if he or she acted in good faith, and with reasonable care, in pursuance of the functions of the organisation; and
  - (b) for costs arising from any successfully defended criminal proceeding in relation to any such act or omission.
- (4) A member of a committee established or appointed under Part 2 is not liable for any act or omission done or omitted in his or her capacity as a member, if he or she acted in good faith, and with reasonable care, in pursuance of the functions of the committee.
- (5) Sections 120 to 126 of the Crown Entities Act 2004 do not apply to a publicly-owned health and disability organisation, members of the board or a committee of the board of a publicly-owned health and disability organisation, or office holders or employees of a publicly-owned health and disability organisation.

Section 90(2A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 90(5): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **91 No compensation for loss of office**

Neither the Crown nor any publicly-owned health and disability organisation may make any payment to, or otherwise compensate, any person in respect of the person ceasing for any reason to hold any office established by or under this Act.

## **92 Regulations**

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
- (a) imposing restrictions and requirements relating to reinsurance, service agreements, and notices under section 88:
  - (b) specifying the circumstances in which a person may lend money to a DHB:
  - (c) specifying any class of shares or interests that, and any conditions on which, DHBs may—
    - (i) hold in a body corporate or in a partnership, joint venture, or other association of persons; or
    - (ii) settle, or be or appoint a trustee of, a trust:
  - (d) specifying the form of any document of the kind referred to in section 42 or section 67, and specifying matters to be stated in any such document in addition to those required by those sections or the Crown Entities Act 2004:
  - (e) imposing procedural requirements in relation to any consultation required by or under this Act, not being requirements that are inconsistent with any provision of this Act:
  - (f) specifying kinds of information for the purposes of clause 49 of Schedule 3:
  - (g) in relation to any plans to be prepared under section 38(1)(a) or 38(1)(b),—
    - (i) specifying the form of the plan; and
    - (ii) imposing requirements relating to the content of the plan; and
    - (iii) imposing procedural requirements (such as a requirement for consultation) that must be complied with in the preparation of the plan:
  - (h) *[Repealed]*

- (i) prescribing standard provisions that are to be regarded as being included in all Crown funding agreements between the Crown and DHBs:
  - (j) providing for any other matters contemplated by this Act or necessary for its administration or necessary for giving it full effect.
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing rules by which disputes or differences between any 1 or more publicly-owned health and disability organisations or providers of services or other persons are to be mediated or arbitrated.
- (3) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
  - (a) providing for the issue of entitlement cards (including cards that may record information of any description that is capable of being read or processed by a computer, but not including cards that are themselves capable of processing information) to various classes of persons or the continuation of use of such cards issued under the Health Entitlement Cards Regulations 1993:
  - (b) prescribing the classes of persons eligible to be issued with the cards:
  - (c) prescribing and regulating the use of the cards, including (but not limited to)—
    - (i) their use to obtain any payment or exemption from payment for health services or disability support services supplied to the holder of a card, or his or her dependent spouse or partner or child:
    - (ii) specifying time limits on the validity of the cards:
    - (iii) requiring holders to return the cards to the Ministry of Health:
    - (iv) any other conditions relating to their use:
  - (d) providing for reviews or appeals, or both, of any decisions made under any regulations authorised by paragraphs (a) to (c):
  - (e) prescribing offences relating to the improper use of the cards and the fines (not exceeding \$10,000) that may be imposed in respect of any such offences.
- (4) The Health Entitlement Cards Regulations 1993 are deemed to have been made under subsection (3) and may be amended or revoked accordingly.
- (5) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
  - (a) providing for returns to be made by persons importing into or manufacturing in New Zealand any alcohol, or any class or kind of alcohol, for the purpose of ascertaining the amount of any levy payable under this Act, and providing for the verification of returns:
  - (b) exempting any person or class of persons from paying any levy that would otherwise be payable under this Act in any case where the cost of

assessing or collecting the levy exceeds the amount payable by way of the levy:

- (c) amending or replacing the table in Schedule 4B, and amending, omitting, or reinserting the description of the method for determining variable rates.
- (6) Regulations under subsection (5)(c) may be made only—
- (a) for the purpose of aligning the rates for classes of alcohol under this Act with the classification system applied to alcoholic beverages under Part B of the Excise and Excise-equivalent Duties Table (as defined in section 5(1) of the Customs and Excise Act 2018); and
  - (b) after consultation with the Minister of Customs.

Section 92(1)(a): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 92(1)(b): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 92(1)(c): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 92(1)(d): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 92(1)(g): substituted, on 24 February 2011, by section 23(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 92(1)(h): repealed, on 25 December 2002, by section 51(1) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 92(2): amended, on 24 February 2011, by section 23(2) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Section 92(3)(c)(i): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 92(5): inserted, on 1 July 2012, by section 10 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Section 92(6): inserted, on 1 July 2012, by section 10 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Section 92(6)(a): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

## Part 7

### Transitional and consequential provisions

#### 93 Interpretation

In this Part, unless the context otherwise requires,—

**assets** has the same meaning as in section 2(1) of the Health Sector (Transfers) Act 1993

**dissolved entity** means any of the following:

- (a) the Health Funding Authority:

- (b) any hospital and health service:
- (c) New Zealand Blood Service Limited:
- (d) Pharmaceutical Management Agency Limited

**Health Funding Authority** means the authority continued by section 32(1) (as in force immediately before the commencement of this section) of the Health and Disability Services Act 1993

**hospital and health service** means every company formed and registered in accordance with section 37 of the Health and Disability Services Act 1993

**liabilities** has the same meaning as in section 2(1) of the Health Sector (Transfers) Act 1993

**New Zealand Blood Service Limited** means the hospital and health service incorporated with the name New Zealand Blood Service Limited

**Pharmaceutical Management Agency Limited** means the company incorporated under the Companies Act 1993 with the name Pharmaceutical Management Agency Limited

**transfer** has the same meaning as in section 2(1) of the Health Sector (Transfers) Act 1993.

*Assets and liabilities of dissolved entities to vest in publicly-owned health and disability organisations*

**94 Health Funding Authority dissolved and assets and liabilities vested in the Crown**

- (1) The Health Funding Authority is dissolved.
- (2) No person who, immediately before the commencement of this section, held office as a director of the Health Funding Authority is entitled to compensation for loss of the office.
- (3) On the commencement of this section, the assets and liabilities of the Health Funding Authority vest in the Crown (acting, in the case of any shares vested, through the Minister and, in the case of any other assets or liabilities vested, through the Ministry of Health).

**95 Hospital and health services dissolved and assets and liabilities vested in DHBs**

- (1) Every hospital and health service is dissolved.
- (2) No person who, immediately before the commencement of this section, held office as a director of a hospital and health service is entitled to compensation for loss of the office.
- (3) Except as provided in subsection (4), on the commencement of this section, the assets and liabilities of each hospital and health service (other than New Zea-

land Blood Service Limited) vest in the DHB whose name is shown opposite the name of the hospital and health service in column 2 of Schedule 7.

- (4) The assets and liabilities vested by subsection (3) do not include rights or obligations under any contract of service under which a person was, before the commencement of this section, employed as the chief executive of a hospital and health service.
- (5) The Registrar of Companies must remove from the register of companies kept under section 360(1)(a) of the Companies Act 1993 the name of every hospital and health service.

**96 Assets and liabilities of New Zealand Blood Service Limited vested in NZBS**

On the commencement of this section, the assets and liabilities of New Zealand Blood Service Limited vest in NZBS.

**97 Former directors of New Zealand Blood Service Limited to be transitional members of NZBS**

- (1) Every person who, on the date immediately before the commencement of this section, held office as a director of New Zealand Blood Service Limited is to be taken to have been appointed under section 56 as a member of the board of NZBS for the period that, as at the close of that date, represents the remainder of the person's term as a director of New Zealand Blood Service Limited.
- (2) Within 28 days after the commencement of this section, every member continuing in office under subsection (1) must give the Minister the statement required to be completed by section 56(2), and that subsection applies to the member as if he or she were to be appointed as a member of the board of NZBS on the 29th day after that commencement.
- (3) If on the 29th day after the commencement of this section a member affected by subsection (1) has failed to comply with subsection (2), the member ceases to be a member of the board of NZBS on that day.

**98 Pharmaceutical Management Agency Limited dissolved and assets and liabilities vested in Pharmac**

- (1) Pharmaceutical Management Agency Limited is dissolved.
- (2) No person who, immediately before the commencement of this section, held office as a director of Pharmaceutical Management Agency Limited is entitled to compensation for loss of the office.
- (3) On the commencement of this section, the assets and liabilities of the Pharmaceutical Management Agency Limited vest in Pharmac.
- (4) The Registrar of Companies must remove from the register of companies kept under section 360(1)(a) of the Companies Act 1993 the name of Pharmaceutical Management Agency Limited.

**99 Former directors of Pharmaceutical Management Agency Limited to be transitional members of board of Pharmac**

- (1) Every person who, immediately before the commencement of this section, held office as a director of Pharmaceutical Management Agency Limited is to be taken to have been appointed under section 52 as a member of the board of Pharmac for the period that, as at the close of that date, represents the remainder of the person's term as a director of Pharmaceutical Management Agency Limited.
- (2) Within 28 days after the commencement of this section, every member continuing in office under subsection (1) must give the Minister the statement required to be completed by section 52(2), and that subsection applies to the member as if he or she were to be appointed as a member of the board of Pharmac on the 29th day after that commencement.
- (3) If on the 29th day after the commencement of this section a member affected by subsection (1) has failed to comply with subsection (2), the member ceases to be a member of the board of Pharmac on that day.

**100 Health Sector (Transfers) Act 1993 to apply to vestings under this Act**

- (1) Section 6, sections 8 to 14, and Schedule 1 of the Health Sector (Transfers) Act 1993 apply to the vestings effected by sections 94 to 96 and section 98 as if—
  - (a) each vesting had been effected under section 5 of that Act; and
  - (b) each dissolved entity were a transferor within the meaning of that Act.
- (2) For the purposes of the Government Superannuation Fund Act 1956, a person who, as a result of any of the vestings by sections 94 to 96 and section 98 becomes an employee of a transferee and who, immediately before becoming such an employee, was an officer or employee of a dissolved entity and a contributor to the Government Superannuation Fund under that Act is, so long as that person continues to be employed by a transferee,—
  - (a) to be taken to be employed in the Government service; and
  - (b) that Act applies to that person as if service with the transferee were Government service.
- (3) Subject to the Government Superannuation Fund Act 1956, nothing in subsection (2) entitles any such person to become a contributor to the Government Superannuation Fund after that person has ceased to be a contributor.
- (4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subsection (2), to a person who is in the service of a transferee and is a contributor to the Government Superannuation Fund, the term **controlling authority**, in relation to that person, means the chief executive of the transferee.

**101 Modifications of Health Sector (Transfers) Act 1993 in respect of former employees of dissolved entities and certain employees of Ministry of Health**

- (1) Section 13 of the Health Sector (Transfers) Act 1993 applies to any person who, at any time in the period commencing on 1 April 2000 and ending with the commencement of this section, was an employee of a dissolved entity as if—
  - (a) in subsection (1) of that section there were inserted, before the words “an employee of a transferor”, the words “on or after 1 April 2000”;
  - (b) in subsection (2) of that section there were inserted, before the words “an employee of a transferor”, the words “on or after 1 August 2000”;
  - (c) in subsection (2) of that section there were substituted for the expression “9 months”, the expression “3 months”;
  - (d) in subsection (6) of that section there were substituted for the words “31st day of December 1994”, the words “commencement of section 101 of the New Zealand Public Health and Disability Act 2000”.
- (2) For the purposes of subsection (1), every dissolved entity is to be taken to be a transferor as well as a transferee within the meaning of the Health Sector (Transfers) Act 1993.
- (3) Before 31 December 2002, the Director-General may give notice to any employee of the Director-General that the employee may, through the operation of section 4 or section 5 of the Health Sector (Transfers) Act 1993, become an employee of a DHB or of a subsidiary of a DHB.
- (4) From the date of a notice given to an employee under subsection (3), the Health Sector (Transfers) Act 1993 applies to the employee as if—
  - (a) in section 13(2) there were substituted for the expression “9 months”, the expression “3 months”;
  - (b) in section 13(6) there were substituted for the words “the 31st day of December 1994”, the expression “31 December 2002”;
  - (c) in section 15(1) there were substituted for the words “the 31st day of March 1994”, the expression “31 December 2002”.

Section 101(1)(d): amended, on 22 October 2003, by section 3 of the New Zealand Public Health and Disability Amendment Act 2003 (2003 No 87).

**102 References to dissolved entities to be references to their successors**

As from the commencement of this section, unless the context otherwise requires, every reference in any notice or document—

- (a) to the Health Funding Authority must be read as a reference to the Crown (acting, in the case of any shares formerly held by the Health Funding Authority, through the Minister and, in any other case, through the Ministry of Health);

- (b) to a hospital and health service (other than New Zealand Blood Service Limited) must be read as a reference to the DHB in whom the assets and liabilities of the hospital and health service are vested by section 95:
- (c) to New Zealand Blood Service Limited must be read as a reference to NZBOS:
- (d) to the Pharmaceutical Management Agency Limited must be read as a reference to Pharmac.

Section 102(c): amended, on 30 November 2020, by section 24 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

### **103 Persons in whom assets and liabilities vested deemed dissolved entities for certain purposes**

Every person in whom the assets and liabilities of a dissolved entity are vested by any of sections 94 to 96 and 98 is deemed to be the dissolved entity for the purposes of any requirement or entitlement under—

- (a) the Goods and Services Tax Act 1985; or
- (b) any enactment or accounting practice relating to accounting records or financial statements.

*Transitional provisions relating to annual reports and financial statements of dissolved entities*

### **104 Meaning of final report**

In section 105, **final report**, in relation to a dissolved entity, means—

- (a) a report setting out the information specified in section 41I of the Public Finance Act 1989 in relation to the dissolved entity's operations for the period beginning on 1 July 2000 and ending with the close of the day immediately before the commencement of this section; and
- (b) the dissolved entity's financial statements for that period, which—
  - (i) set out the information specified in section 41 of the Public Finance Act 1989; and
  - (ii) are accompanied by an audit opinion prepared by the Audit Office in accordance with section 43 of that Act.

### **105 Final reports of dissolved entities**

- (1) As soon as reasonably practicable after the commencement of this section, the Minister must receive—
  - (a) from the Director-General the final report of the Health Funding Authority;
  - (b) from each DHB the final report of the hospital and health service whose assets and liabilities are vested in the DHB by section 95:

- (c) from NZBS the final report of New Zealand Blood Service Limited;
  - (d) from Pharmac the final report of the Pharmaceutical Management Agency Limited.
- (2) As soon as practicable after receiving each final report, the Minister must present the report to the House of Representatives.

*All positions on boards of DHBs filled by appointment until first elections*

#### **106 Transitional board members**

- (1) In the period commencing with the commencement of this section and ending with the first elections of members of boards of DHBs, the Minister may appoint up to 11 members to the board of each DHB (whether that DHB has been, or is to be, established) to hold the positions that are, after those elections, to be held by elected and appointed members.
- (2) The provisions of this Act that apply to appointed members of DHBs apply to members appointed under subsection (1), except that—
- (a) the appointment of such a member (whether as member, chairperson, or deputy chairperson) must be made by written notice to the member, and need not be notified in the *Gazette*; and
  - (b) such a member need not complete the statement under section 29(6) before his or her appointment, but must complete that statement before the 29th day after his or her appointment; and
  - (c) if such members hold a meeting of a board of a DHB before 1 February 2001, clauses 16 to 24, 28 and 31 to 35 of Schedule 3 do not apply to that meeting.
- (3) As soon as practicable after the commencement of this section, the Minister must make appointments under subsection (1) to enable each DHB to operate on and from 1 January 2001.
- (4) For the purpose of enabling a DHB to operate on and from 1 January 2001, the members appointed under subsection (1) in respect of a DHB may, before that date, exercise or perform any duty, power, or function of the board of the DHB.
- (5) A record of every meeting of the board of a DHB held in accordance with subsection (2)(c) and of every decision taken in respect of the board of a DHB under subsection (4) must be tabled at the first meeting of the board that is publicly notified under clause 16 of Schedule 3.
- (6) Despite subsection (2), when the first elected members of a board of a DHB come into office, every member appointed under subsection (1) ceases to be a member of the board.

*Amendments to other Acts*

**107 Amendments to Commerce Act 1986**

*Amendment(s) incorporated in the Act(s).*

**108 Amendments to State Sector Act 1988**

*Amendment(s) incorporated in the Act(s).*

**109 Amendment to Mental Health Commission Act 1998**

*Amendment(s) incorporated in the Act(s).*

*Consequential repeals, revocations, and amendments*

**110 Consequential repeals and revocations**

- (1) The following Acts are repealed:
  - (a) Health and Disability Services Act 1993 (1993 No 22):
  - (b) Maternal Mortality Research Act 1968 (1968 No 26).
- (2) The instruments specified in Schedule 8 are revoked.

**111 Consequential amendments**

- (1) The Acts specified in Schedule 9 are amended in the manner indicated in that schedule.
- (2) The regulations specified in Schedule 10 are amended in the manner indicated in that schedule.

**112 Saving**

- (1) The direction concerning the eligibility of persons for Crown-funded services given to the Health Funding Authority under section 25 of the Health and Disability Services Act 1993, and in force immediately before the commencement of this section, is deemed to have been given, under section 32, to every DHB.
- (2) The Minister may at any time amend or revoke the direction referred to in subsection (1) by issuing a direction under section 32.
- (3) Every notice given, under section 51 of the Health and Disability Services Act 1993, and in force immediately before the commencement of this section, continues in force as if the notice had been given by the Crown under section 88.
- (4) The Crown (acting through the Ministry of Health) may at any time amend or revoke a notice referred to in subsection (3) by issuing a notice under section 88.
- (5) Despite sections 28 and 63, during the period of 1 year ending after the commencement of this section, a publicly-owned health and disability organisation may—

- (a) hold any shares or interests in a body corporate or in a partnership, joint venture, or other association of persons if those shares or interests were vested in the organisation by this Act; and
  - (b) be the trustee of a trust if the office as trustee was vested in the organisation by this Act.
- (6) On the expiry of the period referred to in subsection (5), no organisation may continue to hold such shares or interests or be such a trustee without the consent of the Minister, given in accordance with section 28 or section 63, as the case may require.

*Appropriations for purposes of Act*

**113 Interim authority of Crown to incur liabilities**

- (1) Liabilities of up to a total of \$1,200,000,000 may, during the 2000/01 year, be incurred in advance of appropriation in relation to Vote Health to provide the capital injections required to establish the District Health Boards.
- (2) All liabilities incurred under this section must be charged in the manner to be specified in an Appropriation Act for the 2000/01 year and, until the coming into force of the Appropriation Act in which that manner is specified, may be incurred during the 2000/01 year as if they had been incurred in accordance with one of the separate appropriations specified in section 4(3) of the Public Finance Act 1989.

*Transitional provisions relating to New Zealand health strategy and New Zealand disability strategy*

**114 Consultation for first New Zealand health strategy and first New Zealand disability strategy**

- (1) The consultation undertaken, before the commencement of this section, by the Minister on proposals for a New Zealand health strategy is to be taken to be consultation for the purposes of section 8(3) for the first New Zealand health strategy determined after the commencement of this section.
- (2) The consultation undertaken, before the commencement of this section, by the Minister of the Crown who is responsible for disability issues on proposals for a New Zealand disability strategy is to be taken to be consultation for the purposes of section 8(3) for the first New Zealand disability strategy determined after the commencement of this section.

## Schedule 1 DHBs and their geographical areas

s 19(1)

<b>Organisation</b>	<b>Representative geographical area based on territorial authority and ward boundaries as constituted as at 1 January 2001</b>
Northland DHB	Far North District, Whangarei District, Kaipara District
Waitemata DHB	North Shore City, Rodney District, Waitakere City
Auckland DHB	Auckland City
Counties Manukau DHB	Manukau City, Papakura District, Franklin District
Waikato DHB	Hauraki District, Thames-Coromandel District, Waikato District, Waipa District, Hamilton City, South Waikato District, Matamata-Piako District, Otorohanga District, Waitomo District, Ruapehu District (Ohura, Taumarunui and National Park Wards only)
Lakes DHB	Taupo District, Rotorua District
Bay of Plenty DHB	Tauranga District, Western Bay of Plenty District, Whakatane District, Kawerau District, Opotiki District, Mayor Island (Tuhua), Motiti Island
Tairāwhiti DHB	Gisborne District
Taranaki DHB	New Plymouth District, Stratford District, South Taranaki District
Hawke's Bay DHB	Wairoa District, Hastings District, Napier City, Central Hawkes Bay District
Whanganui DHB	Wanganui District, Rangitikei District, Ruapehu District (Waiouru and Waimarino Wards only)
MidCentral DHB	Manawatu District, Palmerston North City, Tararua District, Horowhenua District, Kapiti Coast District (Otaki Ward only)
Hutt DHB	Upper Hutt City, Lower Hutt City
Capital and Coast DHB	Kapiti Coast District (Paraparaumu, Waikanae and Paekakariki-Raumati Wards only), Porirua City, Wellington City
Wairarapa DHB	Masterton District, Carterton District, South Wairarapa District
Nelson Marlborough DHB	Tasman District, Nelson City, Marlborough District
West Coast DHB	Buller District, Grey District, Westland District

<b>Organisation</b>	<b>Representative geographical area based on territorial authority and ward boundaries as constituted as at 1 January 2001</b>
Canterbury DHB	Kaikoura District, Hurunui District, Waimakariri District, Banks Peninsula District, Selwyn District, Christchurch City, Ashburton District, Chatham Islands Territory
South Canterbury DHB	Timaru District, Mackenzie District, Waimate District
Southern DHB	Waitaki District, Central Otago District, Dunedin City, Clutha District, Southland District, Gore District, Invercargill City, Queenstown-Lakes District

Schedule 1: amended, on 30 June 2015, by clause 3(2) of the Health and Disability (Geographical Areas of DHBs) Order 2015 (LI 2015/133).

Schedule 1: amended, on 30 June 2015, by clause 3(3) of the Health and Disability (Geographical Areas of DHBs) Order 2015 (LI 2015/133).

Schedule 1: amended, on 1 May 2010, by clause 4(1) of the Health and Disability (Establishment of Southern DHB) Order 2010 (SR 2010/78).

Schedule 1: amended, on 1 May 2010, by clause 4(2) of the Health and Disability (Establishment of Southern DHB) Order 2010 (SR 2010/78).

Schedule 1: amended, on 6 August 2004, by clause 3 of the Health (Geographical Areas of District Health Boards) Order 2004 (SR 2004/227).

Schedule 1: amended, on 27 April 2001, by clause 7 of the Health (Constituencies of District Health Boards) Order 2001 (SR 2001/77).

**Schedule 2**  
**Membership of boards: Election and appointment of members, and  
effect of boundary changes on membership**

ss 29(1), 45(1)

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*Interpretation***1 Interpretation**

In this schedule, unless the context otherwise requires,—

**constituency**, in relation to a DHB, means,—

- (a) if the district of the DHB has been divided into constituencies by an Order in Council under section 19, each such constituency; and
- (b) if the district of the DHB has not been divided in that way, the district of the DHB

**district**, in relation to a DHB, means the geographical area specified opposite to that board in column 2 of Schedule 1

**election of a DHB** means an election to elect the elective members of the board of a DHB

**elector** means an elector at an election of a DHB

**territorial authority** has the same meaning as in section 5(1) of the Local Government Act 2002; but does not include the Minister of the Crown responsible for the administration of that Act

**triennial general election** means a triennial general election held under the Local Electoral Act 2001.

Schedule 2 clause 1 **territorial authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Schedule 2 clause 1 **triennial general election**: amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

*Purpose of this schedule***2 Purpose**

This schedule has the following purposes:

- (a) to state the qualifications of electors and candidates at DHB elections:
- (b) to apply, with certain modifications, the legislation governing the election of local authorities to DHB elections:

- (c) to link DHB elections to the triennial local authority elections so as to maximise voter participation at DHB elections through effective co-operation between DHBs and territorial authorities:
- (d) to provide for mechanisms relating to the membership and constitution of the boards of DHBs.

*Electors and candidates*

**3 Residential qualification for electors**

A person who is lawfully registered as a parliamentary elector under the Electoral Act 1993 in respect of an address that is within the constituency of a DHB is qualified to be an elector of that constituency at an election of the DHB.

**4 Qualification for candidates**

A person may be a candidate at an election of a DHB if the person—

- (a) is qualified to be a parliamentary elector; and
- (b) is not disqualified by clause 17.

**5 Candidates not to stand for more than 1 district**

- (1) A person may not at any elections of DHBs held in conjunction with a triennial general election be a candidate for more than 1 district or more than 1 constituency.
- (2) If a person is nominated in contravention of subclause (1), every nomination is void, if made with the person's consent.

**6 Candidate to declare conflicts of interest**

When a candidate gives the responsible electoral officer notice of the candidate's consent to being nominated as a candidate, the candidate must also give the electoral officer a statement completed by the candidate in good faith that—

- (a) discloses any conflicts of interest that the candidate has with the DHB as at the date of the candidate's notice of consent, or states that the candidate has no such conflicts of interest as at that date; and
- (b) discloses any such conflicts of interest that the candidate believes are likely to arise in future, or states that the candidate does not believe that any such conflicts of interest are likely to arise in future.

Schedule 2 clause 6: amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

**7 Employees of DHBs may stand for elections**

A person is not prevented from being elected as a member of a DHB simply because the person is an employee of the DHB.

*Application of Local Electoral Act 2001*

Heading: amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

**8 Elections governed by Local Electoral Act 2001 and regulations made under that Act**

- (1) The provisions of the Local Electoral Act 2001 and any regulations made under that Act apply, with all necessary modifications, to every election of a DHB.
- (2) Subclause (1) is subject to the provisions of this Act and to any regulations made under this Act.

Schedule 2 clause 8 heading: amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Schedule 2 clause 8(1): amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

**9 Timing of elections**

- (1) The elections of DHBs must be held in conjunction with every triennial general election.
- (2) For the purposes of subclause (1), the first triennial general election is the one to be held in 2001.

**9A Elections in 2004 and subsequently to be conducted using Single Transferable Voting**

The elections of DHBs to be held at the triennial general election in 2004 and at every subsequent triennial general election must be conducted by the Single Transferable Voting electoral system (STV) using the New Zealand method of counting single transferable votes.

Schedule 2 clause 9A: inserted, on 1 July 2001, by section 150 of the Local Electoral Act 2001 (2001 No 35).

Schedule 2 clause 9A: amended, on 25 December 2002, by section 51(2) of the Local Electoral Amendment Act 2002 (2002 No 85).

**9B Related amendments to New Zealand Public Health and Disability Act 2000**

The person appointed by a District Health Board under section 12 of the Local Electoral Act 2001 must be a person who is also the electoral officer of a territorial authority in whose district the District Health Board is wholly or partly situated.

Schedule 2 clause 9B: inserted, on 25 December 2002, by section 51(3) of the Local Electoral Amendment Act 2002 (2002 No 85).

**10 No by-elections**

No by-election or poll may be held under the Local Electoral Act 2001 for the purpose of electing a member to a board.

Schedule 2 clause 10: amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

### *Rolls for election*

#### **11 Rolls for election**

- (1) If the district of a DHB is situated wholly within the district of any territorial authority, the part of the roll containing the details of the residential electors on the roll for that territorial authority's district whose addresses are within the DHB's district is the roll of electors for the election of the DHB.
- (2) In any other case, the relevant parts of the rolls containing the details of the residential electors of the districts of the territorial authorities that are situated wholly or partly within the district of a DHB whose addresses are within the district of the DHB are the rolls of electors for the election of the DHB.
- (3) The electoral officer of every territorial authority whose district is situated wholly or partly within the district of a DHB must indicate on the roll of electors for the district of that territorial authority, by appropriate words, abbreviations, or marks, the names of the persons entitled to vote at the election of the DHB; and if the district of the DHB has, by an Order in Council under section 19, been divided into constituencies, that officer must also indicate the constituency in respect of which those persons may vote at that election.

Schedule 2 clause 11(1): amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Schedule 2 clause 11(2): substituted, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Schedule 2 clause 11(3): amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

### *Conduct of election*

#### **12 Postal voting**

- (1) *[Repealed]*
- (2) *[Repealed]*
- (3) Every electoral officer must include in the papers that are sent to electors a copy of the statement relating to conflicts of interest provided to the electoral officer by each candidate under clause 6.
- (4) This clause is subject to any regulations made under this Act.

Schedule 2 clause 12(1): repealed, on 25 December 2002, by section 51(4) of the Local Electoral Amendment Act 2002 (2002 No 85).

Schedule 2 clause 12(2): repealed, on 25 December 2002, by section 51(4) of the Local Electoral Amendment Act 2002 (2002 No 85).

Schedule 2 clause 12(3): amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

*Cost of elections***13 Cost to be borne by DHB**

The costs incurred by every territorial authority in conducting an election of a DHB must be borne and paid for by the DHB.

*When members come into office***14 When elected members come into office**

Despite anything in section 115 of the Local Electoral Act 2001, every person who is elected as a member of a board at an election of a DHB comes into office on the 58th day after polling day.

Schedule 2 clause 14: amended, on 25 December 2002, by section 52 of the Local Electoral Amendment Act 2002 (2002 No 85).

**15 When appointed members come into office**

Every appointed member comes into office on the date specified for that purpose in the notice appointing the member or, if no date is specified in the notice, from the date on which the notice is published in the *Gazette*.

*Appointment to boards of newly created DHBs***16 Appointment of new DHB**

- (1) If an Order in Council made under section 19(2) creates a new DHB by adding it to Schedule 1, the Minister may appoint persons to hold positions on the board of that DHB that would otherwise be held by elected members.
- (2) Section 29(2) applies with any necessary modifications to an appointment made under subclause (1).
- (3) Persons appointed under subclause (1) hold office until the 58th day after polling day for the next election of the DHB (subject to clauses 7 and 8 of Schedule 3).
- (4) To avoid any doubt, for the purposes of subclause (1), the renaming of a DHB is not the creation of a new DHB.

*Persons who may not be members of boards***17 Certain persons disqualified from membership**

- (1) None of the following persons may be elected or appointed as a member of a board, or appointed as a member of a board committee, of a DHB:
  - (a) a person described in section 30(2)(a) to (f) of the Crown Entities Act 2004:
  - (b) *[Repealed]*
  - (c) *[Repealed]*

- (d) *[Repealed]*
  - (e) a person who has, since the date on which members of boards elected at the immediately preceding triennial general election came into office, been removed as a member of a board for any reason specified in clause 9(c) or (e) of Schedule 3:
  - (f) a person who has failed to declare a material conflict of interest before accepting nomination as candidate for an election of a DHB held in conjunction with the immediately preceding triennial general election.
- (2) In addition to the grounds specified in subclause (1), a person may not be elected as a member of a board if the person is incapable of being elected as a member of a local authority because of section 25 of the Local Electoral Act 2001.
- (3) However, subclause (1)(a) does not disqualify a person described in section 30(2)(f) of that Act who is elected (rather than appointed) to office as a member under any other Act.

Schedule 2 clause 17(1)(a): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 2 clause 17(1)(b): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 2 clause 17(1)(c): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 2 clause 17(1)(d): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 2 clause 17(2): amended, on 1 July 2001, by section 151 of the Local Electoral Act 2001 (2001 No 35).

Schedule 2 clause 17(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Effect of boundary changes*

#### **18 Reorganisation of districts**

- (1) In this clause, **Order in Council** is a reference to an Order in Council made under section 19(2).
- (2) If an Order in Council abolishes 2 or more DHBs and constitutes a new DHB whose district consists of the districts of the abolished DHBs, the boards of the abolished DHBs are united into a new board (a **united board**).
- (3) If an Order in Council dissolves or divides 1 DHB by transferring its district in whole or in part to the districts of 1 or more other DHBs, the Minister may, at the time that the Order takes effect, assign any member of the board of the dissolved or divided DHB to any board (an **augmented board**) of those other DHBs.

- (4) Throughout the relevant period specified in subclause (7), a united board consists of all the currently elected and appointed members of each board of the abolished DHBs (even if the total number of those members exceeds 11).
- (5) Throughout the relevant period specified in subclause (7), the members of an augmented board include the member or members assigned to it under subclause (3) (even if the total number of those members exceeds 11).
- (6) The provisions of Schedule 3 continue to apply, with any necessary modifications, to every united board and to every augmented board.
- (7) The relevant period referred to in subclause (4) and subclause (5) commences on the date that the Order in Council takes effect and ends with the close of the 58th day after polling day for the next elections of DHBs.

## **19 Other alterations of districts**

The membership of a board is not affected by—

- (a) an alteration of the district or the constituency of the DHB made by an Order in Council under section 19 (other than a reorganisation of districts described in clause 18); or
- (b) the abolition or alteration of any local government area or ward specified in column 2 of Schedule 1.

## **20 Inquiries by Local Government Commission**

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 the boundaries of any district or constituency of a DHB, the Minister may request the Minister of Local Government to refer the question to the Local Government Commission for inquiry and report.

Compare: 1983 No 134 s 8E

### Schedule 3

## Provisions applying to DHBs and their boards

s 45(1)

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49 Public Records Act 2005 to apply 108

*Interpretation*

**1 Interpretation**

In this schedule, unless the context otherwise requires,—

**district**, in relation to a DHB, means the geographical area opposite to the DHB in column 2 of Schedule 1

**meeting**, in relation to a board, means any annual, biennial, triennial, ordinary, special, or emergency meeting of the board at which resolutions or decisions of the board are made

**minutes**, in relation to a meeting of a board, means any record of the meeting

**publicly notify**, in relation to a board of a DHB, means to give the resident population of the DHB notice by advertisements in 1 or more newspapers circulating in the district of the DHB, or by advertisements of that kind and any 1 or more of the following means:

- (a) printed placards affixed to public places in that district:
- (b) radio or television broadcasts:
- (c) notices available on the Internet, or given by any other electronic means.

Compare: 1987 No 174 ss 2(1), 45

*Members*

**2 Appointed members**

(1) Appointed members of the board of a DHB—

(a) *[Repealed]*

(b) are eligible for reappointment unless they have held office for 6 consecutive years, in which case they must not be reappointed immediately unless the Minister consents in writing to them being re-appointed immediately and holding office consecutively for longer than 6 years but not exceeding 9 years:

(c) may also hold office as appointed members of the board of 1 or more other DHBs.

(2) Subclause (1)(b) applies despite section 32(2) of the Crown Entities Act 2004.

Schedule 3 clause 2(1)(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 2(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### 3 Elected members

Elected members of the board of a DHB,—

- (a) if they have not ceased to hold that office earlier and are not re-elected in the next triennial election of members of boards, cease to hold that office when the members elected in that election come into office:
- (b) are not to hold office as elected members of the board of any other DHB:
- (c) may hold office as appointed members of the board of 1 or more other DHBs.

Schedule 3 clause 3(b): substituted, on 9 November 2010, by section 24(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

Schedule 3 clause 3(c): added, on 9 November 2010, by section 24(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

### 4 Terms or conditions of office, and remuneration

*[Repealed]*

Schedule 3 clause 4: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### 5 Training relating to members' obligations and duties

- (1) A board that has elected or appointed to it a member or members not already familiar with the obligations and duties of a member of a board, Maori health issues, Treaty of Waitangi issues, or Maori groups or organisations in the district of the DHB concerned must fund and, to the extent practicable, ensure the member or members undertake and complete, training approved by the Minister relating to whichever of those matters the member or members are not familiar with.
- (2) Any such board must keep an up-to-date record of the following matters:
  - (a) the name of each member of the board:
  - (b) the date on which each member of the board most recently came into office as a member of the board:
  - (c) any familiarity each member of the board has at that date with the obligations and duties of a member of a board, Maori health issues, Treaty of Waitangi issues, and Maori groups or organisations in the district of the DHB concerned:
  - (d) the nature of the training (if any) the board is required by subclause (1) to fund and, to the extent practicable, have any of its members undertake and complete:

- (e) the date that training was completed or, if it is still in progress, the date on which it started and the date by which it is expected to have been completed or, if it has not yet started, the date on which it is expected to start.
- (3) A board asked by the Minister to give him or her a copy of the record must comply with that request as soon as practicable, and no later than 5 working days after the request.

## 6 Resignation

*[Repealed]*

Schedule 3 clause 6: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## 7 Vacation of office

- (1) A member of a board ceases to hold office if the DHB to which the board relates is disestablished by an Order in Council made under section 19(2).
- (1A) Subclause (1) applies to appointed members of a board in addition to the grounds in section 45 of the Crown Entities Act 2004.
- (2) For the purposes of subclause (1), a DHB is not disestablished just because it—
  - (a) is renamed; or
  - (b) is involved in a reorganisation of districts (as described in clause 18 of Schedule 2); or
  - (c) has its district altered (as described in clause 19 of Schedule 2).
- (3) Subclause (1) overrides any deed or agreement, but does not limit section 31 (replacement of board by commissioner).

Schedule 3 clause 7(1): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 7(1A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 7(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## 8 Removal from office

- (1AA) The Minister may remove an appointed member of a board from that office in accordance with section 36 of the Crown Entities Act 2004.
- (1) The Minister may remove an elected member of a board from that office by notice in the *Gazette* stating the date on which the removal takes effect, but—
  - (a) only if the Minister has first consulted the member, and the board, about the removal; and
  - (b) only for a reason stated in clause 9.
- (2) Subclause (1) overrides any deed or agreement.

- (3) Sections 38 and 45(c) of the Crown Entities Act 2004 do not apply to an elected member of a board of a DHB.
- (4) An elected member is not disqualified from office for failure to comply with section 30(2) of the Crown Entities Act 2004, but may be removed from office under subclause (1)(b) and clause 9(a).

Schedule 3 clause 8(1AA): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 8(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 8(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 8(4): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## 9 Reasons for removal of elected members

The reasons referred to in clause 8(1)(b) are—

- (a) that, if an election of members of the board were held immediately, the member would be disqualified from that election for a reason stated in clause 17 of Schedule 2 (other than the reasons stated in clause 17(1)(e) and (f) of that schedule):
- (b) that the Minister is satisfied that the member failed to declare an interest in circumstances where clause 6 of Schedule 2, or clause 36, required the member to do so:
- (c) that the Minister is satisfied that the integrity of the board, or of the DHB to which the board relates, has been seriously compromised because the member—
- (i) has neglected his or her duties as a member of the board; or
- (ii) has failed to perform his or her duties under this Act:
- (d) that the member has, without permission from the board or Minister and without any reasonable excuse, been absent from 4 consecutive meetings of the board:
- (e) that the member has breached any of the obligations and duties of a board member and section 58(2) or section 59(2) of the Crown Entities Act 2004 applies.

Schedule 3 clause 9(e): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Chairperson and deputy chairperson*

## 10 Chairperson and deputy chairperson

- (1) The Minister must, by notice in the *Gazette*, appoint 1 member from the elected or appointed members of the board as chairperson of the board, and another as deputy chairperson of the board.

- (2) The notice—
- (a) may be the same notice as the notice appointing the member; and
  - (b) must state the period (starting at or after the time the member comes into that office, and ending at or before the time he or she must cease to be a member) for which the member is appointed chairperson or deputy chairperson and the date on which he or she comes into that office.
- (3) A member appointed chairperson or deputy chairperson and whose appointment as such has expired—
- (a) continues in that office until his or her successor is appointed; and
  - (b) is eligible for reappointment to that office so long as he or she continues to be a member of the board.

Schedule 3 clause 10(2)(a): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **11 Resignation**

- (1) A chairperson or deputy chairperson may resign from that office by written notice to the Minister and board stating the date on which the resignation takes effect.
- (2) A chairperson or deputy chairperson who resigns from that office continues to be a member of the board unless he or she also resigns from that office, under clause 6.

## **12 Vacation of office**

- (1) A chairperson or deputy chairperson ceases to hold that office if he or she ceases to be a member of the board.
- (2) A deputy chairperson ceases to hold that office if he or she is appointed chairperson of the board.
- (3) Subclauses (1) and (2) override any deed or agreement, but do not limit section 31 (replacement of board by commissioner).

## **13 Removal from office**

- (1) A chairperson or deputy chairperson may be removed from that office by the Minister by notice in the *Gazette* stating the date on which the removal takes effect, but only if the Minister has first consulted the chairperson or deputy chairperson, and board, about the removal.
- (2) Subclause (1) overrides any deed or agreement.
- (3) A chairperson or deputy chairperson removed from that office continues to be a member of the board unless also removed from that office, under section 36 of the Crown Entities Act 2004 or clause 8(1), as the case may be.

Schedule 3 clause 13(3): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Teleconferences***14 Teleconferences**

- (1) A meeting of a board may be held—
  - (a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or
  - (b) by means of audio, audio and visual, or electronic communication, provided that—
    - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
    - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.
- (2) For the avoidance of doubt, all the provisions of this schedule relating to meetings of a board (including, without limitation, the requirement for public admission to meetings) apply to a meeting held in accordance with subclause (1)(b).

Schedule 3 clause 14: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**15 Further provisions relating to teleconferences**

*[Repealed]*

Schedule 3 clause 15: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Notice of meetings***16 Meetings of boards to be publicly notified**

- (1) Each board must, not more than 14 days and not less than 5 days before the end of each month, publicly notify a list of all meetings of that board scheduled to be held in the following month, together with the dates on which, and the times and places at which, the meetings are to be held.
- (2) However, if a meeting of a board is to be held on or after the 21st day of any month, the board may, instead of publicly notifying the meeting under subclause (1), publicly notify the meeting not more than 10 nor less than 5 working days before the day on which the meeting is to be held.
- (3) If a special meeting of a board is called and notice of the meeting cannot be given in the manner required or permitted by this clause, the board must publicly notify or otherwise advertise the meeting, and the general nature of business to be transacted at the meeting, as soon as practicable before the meeting is to be held.
- (4) If an emergency meeting of a board is called and notice of the meeting cannot be given in the manner required or permitted by this clause for a scheduled or special meeting, the board or member of the board calling the meeting must

give any public notice of the meeting and the business to be transacted at the meeting that is reasonable in the circumstances.

Compare: 1987 No 174 s 46(1)–(4)

### **17 Meetings not publicly notified in accordance with clause 16**

- (1) No meeting of a board is invalid just because it was not publicly notified in accordance with clause 16.
- (2) If a board becomes aware that any meeting of the board has not been publicly notified in accordance with clause 16, the board must, as soon as practicable, give public notice that the meeting was not so notified, and must, in that notice,—
  - (a) state the general nature of the business transacted at the meeting; and
  - (b) give the reasons why the meeting was not so notified.

Compare: 1987 No 174 s 46(5), (6)

### **18 Members to be notified of meetings**

- (1) The chairperson must ensure that each member of a board is given notice of a meeting of the board as early as practicable before the meeting is to be held.
- (2) The notice must be written, and may be given by delivery or by electronic transmission (for example, by fax or email).
- (3) For the purposes of subclause (1), it is enough if the chairperson made all reasonable efforts to ensure each member was given the notice by the time required under that subclause.

#### *Information relating to meetings*

### **19 Availability of agendas and reports**

- (1) Any member of the public may, without payment of any fee, inspect, during normal office hours, within a period of at least 2 working days before every meeting of a board, all agendas and associated reports circulated to members of the board and relating to the meeting.
- (2) The board must, from time to time, authorise a person to act for it for the purposes of this subclause, and that person—
  - (a) may exclude from the reports made available any reports or items from reports he or she reasonably expects the meeting to discuss with the public excluded; and
  - (b) must indicate on each agenda items he or she reasonably expects the meeting to discuss with the public excluded.
- (3) The agendas must be available for inspection at a place or places within the district, and must be accompanied by either—
  - (a) the associated reports; or

- (b) a notice specifying the place or places at which the associated reports may be inspected.
- (4) The associated reports must be available for inspection at a place or places within the district.
- (5) Any member of the public may take notes from any agenda or report inspected by that member of the public.
- (6) Every member of the public who inspects an agenda or report made available under this clause and requests a copy of all or any part of any such agenda or report must, if he or she tenders an amount that represents the reasonable costs of making one available, be given such a copy as soon as practicable.
- (7) This clause is subject to clause 20.  
Compare: 1987 No 174 s 46A(1)–(5), (8)–(9)

## **20 Availability of agendas and reports in special circumstances**

- (1) If a meeting is an emergency meeting or a special meeting called pursuant to a resolution of the board, the agenda and any associated reports must be made available as soon as is reasonable in the circumstances.
- (2) The board must, from time to time, authorise a person to act for it for the purposes of this subclause, and that person—
  - (a) may exclude from the reports made available any reports or items from reports that the meeting discussed with the public excluded; and
  - (b) must indicate on each agenda items the meeting discussed with the public excluded.

Compare: 1987 No 174 s 46A(6), (8)–(9)

## **21 Public may inspect or request copies of minutes of meeting**

- (1) Any member of the public may, within a reasonable time after any meeting of a board, without payment of any fee and during normal office hours, inspect the minutes of the meeting or any part of it, unless it was a meeting or part of a meeting from which the public was excluded.
- (2) The minutes must be available for inspection at a place or places within the district.
- (3) Any member of the public may take notes from any minutes inspected by that member of the public.
- (4) Every member of the public inspecting any such minutes who requests a copy of all or any part of those minutes must, if he or she tenders an amount equal to the reasonable costs of making one available, be given such a copy.
- (5) If any person requests a copy of the minutes of any meeting or part of a meeting from which the public was excluded, the board must deal with the request as follows:

- (a) if it is made by or on behalf of a natural person, and is for access to any personal information that is about that person, as if it were a request made under information privacy principle 6(1)(b) set out in section 22 of the Privacy Act 2020:
- (b) in any other case, as if it were a request for access to official information made under the Official Information Act 1982.

Compare: 1987 No 174 s 51

Schedule 3 clause 21(5)(a): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

## **22 Public notification of resolution at emergency meeting**

If a resolution is passed at an emergency meeting of a board, the board must publicly notify the resolution as soon as practicable, unless it was passed at a meeting or part of a meeting from which the public was excluded.

Compare: 1987 No 174 s 51A

## **23 Defamatory matter in copy of agenda or additional particulars supplied to public or in minutes of meeting**

- (1) This clause applies if all or any part of a meeting of any board is open to the public, and—
  - (a) a copy of the agenda for the meeting, with or without further statements or particulars for the purpose of indicating the nature of any item included in the agenda, is supplied to a member of the public; or
  - (b) the minutes of the meeting or part are produced, for inspection, to any member of the public, or a copy of them is given to any member of the public.
- (2) The publication, in that way, of any defamatory matter in the agenda, or in the further statements or particulars, or in the minutes, is privileged.
- (3) This clause does not apply if, in any proceedings for defamation in respect of that publication, the plaintiff proves that, in publishing the matter, the defendant was predominantly motivated by ill will towards the plaintiff, or otherwise took improper advantage of the occasion of publication.

Compare: 1987 No 174 s 52

## **24 Oral statements at meetings privileged**

- (1) Any oral statement made at any meeting of a board in accordance with the rules that have been adopted by the board for the guidance and order of its meetings is privileged.
- (2) This clause does not apply if, in any proceedings for defamation in respect of the statement, the plaintiff proves that, in making the statement, the defendant was predominantly motivated by ill will towards the plaintiff, or otherwise took improper advantage of the occasion of publication.

- (3) The privilege conferred by this clause is in addition to and not in substitution for or derogation of any other privilege, whether absolute or qualified, that applies, by virtue of any other enactment or rule of law, to meetings of any board.

Compare: 1987 No 174 s 53

### *Procedure at meetings*

#### **25 Quorum**

- (1) No authority, power, or discretion of a board can be exercised, and no business of a board can be transacted, at any meeting of the board, unless the quorum of members of the board is present at the meeting.
- (2) The quorum of members of a board is,—
- (a) if the total number of members of the board is an even number, half that number; but
  - (b) if the total number of members of the board is an odd number, a majority of the members.
- (3) Despite subclause (2), the Minister may, by written notice to all members of a board given before a certain meeting or meetings of the board, or before any meetings of the board within a certain period, set a quorum other than that in subclause (2) for the meeting or meetings of the board, if—
- (a) a member of the board gives the Minister a written statement of reasons why the Minister should do so; and
  - (b) the Minister considers that those reasons are good reasons and is satisfied that those reasons exist in fact.
- (4) For the purposes of subclause (3), it is enough if the Minister made all reasonable efforts to give all members the notice before the meeting or meetings.

#### **26 Further provisions relating to quorum**

For the purposes of subclauses (2) and (3) of clause 25,—

- (a) a member who has declared an interest under clause 36 in relation to a transaction must not, for the purposes of that transaction, be counted, unless the Minister has waived or modified the application of clause 36(2); and
- (b) vacancies in the appointed membership of the board because the Minister has appointed fewer than the maximum number of members the Minister may appoint under section 29(1)(b), must not be counted; and
- (c) vacancies in the elected membership of the board after an election of members of a board, or members the Minister appoints under section 29(2) to fill those vacancies, must not be counted; and

- (d) it does not matter that 1 or more vacancies have occurred in the elected membership of the board and the Minister has not yet filled them by appointing 1 or more replacement members under section 29(3).

## **27 Presiding member**

- (1) At each meeting of a board the chairperson of the board presides, if he or she is present and willing to do so.
- (2) If the chairperson of a board is not present or willing to preside at a meeting of the board, the deputy chairperson of the board presides, if he or she is present and willing to do so.
- (3) If neither the chairperson nor the deputy chairperson of a board is present and willing to preside at a meeting of the board, the members present at the meeting must elect a member who is present to preside at the meeting.

## **28 Dealing with items not on agenda for meeting**

- (1) If an item is not on the agenda for a meeting of a board, that item may be dealt with at the meeting if the board by resolution so decides, and the presiding member explains at the meeting, at a time when it is open to the public,—
  - (a) the reason why the item is not on the agenda; and
  - (b) the reason why the discussion of the item cannot be delayed until a later meeting.
- (2) Despite subclause (1), if an item is not on the agenda for a meeting of a board,—
  - (a) the item may be discussed at the meeting if—
    - (i) the item is a minor matter relating to the general business of the board; and
    - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
  - (b) no resolution, decision, or recommendation may be made in respect of the item except to refer the item to a later meeting of the board for further discussion.

Compare: 1987 No 174 s 46A(7), (7A)

## **29 Voting**

- (1) All questions arising at any meeting of a board must be decided by a majority of the votes cast by the members present.
- (2) If a vote is tied, the member presiding at the meeting has no second or casting vote, and the question is negatived.

**30 Supplementary procedure**

A board may regulate its procedure, at its meetings and otherwise, in any manner not inconsistent with this Act it thinks fit.

*Admission of public***31 Admission of public**

Except as provided in clauses 32 to 35, every meeting of a board must be open to the public.

Compare: 1987 No 174 s 47

**32 Right of board to exclude public**

A board may by resolution exclude the public from the whole or any part of any meeting of the board only on 1 or more of the following grounds:

- (a) that the public conduct of the whole or the relevant part of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under any of sections 6, 7, or 9 (except section 9(2)(g)(i)) of the Official Information Act 1982:
- (b) that the public conduct of the whole or the relevant part of the meeting would be likely to result in the disclosure of information the public disclosure of which would—
  - (i) be contrary to the provisions of a specified enactment; or
  - (ii) constitute contempt of court or of the House of Representatives:
- (c) that the purpose of the whole or the relevant part of the meeting is to consider a recommendation of an Ombudsman made under section 30(1) or section 35(2) of the Official Information Act 1982 to the board:
- (d) that the purpose of the whole or the relevant part of the meeting is to consider a communication from the Privacy Commissioner arising out of an investigation under Part 5 of the Privacy Act 2020:
- (e) that the exclusion of the public from the whole or the relevant part of the meeting is necessary to enable the board to deliberate in private on a decision or recommendation as to whether any of the grounds in paragraphs (a) to (d) are established in relation to all or any part of any meeting of the board.

Compare: 1987 No 174 s 48(1)

Schedule 3 clause 32(d): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

**33 Resolution excluding public**

- (1) Every resolution excluding the public from any meeting of a board must state—

- (a) the general subject of each matter to be considered while the public is excluded; and
  - (b) the reason for the passing of that resolution in relation to that matter, including, where that resolution is passed in reliance on clause 32(a), the particular interest or interests protected by section 6 or section 7 or section 9 of the Official Information Act 1982 which would be prejudiced by the holding of the whole or the relevant part of the meeting in public; and
  - (c) the grounds on which that resolution is based (being 1 or more of the grounds stated in clause 32).
- (2) Every resolution to exclude the public must be put at a time when the meeting is open to the public, and the text of that resolution (or copies of it) must—
- (a) be available to any member of the public who is present; and
  - (b) form part of the minutes of the board.
- (3) A resolution to exclude the public may also provide for a specified person or persons to remain after the public has been excluded if that person, or those persons, has or have, in the board's opinion, knowledge that will help it.
- (4) If a board resolves that a person or persons may remain after the public has been excluded, the resolution must state—
- (a) the knowledge possessed by that person or those persons that will be helpful in relation to the matter to be discussed; and
  - (b) how it is relevant to that matter.
- (5) The person or persons must not disclose to anyone not present at the meeting while the public was excluded and the person or persons remained any information that the person or persons became aware of only at the meeting while the public was excluded and the person or persons remained.

Compare: 1987 No 174 s 48(3)–(6)

#### **34 Provisions applying when meeting open to public**

The following provisions apply when all or any part of a meeting of a board is required by this schedule to be open to the public:

- (a) for the purposes of this schedule, genuine members of the news media must be treated as members of the public, and are entitled to attend any meeting or any part of a meeting for the purpose of reporting it for any news media;
- (b) if the agenda for any meeting is copied by any means for use by members of a board, that board must also cause to be made any additional copies of the agenda that in that board's opinion may be necessary to ensure there is an adequate supply for any persons requesting copies under paragraph (c):

- (c) any member of the public who attends a meeting of a board and requests a copy of the agenda must, if he or she tenders an amount equal to the reasonable costs of making one available, be given (and may take away with him or her) any spare copy of the agenda:
- (d) copies of the agenda supplied for members of the public as provided in paragraph (b) must include any further statements or particulars necessary to indicate the nature of any items included in the agenda, unless that item refers to any matter to be considered by the board when the meeting is not likely to be open to the public.

Compare: 1987 No 174 s 49

### **35 Maintenance of order**

- (1) At any meeting of any board the presiding member of the board may require a member of the public attending the meeting to leave it if the presiding member believes on reasonable grounds that, if the member of the public is permitted to remain, the behaviour of the member of the public is likely to prejudice, or to continue to prejudice, the orderly conduct of the meeting.
- (2) At the request of the presiding member, a constable, or officer or employee of the DHB concerned may remove or, as the case requires, exclude a member of the public from a meeting of a board if the member of the public has been required under this clause to leave the meeting but—
  - (a) refuses or fails to leave it; or
  - (b) having left it, attempts to re-enter it without the permission of the presiding member.

Compare: 1987 No 174 s 50

Schedule 3 clause 35(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

### *Disclosure of members' interests*

### **36 Disclosure of interests**

- (1) A member of a board of a DHB who is interested in a transaction of the DHB must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the board.
- (2) A member of a board who makes a disclosure under this clause must not (unless subclause (4) applies, or the Minister, by a waiver or modification of the application of this subclause under clause 37, permits)—
  - (a) take part, after the disclosure in any deliberation or decision of the board relating to the transaction; or
  - (b) be included in the quorum required by clause 25 for any such deliberation or decision; or

- (c) sign any document relating to the entry into a transaction or the initiation of the transaction.
- (3) A disclosure under this clause must be recorded in the minutes of the next meeting of the board concerned and entered in a separate interests register maintained for the purpose.
- (4) However, a member of the board who makes a disclosure under this clause may take part in any deliberation (but not any decision) of the board relating to the transaction concerned if a majority of the other members of the board permits the member to do so.
- (5) If subclause (4) applies, the board must record in the minutes of its next meeting—
  - (a) the permission and the majority’s reasons for giving it; and
  - (b) what the member says in any deliberation of the board relating to the transaction concerned.
- (6) Every member of a board of a DHB must ensure that—
  - (a) the statement completed by the member under section 31(1)(c) of the Crown Entities Act 2004 or clause 6 of Schedule 2 is incorporated in the interests register maintained under subclause (3); and
  - (b) any relevant change in the member’s circumstances affecting a matter disclosed in that statement is entered in that register as soon as practicable after the change occurs.
- (7) Sections 62 to 72 of the Crown Entities Act 2004 do not apply to a DHB.

Schedule 3 clause 36(2)(b): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 36(2)(c): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 36(6)(a): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 36(7): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**37 Minister may waive or modify application of clause 36(2)**

- (1) The Minister may, if satisfied it is in the public interest, or the interests of the DHB concerned, to do so, waive or modify the application of all or any part of clause 36(2) in respect of—
  - (a) any particular member of a board;
  - (b) any transaction, or class of transaction.
- (2) The Minister must effect any waiver or modification under subclause (1) by written notice to the board, and may make the waiver or modification subject to any conditions the Minister thinks fit.

- (3) The Minister must present to the House of Representatives a copy of any such notice within 12 sitting days after the date on which the Minister issues the notice.

### *Committees*

#### **38 Committees**

- (1) A board of a DHB may—
  - (a) after first obtaining the Minister's approval establish 1 or more committees of the board for a particular purpose or purposes:
  - (b) appoint, as members of a committee of the board, or as the chairperson or deputy chairperson of any such committee, either members of the board, or other persons, or both:
  - (c) dismiss any member, or chairperson, or deputy chairperson, of a committee of the board:
  - (d) dissolve any committee of the board.
- (2) In making appointments to a committee of a board, the board must endeavour, where appropriate, to ensure representation of Maori on the committee.
- (3) If a board of a DHB dismisses any member, or chairperson, or deputy chairperson, of a committee of the board, under subclause (1)(c), the board must, on or as soon as reasonably practicable after the dismissal, give that person a written statement of the board's reasons for the dismissal.
- (4) A board may regulate the procedure of each committee of the board in any manner not inconsistent with this Act the board thinks fit.
- (5) If meetings of a committee of a board involve making decisions or resolutions on behalf of the board, clauses 16 to 24, 28, and 31 to 35 apply to those meetings as if the committee were the board.
- (6) Before a board of a DHB appoints a person who is not a member of the board to a committee of the board, the person must give the board a statement completed by the person in good faith that—
  - (a) discloses any conflicts of interest that the person has with the DHB as at the date on which the statement is completed, or states that the person has no such conflicts of interest as at that date; and
  - (b) discloses any such conflicts of interest that the person believes are likely to arise in future, or states that the person does not believe that any such conflicts are likely to arise in future.
- (7) Nothing in this clause applies in respect of the community and public health advisory committee, or disability support advisory committee, or hospital advisory committee, of the board of any DHB.
- (8) Clauses 38 and 39 of Schedule 4 apply to every committee established under this clause.

Schedule 3 clause 38(1)(a): amended, on 9 November 2010, by section 24(2) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

### *Delegations*

#### **39 Delegations**

- (1) Every board must,—
  - (a) as soon as practicable after the commencement of this clause, formulate a policy for the exercise of its powers of delegation under this clause:
  - (b) keep the policy under review, and amend or replace the policy as it considers appropriate:
  - (c) make the policy formulated, and any amendments to or replacements of the policy, publicly available.
- (2) A formulation, amendment, or replacement under subclause (1) does not come into force unless it has been approved by the Minister, and the Minister may give his or her approval subject to any conditions the Minister specifies.
- (3) When a policy referred to in subclause (1) is in force, every exercise by the board of a power of delegation under this clause must comply with that policy.
- (4) A board may, by written notice to a committee of the board, delegate to that committee any of the functions, duties, or powers, of the board, or of the DHB concerned.
- (5) A board may, by written notice to any member of the board or employee of the DHB concerned, or person or class of persons approved by the Minister for the purpose, delegate to that member, employee, person, or class of persons any of the functions, duties, or powers, of the board, or of the DHB concerned.
- (6) A delegation of a function, duty, or power under this clause—
  - (a) is revocable at will:
  - (b) does not prevent the board or DHB concerned from performing the function or duty, or exercising the power.
- (7) A delegation under subclause (5)—
  - (a) may be to any named person or to any member of a specified class of persons; and
  - (b) if made to a specified class of persons is, unless it provides otherwise, to each member of the class for the time being, even though the membership of the class has changed since the delegation was made.
- (8) A person who on any day is to perform a function, or duty, or exercise a power, delegated under subclause (5)—
  - (a) must, before performing the function or duty or exercising the power, consider whether or not he or she has (or, as the case requires, will have) on that day any conflicts of interest with the DHB; and

- (b) if the person has (or will have) any such conflicts of interest, must give the board a statement completed by the person in good faith that discloses those conflicts of interest, together with any such conflicts of interest the person believes are likely to arise in future; and
  - (c) if the person has (or will have) no such conflicts of interest, must be treated for the purposes of subclause (9) as if he or she had given the board a statement completed by the person in good faith that states that the person has (or will have) no such conflicts of interest on that day.
- (9) A delegate who has completed a statement under subclause (8) must inform the board of any relevant change in the delegate's circumstances affecting a matter disclosed in that statement, as soon as practicable after the change occurs.
- (10) Sections 73 to 76 of the Crown Entities Act 2004 do not apply to a DHB.
- Schedule 3 clause 39(10): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **40 Effect of delegation**

- (1) If a function, duty, or power of a board or of the DHB concerned is delegated under a delegation under clause 39, the delegate—
- (a) may, unless the delegation provides otherwise, perform the function or duty, or exercise the power, in the same manner, subject to the same restrictions, and with the same effect, as if the delegate were the board, or the DHB concerned; but
  - (b) may not delegate the function, duty, or power, except in accordance with the provisions of the delegation or with the written consent of the board.
- (2) A delegate under clause 39(5) who is interested in a transaction of the DHB concerned may not perform a function or duty, or exercise a power, under the delegation, if the function, duty, or power relates to the transaction.
- (3) Subclause (2) does not apply if the board of the DHB gives its prior written consent to the delegate performing the function or duty, or exercising the power, even though the function, duty, or power relates to the transaction.
- (4) Nothing in this clause requires any delegate under clause 39(5) to hold a public meeting.
- (5) Every delegate who purports to perform a function or duty, or exercise a power, under a delegation under clause 39 is presumed to do so in accordance with that delegation, unless the contrary is proved.

*Seal*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**41 Seal**

*[Repealed]*

Schedule 3 clause 41: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Contracts and other enforceable obligations*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**42 Contracts and other enforceable obligations**

*[Repealed]*

Schedule 3 clause 42: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Dealings with land*

**43 Dealings with land**

- (1) No DHB may sell, exchange, mortgage, or charge land without the prior written approval of the Minister.
- (2) No DHB may grant a lease or licence for a term of more than 5 years over land without the prior written approval of the Minister.
- (3) For the purposes of subclause (2), the term of a lease or licence includes any period (or, if the lease or licence provides for more than 1 such period, the total period) for which any person is entitled to have the lease or licence renewed.
- (4) Before approving the sale or exchange of any land under subclause (1), the Minister must be satisfied that—
  - (a) the DHB concerned is, as a result of consultations with its resident population, aware of the views within the population about the proposed sale or exchange; and
  - (b) the sale or exchange of the land will assist the DHB to meet its objectives under section 22; and
  - (c) the DHB will comply with any applicable requirement under subclause (5).
- (5) Every DHB must use the proceeds of a sale of land, and any payments received in connection with an exchange of land, for the purchase, improvement, or extension of publicly-owned facilities for health purposes unless the Minister,

by written notice to the DHB, approves a different use of the proceeds or payments.

- (6) Any approval under this clause may be subject to any conditions the Minister specifies, and may be given in respect of any land of a class the Minister specifies.
- (7) A DHB that receives a written approval under this clause must, as soon as practicable, table the approval at a meeting of the DHB.
- (8) In this clause, **DHB** includes a Crown entity subsidiary of a DHB.
- (9) To avoid any doubt, the matters to which the Minister may have regard in giving an approval under subclause (2) in relation to any land include the question of the application to the land of clause 3 of Schedule 1 of the Health Sector (Transfers) Act 1993.

Schedule 3 clause 43(8): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Employees of DHBs*

#### **44 Employees of DHBs**

- (1) The terms and conditions of employment of a chief executive of a DHB appointed by its board are to be determined by agreement between the board and the chief executive, except that the board must not finalise those terms and conditions, or agree to any amendments to any or all of those terms and conditions once they have been finalised, without first obtaining the consent of the Public Service Commissioner.
- (2) The individual for the time being acting in the position of chief executive of a DHB may enter into a collective agreement on behalf of the DHB with any or all employees of the DHB, except that that individual must not finalise any such collective agreement without first consulting the Director-General on the terms and conditions of any such collective agreement.
- (3) The Governor-General may, by Order in Council,—
  - (a) exempt any DHB, or any DHB specified in the order, from the requirement to consult in subclause (2); or
  - (b) revoke any order made under paragraph (a) in order to end an exemption from that requirement for the DHBs or DHB concerned.
- (4) In respect of any DHB, matters relating to decisions on individual employees (for example, relating to the appointment, promotion, demotion, transfer, personal grievances, disciplining, or cessation of employment, of an employee) are the independent responsibility of the individual for the time being acting as chief executive of that DHB, without any interference from the board of the DHB or from committees of the board (or from members of the board or of committees of the board).

- (5) This clause applies despite sections 25 and 117(2) to (3) of the Crown Entities Act 2004, but section 117(1) of that Act applies to a chief executive of a DHB.
- (6) Despite section 116(2) of the Crown Entities Act 2004, the Governor-General may not make an Order in Council under section 116(1) of that Act in relation to a DHB.

Compare: 1993 No 22 s 43(1)–(3)

Schedule 3 clause 44(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Schedule 3 clause 44(5): replaced, on 31 October 2018, by section 19 of the State Sector and Crown Entities Reform Act 2018 (2018 No 31).

Schedule 3 clause 44(6): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Borrowing and investment*

#### **45 Borrowing**

- (1) No person may lend money to a DHB, except in accordance with regulations made under this Act or with the consent of the Minister of Finance.
- (2) In subclause (1), **DHB** includes a Crown entity subsidiary of a DHB.
- (3) Sections 160 and 162 of the Crown Entities Act 2004 set out the circumstances in which a DHB may borrow.

Schedule 3 clause 45(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 45(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 45(3): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **45A Restrictions on giving of guarantees and indemnities and the use of derivatives**

- (1) Sections 160 and 163 of the Crown Entities Act 2004 set out the circumstances in which a DHB may give a guarantee to, or indemnify, another person.
- (2) Sections 160 and 164 of the Crown Entities Act 2004 set out the circumstances in which a DHB may enter into or amend the terms of an agreement constituting a derivative.

Schedule 3 clause 45A: inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 3 clause 45A(2): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

#### **46 Investment**

Sections 160 and 161 of the Crown Entities Act 2004 (which relate to acquisition of securities) apply to a DHB subject to section 28.

Schedule 3 clause 46: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Tax status**[Repealed]*

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

**47 Tax status***[Repealed]*

Schedule 3 clause 47: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Address for service**[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**48 Address for service***[Repealed]*

Schedule 3 clause 48: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Public Records Act 2005 to apply*

Heading: substituted, on 21 April 2005, by section 67(1) of the Public Records Act 2005 (2005 No 40).

**49 Public Records Act 2005 to apply**

The Public Records Act 2005 applies to information held by DHBs that is of a kind specified by regulations made under this Act.

Schedule 3 clause 49: substituted, on 21 April 2005, by section 67(1) of the Public Records Act 2005 (2005 No 40).

**Schedule 4**  
**Provisions applying to community and public health advisory  
committees, disability support advisory committees, and hospital  
advisory committees**

s 45(2)

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### *Interpretation*

#### **1 Interpretation**

In this schedule, unless the context otherwise requires,—

**board**, in relation to a committee, means the board that established the committee, being the board of a DHB

**committee** means the community and public health advisory committee, disability support advisory committee, or hospital advisory committee, of the board

**district**, in relation to a committee of the board of a DHB, means the geographical area opposite to the DHB in column 2 of Schedule 1

**meeting**, in relation to a committee, means any annual, biennial, triennial, ordinary, special, or emergency meeting of the committee at which resolutions or decisions of the committee are made

**minutes**, in relation to a meeting of a committee, means any record of the meeting

**publicly notify**, in relation to a committee of the board of a DHB, means to give the resident population of the DHB notice by advertisements in 1 or more newspapers circulating in the district of the DHB, or by advertisements of that kind and any 1 or more of the following means:

- (a) printed placards affixed to public places in that district;
- (b) radio or television broadcasts;
- (c) notices available on the Internet, or given by any other electronic means.

Compare: 1987 No 174 ss 2(1), 45

*Functions of community and public health advisory committees*

**2 Functions of community and public health advisory committees**

- (1) The functions of the community and public health advisory committee of the board of a DHB are to give the board advice on—
  - (a) the needs, and any factors that the committee believes may adversely affect the health status, of the resident population of the DHB; and
  - (b) priorities for use of the health funding provided.
- (2) The aim of a community and public health advisory committee's advice must be to ensure that the following maximise the overall health gain for the population the committee serves:
  - (a) all service interventions the DHB has provided or funded or could provide or fund for that population;
  - (b) all policies the DHB has adopted or could adopt for that population.
- (3) A community and public health advisory committee's advice may not be inconsistent with the New Zealand health strategy.

*Functions of disability support advisory committees*

**3 Functions of disability support advisory committees**

- (1) The functions of the disability support advisory committee of the board of a DHB are to give the board advice on—
  - (a) the disability support needs of the resident population of the DHB; and
  - (b) priorities for use of the disability support funding provided.
- (2) The aim of a disability support advisory committee's advice must be to ensure that the following promote the inclusion and participation in society, and maximise the independence, of the people with disabilities within the DHB's resident population:
  - (a) the kinds of disability support services the DHB has provided or funded or could provide or fund for those people:

- (b) all policies the DHB has adopted or could adopt for those people.
- (3) A disability support advisory committee's advice may not be inconsistent with the New Zealand disability strategy.

*Functions of hospital advisory committees*

**4 Functions of hospital advisory committees**

The functions of the hospital advisory committee of the board of a DHB are to—

- (a) monitor the financial and operational performance of the hospitals (and related services) of the DHB; and
- (b) assess strategic issues relating to the provision of hospital services by or through the DHB; and
- (c) give the board advice and recommendations on that monitoring and that assessment.

*Other functions*

**5 Committees may be given other functions by Order in Council**

- (1) In addition to the functions specified in clauses 2 to 4, a committee has such functions as are specified as functions of the committee, or of committees of the class to which the committee belongs, by the Governor-General by Order in Council on the recommendation of the Minister.
- (2) Before making a recommendation for the purposes of subclause (1), the Minister must consult with such persons as the Minister considers appropriate.

*Members*

**6 Members**

- (1) Members of the committee—
  - (a) must each be appointed by the board by notice in writing to the member for a term, not exceeding 3 years, stated in the notice together with the date on which the member comes into office:
  - (b) are eligible for reappointment.
- (2) A person who is a member of a board of a publicly-owned health and disability organisation may not be appointed as a member of a committee that regularly advises, or is likely regularly to advise, on matters relating to transactions of a kind in which the person is interested.
- (3) Before the board of a DHB appoints a person who is not a member of that board to a committee, the person must give the board a statement completed by the person in good faith that—

- (a) discloses any conflicts of interest that the person has with the DHB as at the date on which the statement is completed, or states that the person has no such conflicts of interest as at that date; and
- (b) discloses any such conflicts of interest that the person believes are likely to arise in future, or states that the person does not believe that any such conflicts are likely to arise in future.

## **7 Terms or conditions of office, and remuneration**

Members of the committee—

- (a) have the terms or conditions of office, consistent with this Act, that the board determines; and
- (b) are remunerated in accordance with section 47 of the Crown Entities Act 2004 and are entitled to be reimbursed for expenses in accordance with section 48 of that Act as if the members of the committee were members of the DHB.

Schedule 4 clause 7(b): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **8 Resignation**

A member of the committee may resign from that office by notice in writing to the committee and board stating the date on which the resignation takes effect.

## **9 Vacation of office**

- (1) A member of the committee ceases to hold that office if—
  - (a) the period of his or her appointment expires; or
  - (b) he or she dies; or
  - (c) the DHB to which the board relates is disestablished by an Order in Council made under section 19(2).
- (2) For the purposes of subclause (1)(c), a DHB is not disestablished just because it—
  - (a) is renamed; or
  - (b) is involved in a reorganisation of districts (as described in clause 18 of Schedule 2); or
  - (c) has its district altered (as described in clause 19 of Schedule 2).
- (3) Subclause (1) overrides any deed or agreement.

## **10 Removal from office**

- (1) A member of the committee may be removed from that office by the board by notice in writing to the member and committee stating the board's reasons for the removal and the date on which the removal takes effect.

- (2) A board may exercise the power under subclause (1) only if it has first consulted the member, and committee, about the removal.
- (3) Subclauses (1) and (2) override any deed or agreement.

### *Chairperson and deputy chairperson*

## **11 Chairperson and deputy chairperson**

- (1) A board—
  - (a) must appoint a member of the committee as chairperson of the committee; and
  - (b) may appoint another member of the committee as deputy chairperson of the committee.
- (2) The appointment must be by notice in writing to the member and committee that—
  - (a) may be the same notice as the notice under clause 6(1)(a) appointing the member; and
  - (b) must state the period (starting at or after the time the member comes into that office, and ending at or before the time he or she must cease to be a member) for which the member is appointed chairperson or deputy chairperson and the date on which he or she comes into that office.
- (3) A member appointed chairperson or deputy chairperson and whose appointment as such has expired—
  - (a) continues in that office until his or her successor is appointed; and
  - (b) is eligible for reappointment to that office so long as he or she continues to be a member of the committee.

## **12 Resignation**

A chairperson or deputy chairperson of the committee—

- (a) may resign from that office by notice in writing to the committee and board stating the date on which the resignation takes effect; but
- (b) if he or she does so, continues to be a member of the committee unless he or she also resigns from that office, under clause 8.

## **13 Vacation of office**

- (1) A chairperson or deputy chairperson of the committee ceases to hold that office if he or she ceases to be a member of the committee.
- (2) A deputy chairperson of the committee ceases to hold that office if he or she is appointed chairperson of the committee.
- (3) Subclauses (1) and (2) override any deed or agreement.

#### **14 Removal from office**

- (1) A chairperson or deputy chairperson of the committee may be removed from that office by the board by notice in writing to the chairperson or, as the case requires, deputy chairperson, and committee stating the board's reasons for the removal and the date on which the removal takes effect.
- (2) A board may exercise the power under subclause (1) only if it has first consulted the chairperson or, as the case requires, deputy chairperson, and committee, about the removal.
- (3) Subclauses (1) and (2) override any deed or agreement.
- (4) A chairperson or deputy chairperson removed from that office continues to be a member of the committee unless also removed from that office, under clause 10(1).

*Board to notify Minister of appointments, etc*

#### **15 Board to notify Minister of appointments, etc**

- (1) The board must give the Minister notice of any appointment, resignation, vacation of office, or removal from office, of any chairperson, deputy chairperson, or member of a committee, under any of clauses 6, or 8 to 14.
- (2) The notice must be in writing and given as soon as practicable, and no later than 10 working days, after the board becomes aware of the appointment, resignation, vacation of office, or removal from office.

*Teleconferences*

#### **16 Teleconferences**

- (1) A meeting of a committee may be held—
  - (a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or
  - (b) by means of audio, audio and visual, or electronic communication, provided that—
    - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
    - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.
- (2) For the avoidance of doubt, all the provisions of this schedule relating to meetings of a committee (for example, the requirement for public admission to meetings) apply to a meeting held in accordance with subclause (1)(b).

Schedule 4 clause 16: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**17 Further provisions relating to teleconferences**

*[Repealed]*

Schedule 4 clause 17: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Notice of meetings***18 Meetings of committees to be publicly notified**

- (1) Each committee must, not more than 14 days and not less than 5 days before the end of each month, publicly notify a list of all meetings of the committee scheduled to be held in the following month, together with the dates on which, and the times and places at which, the meetings are to be held.
- (2) However, if a meeting of a committee is to be held on or after the 21st day of any month, the committee may, instead of publicly notifying the meeting under subclause (1), publicly notify the meeting not more than 10 nor less than 5 working days before the day on which the meeting is to be held.
- (3) If a special meeting of a committee is called and notice of the meeting cannot be given in the manner required or permitted by this clause, the committee must publicly notify or otherwise advertise the meeting, and the general nature of business to be transacted at the meeting, as soon as practicable before the meeting is to be held.
- (4) If an emergency meeting of a committee is called and notice of the meeting cannot be given in the manner required or permitted by this clause for a scheduled or special meeting, the committee or member of the committee calling the meeting must give any public notice of the meeting and the business to be transacted at the meeting that is reasonable in the circumstances.

Compare: 1987 No 174 s 46(1)–(4)

**19 Meetings not publicly notified in accordance with clause 18**

- (1) No meeting of a committee is invalid just because it was not publicly notified in accordance with clause 18.
- (2) If a committee becomes aware that any meeting of the committee has not been publicly notified in accordance with clause 18, the committee must, as soon as practicable, give public notice that the meeting was not so notified, and must, in that notice,—
  - (a) state the general nature of the business transacted at the meeting; and
  - (b) give the reasons why the meeting was not so notified.

Compare: 1987 No 174 s 46(5), (6)

**20 Members to be notified of meetings**

- (1) The chairperson must ensure that each member of a committee is given notice of a meeting of the committee as early as practicable before the meeting is to be held.

- (2) The notice must be written, and may be given by delivery or by electronic transmission (for example, by fax or email).
- (3) For the purposes of subclause (1), it is enough if the chairperson made all reasonable efforts to ensure each member was given the notice by the time required under that subclause.

*Information relating to meetings*

**21 Availability of agendas and reports**

- (1) Any member of the public may, without payment of any fee, inspect, during normal office hours, within a period of at least 2 working days before every meeting of a committee, all agendas and associated reports circulated to members of the committee and relating to the meeting.
- (2) The committee must, from time to time, authorise a person to act for it for the purposes of this subclause, and that person—
  - (a) may exclude from the reports made available any reports or items from reports he or she reasonably expects the meeting to discuss with the public excluded; and
  - (b) must indicate on each agenda items he or she reasonably expects the meeting to discuss with the public excluded.
- (3) The agendas must be available for inspection at a place or places within the district, and must be accompanied by either—
  - (a) the associated reports; or
  - (b) a notice specifying the place or places at which the associated reports may be inspected.
- (4) The associated reports must be available for inspection at a place or places within the district.
- (5) Any member of the public may take notes from any agenda or report inspected by that member of the public.
- (6) Every member of the public who inspects an agenda or report made available under this clause and requests a copy of all or any part of any such agenda or report must, if he or she tenders an amount that represents the reasonable costs of making one available, be given such a copy as soon as practicable.
- (7) This clause is subject to clause 22.

Compare: 1987 No 174 s 46A(1)–(5), (8)–(9)

**22 Availability of agendas and reports in special circumstances**

- (1) If a meeting is an emergency meeting or a special meeting called pursuant to a resolution of the committee, the agenda and any associated reports must be made available as soon as is reasonable in the circumstances.

- (2) The committee must, from time to time, authorise a person to act for it for the purposes of this subclause, and that person—
- (a) may exclude from the reports made available any reports or items from reports that the meeting discussed with the public excluded; and
  - (b) must indicate on each agenda items the meeting discussed with the public excluded.

Compare: 1987 No 174 s 46A(6), (8)–(9)

### **23 Public may inspect or request copies of minutes of meeting**

- (1) Any member of the public may, within a reasonable time after any meeting of a committee, without payment of any fee and during normal office hours, inspect the minutes of the meeting or any part of it, unless it was a meeting or part of a meeting from which the public was excluded.
- (2) The minutes must be available for inspection at a place or places within the district.
- (3) Any member of the public may take notes from any minutes inspected by that member of the public.
- (4) Every member of the public inspecting any such minutes who requests a copy of all or any part of those minutes must, if he or she tenders an amount equal to the reasonable costs of making one available, be given such a copy.
- (5) If any person requests a copy of the minutes of any meeting or part of a meeting from which the public was excluded, the committee must deal with the request as follows:
- (a) if it is made by or on behalf of a natural person, and is for access to any personal information that is about that person, as if it were a request made under information privacy principle 6(1)(b) set out in section 22 of the Privacy Act 2020:
  - (b) in any other case, as if it were a request for access to official information made under the Official Information Act 1982.

Compare: 1987 No 174 s 51

Schedule 4 clause 23(5)(a): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

### **24 Public notification of resolution at emergency meeting**

If a resolution is passed at an emergency meeting of a committee, the committee must publicly notify the resolution as soon as practicable, unless it was passed at a meeting or part of a meeting from which the public was excluded.

Compare: 1987 No 174 s 51A

**25 Defamatory matter in copy of agenda or additional particulars supplied to public or in minutes of meeting**

- (1) This clause applies if all or any part of a meeting of any committee is open to the public, and—
  - (a) a copy of the agenda for the meeting, with or without further statements or particulars for the purpose of indicating the nature of any item included in the agenda, is supplied to a member of the public; or
  - (b) the minutes of the meeting or part are produced, for inspection, to any member of the public, or a copy of them is given to any member of the public.
- (2) The publication, in that way, of any defamatory matter in the agenda, or in the further statements or particulars, or in the minutes, is privileged.
- (3) This clause does not apply if, in any proceedings for defamation in respect of that publication, the plaintiff proves that, in publishing the matter, the defendant was predominantly motivated by ill will towards the plaintiff, or otherwise took improper advantage of the occasion of publication.

Compare: 1987 No 174 s 52

**26 Oral statements at meetings privileged**

- (1) Any oral statement made at any meeting of a committee in accordance with the rules that have been adopted by the committee for the guidance and order of its meetings is privileged.
- (2) This clause does not apply if, in any proceedings for defamation in respect of the statement, the plaintiff proves that, in making the statement, the defendant was predominantly motivated by ill will towards the plaintiff, or otherwise took improper advantage of the occasion of publication.
- (3) The privilege conferred by this clause is in addition to and not in substitution for or derogation of any other privilege, whether absolute or qualified, that applies, by virtue of any other enactment or rule of law, to the meetings of any committee.

Compare: 1987 No 174 s 53

*Procedure at meetings*

**27 Quorum**

- (1) No authority, power, or discretion of a committee can be exercised, and no business of a committee can be transacted, at any meeting of the committee, unless the quorum of members of the committee is present at the meeting.
- (2) The quorum of members of a committee is,—
  - (a) if the total number of members of the committee is an even number, half that number; but

- (b) if the total number of members of the committee is an odd number, a majority of the members.
- (3) Despite subclause (2), the board may, by written notice to all members of a committee given before a certain meeting or meetings of the committee, or before any meetings of the committee within a certain period, set a quorum other than that in subclause (2) for the meeting or meetings of the committee, if—
  - (a) a member of the committee gives the board a written statement of reasons why the board should do so; and
  - (b) the board considers that those reasons are good reasons and is satisfied that those reasons exist in fact.

## **28 Further provisions relating to quorum**

- (1) For the purposes of clause 27(3), it is enough if the board made all reasonable efforts to give all members of the committee the notice before the meeting or meetings.
- (2) For the purposes of clause 27(2) and (3), a member who has declared an interest under clause 38 in relation to a transaction must not, for the purposes of that transaction, be counted, unless the board has waived or modified the application of clause 38(2).

## **29 Presiding member**

- (1) At each meeting of a committee the chairperson of the committee presides, if he or she is present and willing to do so.
- (2) If the chairperson of a committee is not present or willing to preside at a meeting of the committee and there is a deputy chairperson of the committee, the deputy chairperson presides, if he or she is present and willing to do so.
- (3) If neither subclause (1) nor subclause (2) applies, the members present at the meeting must elect a member who is present to preside at the meeting.

## **30 Dealing with items not on agenda for meeting**

- (1) If an item is not on the agenda for a meeting of a committee, that item may be dealt with at the meeting if the committee by resolution so decides, and the presiding member explains at the meeting, at a time when it is open to the public,—
  - (a) the reason why the item is not on the agenda; and
  - (b) the reason why the discussion of the item cannot be delayed until a later meeting.
- (2) Despite subclause (1), if an item is not on the agenda for a meeting of a committee,—
  - (a) the item may be discussed at the meeting if—

- (i) the item is a minor matter relating to the general business of the committee; and
  - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision, or recommendation may be made in respect of the item except to refer the item to a later meeting of the committee for further discussion.

Compare: 1987 No 174 s 46A(7), (7A)

### **31 Voting**

- (1) All questions arising at any meeting of a committee must be decided by a majority of the votes cast by the members present.
- (2) If a vote is tied, the member presiding at the meeting has no second or casting vote, and the question is negatived.

### **32 Supplementary procedure**

A committee may regulate its procedure, at its meetings and otherwise, in any manner not inconsistent with this Act it thinks fit.

#### *Admission of public*

### **33 Admission of public**

Except as provided in clauses 34 to 37, every meeting of a committee must be open to the public.

Compare: 1987 No 174 s 47

### **34 Right of committee to exclude public**

A committee may by resolution exclude the public from the whole or any part of any meeting of the committee only on 1 or more of the following grounds:

- (a) that the public conduct of the whole or the relevant part of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under any of sections 6, 7, or 9 (except section 9(2)(g)(i)) of the Official Information Act 1982:
- (b) that the public conduct of the whole or the relevant part of the meeting would be likely to result in the disclosure of information the public disclosure of which would—
  - (i) be contrary to the provisions of a specified enactment; or
  - (ii) constitute contempt of court or of the House of Representatives:
- (c) that the purpose of the whole or the relevant part of the meeting is to consider a recommendation of an Ombudsman made under section 30(1) or section 35(2) of the Official Information Act 1982 to the committee:

- (d) that the purpose of the whole or the relevant part of the meeting is to consider a communication from the Privacy Commissioner arising out of an investigation under Part 5 of the Privacy Act 2020 to the committee:
- (e) that the exclusion of the public from the whole or the relevant part of the meeting is necessary to enable the committee to deliberate in private on a decision or recommendation as to whether any of the grounds in paragraphs (a) to (d) are established in relation to all or any part of any meeting of the committee.

Compare: 1987 No 174 s 48(1)

Schedule 4 clause 34(d): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

### **35 Resolution excluding public**

- (1) Every resolution excluding the public from any meeting of a committee must state—
  - (a) the general subject of each matter to be considered while the public is excluded; and
  - (b) the reason for the passing of that resolution in relation to that matter, including, where that resolution is passed in reliance on clause 34(a), the particular interest or interests protected by section 6 or section 7 or section 9 of the Official Information Act 1982 which would be prejudiced by the holding of the whole or the relevant part of the meeting in public; and
  - (c) the grounds on which that resolution is based (being 1 or more of the grounds stated in clause 34).
- (2) Every resolution to exclude the public must be put at a time when the meeting is open to the public, and the text of that resolution (or copies of it) must—
  - (a) be available to any member of the public who is present; and
  - (b) form part of the minutes of the committee.
- (3) A resolution to exclude the public may also provide for a specified person or persons to remain after the public has been excluded if that person, or those persons, has or have, in the committee's opinion, knowledge that will help it.
- (4) If a committee resolves that a person or persons may remain after the public has been excluded, the resolution must state—
  - (a) the knowledge possessed by that person or those persons that will be helpful in relation to the matter to be discussed; and
  - (b) how it is relevant to that matter.
- (5) The person or persons must not disclose to anyone not present at the meeting while the public was excluded and the person or persons remained any infor-

mation that the person or persons became aware of only at the meeting while the public was excluded and the person or persons remained.

Compare: 1987 No 174 s 48(3)–(6)

### **36 Provisions applying when meeting open to public**

The following provisions apply when all or any part of a meeting of a committee is required by this schedule to be open to the public:

- (a) for the purposes of this schedule, genuine members of the news media must be treated as members of the public, and are entitled to attend any meeting or any part of a meeting for the purpose of reporting the meeting for any news media:
- (b) if the agenda for any meeting is copied by any means for use by members of a committee, that committee must also cause to be made any additional copies of the agenda that in that committee's opinion may be necessary to ensure there is an adequate supply for any persons requesting copies under paragraph (c):
- (c) any member of the public who attends a meeting of a committee and requests a copy of the agenda must, if he or she tenders an amount equal to the reasonable costs of making one available, be given (and may take away with him or her) any spare copy of the agenda:
- (d) copies of the agenda supplied for members of the public as provided in paragraph (b) must include any further statements or particulars necessary to indicate the nature of any items included in the agenda, unless that item refers to any matter to be considered by the committee when the meeting is not likely to be open to the public.

Compare: 1987 No 174 s 49

### **37 Maintenance of order**

- (1) At any meeting of any committee the presiding member of the committee may require a member of the public attending the meeting to leave it if the presiding member believes on reasonable grounds that, if the member of the public is permitted to remain, the behaviour of the member of the public is likely to prejudice, or to continue to prejudice, the orderly conduct of the meeting.
- (2) At the request of the presiding member, a constable, or officer or employee of the committee may remove or, as the case requires, exclude a member of the public from a meeting of a committee if the member of the public has been required under this clause to leave the meeting but—
  - (a) refuses or fails to leave it; or
  - (b) having left it, attempts to re-enter it without the permission of the presiding member.

Compare: 1987 No 174 s 50

Schedule 4 clause 37(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

*Disclosure of members' interests*

**38 Disclosure of interests**

- (1) A member of a committee who is interested in a transaction of the DHB must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the committee.
- (2) A member of a committee who makes a disclosure under this clause must not (unless subclause (4) applies, or the board, by a waiver or modification of the application of this subclause under clause 39, permits)—
  - (a) take part, after the disclosure, in any deliberation or decision of the committee relating to the transaction; or
  - (b) be included in the quorum required by clause 27 for any such deliberation or decision; or
  - (c) sign any document relating to the entry into a transaction or the initiation of the transaction.
- (3) A disclosure under this clause must be recorded in the minutes of the next meeting of the committee concerned and entered in a separate interests register maintained for the purpose.
- (4) However, a member of the committee who makes a disclosure under this clause may take part in any deliberation (but not any decision) of the committee relating to the transaction concerned if a majority of the other members of the committee permits the member to do so.
- (5) If subclause (4) applies, the committee must record in the minutes of its next meeting—
  - (a) the permission and the majority's reasons for giving it; and
  - (b) what the member says in any deliberation of the committee relating to the transaction concerned.
- (6) Every member of a committee who has completed a statement under clause 38(6) of Schedule 3 or clause 6(3) must ensure that—
  - (a) the statement is incorporated in the interests register maintained under subclause (3); and
  - (b) any relevant change in the member's circumstances affecting a matter disclosed in that statement is entered in that register as soon as practicable after the change occurs.
- (7) In this clause and clause 39, **committee** includes a committee established under clause 38 of Schedule 3.

Schedule 4 clause 38(2)(b): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 4 clause 38(2)(c): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**39 Board may waive or modify application of clause 38(2)**

- (1) The board may, if satisfied it is in the public interest, or the interests of the DHB concerned, to do so, waive or modify the application of all or any part of clause 38(2) in respect of—
  - (a) any particular member of a committee:
  - (b) any transaction, or class of transaction.
- (2) The board must effect any waiver or modification under subclause (1) by written notice to the committee, and may make the waiver or modification subject to any conditions the board thinks fit.
- (3) The board must give the Minister a copy of any such notice within 10 working days after the date on which the board issues the notice.

## Schedule 4A

### Provisions relating to imposition and payment of HPA levies

s 59AA

Schedule 4A: inserted, on 1 July 2012, by section 12 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

#### 1 Interpretation

(1) In this schedule, unless the context otherwise requires,—

**aggregate expenditure figure**, in relation to any financial year, means the aggregate expenditure figure assessed in respect of that year by the Minister under clause 2(1)

**aggregate levy figure**, in relation to any financial year, means the aggregate levy figure determined in respect of that year by the Minister under clause 2(2)

**beer** means the product of the alcoholic fermentation by yeast of liquid derived from a mash of drinking water and malt grains with hops or their extracts that on analysis is found to contain more than 1.15% volume of alcohol

**class of alcohol** means a class of alcohol as identified in the table in Schedule 4B

**HPA** means the Health Promotion Agency established by section 57

**preceding statistical year** means the latest complete period of 12 consecutive months in respect of which, at any material time, the following information is available to the Minister, that is, the total number of litres of each class of alcohol imported into, and manufactured in, New Zealand during that period

**spirits** means ethyl alcohol, whether denatured or not, and any spirituous beverages, including brandy, gin, rum, vodka, whisky, and every other description of spirituous alcohol derived from ethyl alcohol

**wine** means the product of the complete or partial fermentation of any fruit (including grapes), vegetable, or honey, and—

(a) includes—

(i) cider, perry, and mead; and

(ii) fortified wines such as sherry, port, and fruit or vegetable-based alcohols; but

(b) does not include—

(i) beer or spirits; or

(ii) any alcohol containing no more than 1.15% volume of alcohol

**winemaker** has the same meaning as in the Wine Act 2003.

(2) For the purposes of clauses 3 and 5, where any wine manufactured in New Zealand is sold to another winemaker for blending with other wine, the wine so

sold is deemed to be manufactured by the person who blends it, and not by its original maker.

- (3) For the purposes of clause 3(2), the total number of litres of wine manufactured in New Zealand during any statistical year is deemed to be the same as the total number of litres of wine sold by winemakers during that year.
- (4) For the purposes of clauses 5 and 6, the total number of litres of wine sold in New Zealand during any financial year is deemed to be the same as the total number of litres of wine sold in New Zealand during the preceding statistical year.
- (5) For the purposes of clause 3(2) and Schedule 4B, alcohol that is exported from New Zealand during the preceding statistical year is not to be treated as alcohol that is imported into or manufactured in New Zealand.

## **2 Minister to assess aggregate expenditure figure and determine aggregate levy figure**

- (1) For each financial year, the Minister, acting with the concurrence of the Minister of Finance, must assess the aggregate expenditure figure for that year that, in his or her opinion, would be reasonable for HPA to expend during that year—
  - (a) in addressing alcohol-related harm; and
  - (b) in meeting its operating costs that are attributable to alcohol-related activities.
- (2) Having assessed the aggregate expenditure figure for any financial year under subclause (1), the Minister must determine the aggregate levy figure for that year, being an amount equal to the aggregate expenditure figure less the amount that, in his or her opinion, is likely to be received by HPA during the financial year by way of interest on money invested by HPA or from third party or other revenue.
- (3) Nothing in this clause obliges HPA to expend in any financial year the whole of its income received in that year, and HPA may accumulate any part of its income in any financial year and expend it as it sees fit for any of its purposes in any subsequent financial year.
- (4) Despite subclause (2), if HPA carries forward any such amount to a subsequent financial year, the Minister may, in determining the aggregate levy figure for that year, take into account the whole or any part of that amount.

## **3 Minister to determine amounts of levy for each class of alcohol**

- (1) After assessing the aggregate levy figure for any financial year, the Minister must determine, in accordance with subclause (2), the amounts of the levies payable under clause 5, in respect of each class of alcohol, in order to yield an amount equivalent to the aggregate levy figure.
- (2) The process for determining the amounts of levy is as follows:

- (a) *Step 1*—for each class of alcohol, determine the total number of litres of that class of alcohol that was imported into or manufactured in New Zealand during the preceding statistical year:
  - (b) *Step 2*—for each class of alcohol, multiply the result of step 1 by the appropriate rate, as set out in the table in Schedule 4B. This gives the (nominal) total number of litres of alcohol for each class of alcohol:
  - (c) *Step 3*—for each class of alcohol, divide the number of litres of alcohol for that class by the total number of litres of alcohol for all classes. This gives the proportion of the aggregate levy figure that is to be borne by that class of alcohol in the next financial year:
  - (d) *Step 4*—for each class of alcohol, multiply the result of step 3 by the aggregate levy figure. This gives the amount of levy to be borne by each class of alcohol in the next financial year:
  - (e) *Step 5*—for each class of alcohol, divide the result of step 4 by the result of step 1. This gives the amount of levy payable on each litre of alcohol of that class in the next financial year.
- (3) If a rate for a class of alcohol is described in the table in Schedule 4B as a variable rate, the Minister must—
- (a) determine the rate to be applied to that class of alcohol; and
  - (b) in making that determination, use the method for determining variable rates that is described in Schedule 4B.

#### **4 Rate of levy fixed by Order in Council**

- (1) The Governor-General may, by Order in Council, fix for the next financial year, by reference to each class of alcohol, the amount of levy payable under clause 5.
- (2) The amount of levy for each class of alcohol must be as determined by the Minister in accordance with clause 3(2).
- (3) If a rate for a class of alcohol is described in the table in Schedule 4B as a variable rate, the Order in Council must identify the rate determined by the Minister under clause 3(3) and used for the purpose of clause 3(2).

#### **5 Levies payable by importers and manufacturers of alcohol**

- (1) In every financial year, a levy of the amount set by Order in Council made under clause 4 is payable by every person who—
  - (a) enters for home consumption (as that expression is used in the Customs and Excise Act 2018) any imported alcohol that contains more than 1.15% volume of alcohol; or
  - (b) manufactures in New Zealand any beer or spirits; or
  - (c) sells any wine manufactured by that person in New Zealand.

- (2) No levy is payable under this Act in respect of any alcohol that is not subject to or is exempt from Customs duty under the Customs and Excise Act 2018.
- (3) If any person may be allowed, under the Customs and Excise Act 2018, any drawback in respect of any alcohol, that person may also be allowed a refund of any levy paid by that person under this Act in respect of that alcohol.
- (4) In this section, **Customs duty** has the meaning given to the term duty by section 5(1) of the Customs and Excise Act 2018.

Schedule 4A clause 5(1)(a): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Schedule 4A clause 5(2): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Schedule 4A clause 5(3): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Schedule 4A clause 5(4): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

## **6 Payment and collection of levies in respect of beer, wine, and spirits**

- (1) All levies payable under this Act in respect of any beer, wine, or spirits are payable to the Customs in addition to any duty payable to the Customs in respect of the beer, wine, or spirits under the Customs and Excise Act 2018.
- (2) For the purposes of subclause (1), the levies are payable to the Customs at the same time as the excise duty or excise-equivalent duty is payable under the Customs and Excise Act 2018 in respect of the beer, wine, or spirits concerned.

Schedule 4A clause 6(1): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Schedule 4A clause 6(2): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

## **7 Powers of the Customs**

The powers and authorities of the Customs under the Customs and Excise Act 2018, with any necessary modifications, apply in the same manner to the collection of a levy under this Act as they apply to the collection of duty under that Act.

Schedule 4A clause 7: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

## **8 All levies collected to be paid to HPA**

- (1) The Customs must pay to HPA all levies received under this Act by the Customs.
- (2) This clause is subject to clause 9.

## **9 Crown may be reimbursed for collection of levies**

- (1) For the purpose of reimbursing the Crown for any expenses incurred by the Customs in collecting any levies under this Act, the Customs may retain any

percentage of every levy collected by it that may be determined by the Minister of Finance after consultation with HPA.

- (2) The amount of any levy retained under subclause (1) must not exceed 5% of the amount of the levies collected by the Customs.
- (3) The Crown is entitled in every financial year to recover from HPA out of the fund any sum in respect of the costs incurred by the Director-General of Health in administering this Act that may be determined by the Minister of Finance after consultation with HPA.

## Schedule 4B Classes of alcohol and rates for each class

s 59AA

Schedule 4B: inserted, on 1 July 2012, by section 12 of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Class	Legal definition of class <i>Alcohol which, if imported, would be classified within the following tariff items</i>	Indicative description <i>Percentage of alcohol by volume in most items in class</i>	Rate
A	2203.00.12, 2206.00.37, 2208.70.30, 2208.90.62	More than 1.15% but not more than 2.5%	1.5%
B	2203.00.22, 2203.00.31, 2203.00.39, 2206.00.47, 2208.70.40, 2208.90.68	More than 2.5% but not more than 6%	Variable
C	2206.00.57, 2208.70.50, 2208.90.72	More than 6% but not more than 9%	8%
D	2204.10.01, 2204.10.18, 2204.21.18, 2204.22.90, 2204.29.90, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.68, 2208.70.60, 2208.90.78	More than 9% but not more than 14%	10%
E	2204.21.13, 2204.22.19, 2204.29.20, 2205.10.12, 2205.10.33, 2205.90.12, 2205.90.33, 2206.00.17, 2206.00.78, 2208.70.71, 2208.90.06, 2208.90.85	More than 14% but not more than 23%	Variable
F	2206.00.28, 2206.00.89, 2208.20.04, 2208.20.08, 2208.20.19, 2208.20.29, 2208.30.04, 2208.30.08, 2208.30.19, 2208.40.04, 2208.40.08, 2208.40.19, 2208.50.04, 2208.50.08, 2208.50.19, 2208.60.19, 2208.60.29, 2208.60.99, 2208.70.80, 2208.90.08, 2208.90.48, 2208.90.97	More than 23%	Variable

### Method for determining variable rates

For a given financial year, the variable rate for a class is the average alcohol content by volume of all the alcohol of that class that was imported into or manufactured in New Zealand in the preceding statistical year.

Schedule 4B class D: amended, on 25 May 2021, by clause 3(1) of the New Zealand Public Health and Disability (Schedule 4B) Order 2021 (LI 2021/48).

Schedule 4B class E: amended, on 25 May 2021, by clause 3(2) of the New Zealand Public Health and Disability (Schedule 4B) Order 2021 (LI 2021/48).

## Schedule 5

### Provisions applying to mortality review committees

s 59E

Schedule 5 heading: amended, on 9 November 2010, by section 25 of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

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#### *Interpretation*

### 1 Interpretation

In this schedule, unless the context otherwise requires,—

**document** has the same meaning as in section 2(1) of the Official Information Act 1982

**judicial proceeding** means a proceeding that is judicial within the meaning of section 108 of the Crimes Act 1961

**ministerial authority** means an authority—

- (a) given by the Minister under clause 6(1); and
- (b) in force for the time being

**serious offence** means an offence punishable by imprisonment for a term of 2 years or more.

Compare: 1995 No 95 s 66

*Chairperson may require person to give information*

**2 Chairperson may require person to give information**

- (1) If a mortality review committee gives its chairperson, or an agent the committee appoints for the purpose, authority in writing to do so, the chairperson or agent may, by notice in writing to any person, require the person to give the committee information in the person's possession, or under the person's control, and relevant to the performance by the committee of any of its functions.
- (2) Examples of the information the chairperson or agent may require are—
  - (a) patient records, clinical advice, and related information:
  - (b) answers to questions posed by the chairperson in the notice, and that the person is able to answer:
  - (c) information that became known solely as a result of a declared quality assurance activity, within the meaning of Part 6 of the Medical Practitioners Act 1995, or a protected quality assurance activity within the meaning of section 53(1) of the Health Practitioners Competence Assurance Act 2003.
- (3) The person must take all reasonable steps to comply with the notice.

Schedule 5 clause 2(2)(c): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

*Production, disclosure, and recording of information*

**3 Meaning of information**

In clauses 4 to 6, **information** means any information—

- (a) that is personal information within the meaning of section 7(1) of the Privacy Act 2020; and
- (b) that became known to any member or executive officer or agent of a mortality review committee only because of the committee's functions being carried out (for example, because it is contained in a document created, and made available to the member or executive officer or agent, only because of those functions being carried out), whether or not the carrying out of those functions is completed.

Schedule 5 clause 3(a): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

**4 Prohibitions on production, disclosure, and recording of information**

- (1) A member or executive officer or agent of a mortality review committee must not produce or disclose information to another person or in any judicial proceeding, or make any record of it, unless the production, disclosure, or record, is—
  - (a) for the purposes of carrying out the committee's functions; or

- (b) in accordance with an exception stated in clause 5; or
  - (c) in accordance with a ministerial authority.
- (2) In any judicial proceeding, a member or executive officer or agent of a mortality review committee must not be required to produce information if under sub-clause (1) he or she is prohibited from doing so.

Compare: 1995 No 95 s 70

## 5 Exceptions to prohibitions

Clause 4 does not prohibit—

- (a) the production, disclosure, or recording of information if the information does not identify, either expressly or by implication, any particular individual:
- (b) the disclosure of information—
  - (i) with the consent of every person who would be directly or indirectly identified by the disclosure:
  - (ii) to the Minister, or a person authorised by the Minister, for the purpose of enabling the Minister to decide whether or not to issue a ministerial authority:
  - (iii) for the purposes of the prosecution of an offence against section 18(7) (disclosure of information contrary to this schedule).

Compare: 1995 No 95 s 71

## 6 Minister may authorise disclosure of information

- (1) If the Minister is satisfied that information relates to conduct (whenever occurring) that constitutes or may constitute a serious offence, the Minister may, by notice in writing signed by the Minister, give a ministerial authority authorising the disclosure of the information, in the manner, and subject to any conditions, specified in the notice, for 1 or more of the following purposes:
- (a) for the purposes of the investigation and prosecution of offences:
  - (b) for the purposes of a Royal Commission, or a commission of inquiry appointed by an Order in Council made under the Commissions of Inquiry Act 1908:
  - (c) for the purposes of an inquiry to which section 6 of the Inquiries Act 2013 applies.
- (2) However, a ministerial authority may be given for information of a non-factual nature (for example, expressions of opinion) only if that information consists only of matter contained in a report or advice prepared by the mortality review committee.
- (3) The Minister may at any time—
- (a) revoke a ministerial authority; or

- (b) revoke, amend, or add to any condition or conditions to which a ministerial authority is subject.
- (4) A ministerial authority authorising the disclosure of information does not of itself—
  - (a) require the disclosure of that information; or
  - (b) create a duty to disclose that information.

Compare: 1995 No 95 s 72

Schedule 5 clause 6(1)(c): inserted, on 27 August 2013, by section 39 of the Inquiries Act 2013 (2013 No 60).

### *Supplementary procedure*

#### **7 Supplementary procedure**

A mortality review committee may regulate its procedure, at its meetings and otherwise, in any manner not inconsistent with this Act it thinks fit.

## Schedule 6

### Further provisions applying to Pharmac, NZBOS, HPA, and HQSC

s 70

Schedule 6 heading: amended, on 30 November 2020, by section 25(1) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Schedule 6 heading: amended, on 1 July 2012, by section 11(1) of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Schedule 6 heading: amended, on 9 November 2010, by section 26(1) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

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*Address for service**[Repealed]*34      Address for service *[Repealed]*      146*Meaning of organisation***1      Meaning of organisation**

In this schedule, unless the context otherwise requires, **organisation** means each of the following organisations:

- (a)    Pharmac:
- (b)    NZBOS:
- (c)    HPA:
- (d)    HQSC.

Schedule 6 clause 1(b): amended, on 30 November 2020, by section 25(2) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Schedule 6 clause 1(c): replaced, on 1 July 2012, by section 11(2) of the New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41).

Schedule 6 clause 1(d): added, on 9 November 2010, by section 26(2) of the New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118).

*Members**[Repealed]*

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

**2      Members***[Repealed]*

Schedule 6 clause 2: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**3      Terms and conditions of office, and remuneration***[Repealed]*

Schedule 6 clause 3: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**4      Resignation***[Repealed]*

Schedule 6 clause 4: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**5 Vacation of office**

*[Repealed]*

Schedule 6 clause 5: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**6 Removal from office**

*[Repealed]*

Schedule 6 clause 6: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Chairperson and deputy chairperson*

*[Repealed]*

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

**7 Chairperson and deputy chairperson**

*[Repealed]*

Schedule 6 clause 7: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**8 Resignation**

*[Repealed]*

Schedule 6 clause 8: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**9 Vacation of office**

*[Repealed]*

Schedule 6 clause 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**10 Removal from office**

*[Repealed]*

Schedule 6 clause 10: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Teleconferences*

*[Repealed]*

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

**11 Teleconferences**

*[Repealed]*

Schedule 6 clause 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**12 Further provisions relating to teleconferences**

*[Repealed]*

Schedule 6 clause 12: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Meetings*

*[Repealed]*

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

**13 Members to be notified of meetings**

*[Repealed]*

Schedule 6 clause 13: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**14 Quorum**

*[Repealed]*

Schedule 6 clause 14: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**15 Presiding member**

*[Repealed]*

Schedule 6 clause 15: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**16 Voting**

*[Repealed]*

Schedule 6 clause 16: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**17 Supplementary procedure**

*[Repealed]*

Schedule 6 clause 17: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Draft resolutions circulated for members' assent*

*[Repealed]*

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

**18 Draft resolution may be circulated to members for assent**

*[Repealed]*

Schedule 6 clause 18: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**19 Members to respond to draft resolution circulated**

*[Repealed]*

Schedule 6 clause 19: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**20 Draft resolutions assented to by a majority of members**

*[Repealed]*

Schedule 6 clause 20: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Disclosure of members' interests*

**21 Disclosure of interests**

Section 66 of the Crown Entities Act 2004 does not apply to a person who is interested in a matter only because he or she is a member of the board of another organisation or of a DHB.

Schedule 6 clause 21: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**22 Minister may waive or modify application of clause 21(2)**

*[Repealed]*

Schedule 6 clause 22: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Committees*

**23 Committees**

(1) *[Repealed]*

(2) In making appointments to a committee of a board, the board must endeavour, where appropriate, to ensure representation of Maori on the committee.

(3) *[Repealed]*

(4) *[Repealed]*

(5) *[Repealed]*

Schedule 6 clause 23(1): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 23(3): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 23(4): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 23(5): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Delegations***24 Delegations**

- (1) Every board of an organisation must,—
  - (a) as soon as practicable after the commencement of this clause, formulate a policy for the exercise of its powers of delegation under this clause:
  - (b) keep the policy under review, and amend or replace the policy as it considers appropriate:
  - (c) make the policy formulated, and any amendments to or replacements of the policy, publicly available.
- (2) A formulation, amendment, or replacement under subclause (1) does not come into force unless it has been approved by the Minister, and the Minister may give his or her approval subject to any conditions the Minister specifies.
- (3) When a policy referred to in subclause (1) is in force, every exercise by the board of a power of delegation under section 73 of the Crown Entities Act 2004 must comply with that policy.
- (4) *[Repealed]*
- (5) *[Repealed]*
- (6) *[Repealed]*
- (7) *[Repealed]*
- (8) *[Repealed]*

Schedule 6 clause 24(3): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 24(4): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 24(5): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 24(6): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 24(7): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 24(8): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**25 Effect of delegation**

*[Repealed]*

Schedule 6 clause 25: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Seal*

*[Repealed]*

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

**26 Seal**

*[Repealed]*

Schedule 6 clause 26: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Contracts and other enforceable obligations*

*[Repealed]*

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

**27 Contracts and other enforceable obligations**

*[Repealed]*

Schedule 6 clause 27: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Dealings with land*

**28 Dealings with land**

- (1) No organisation may sell, exchange, mortgage, or charge land without the prior written approval of the Minister.
- (2) No organisation may grant a lease or licence for a term of more than 5 years over land without the prior written approval of the Minister.
- (3) For the purposes of subclause (2), the term of a lease or licence includes any period (or, if the lease or licence provides for more than 1 such period, the total period) for which any person is entitled to have the lease or licence renewed.
- (4) Any approval under this clause may be subject to any conditions the Minister specifies, and may be given in respect of any land of a class the Minister specifies.
- (5) In this clause, **organisation** includes a Crown entity subsidiary of an organisation.
- (6) To avoid any doubt, the matters to which the Minister may have regard in giving an approval under subclause (2) in relation to any land include the question of the application to the land of clause 3 of Schedule 1 of the Health Sector (Transfers) Act 1993.
- (7) This clause applies despite sections 16 and 17 of the Crown Entities Act 2004.

Schedule 6 clause 28(5): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 28(7): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### *Employees*

#### **29 Employees**

- (1) *[Repealed]*
- (2) The terms and conditions of employment of a chief executive appointed by an organisation are determined by agreement between the board of the organisation and the chief executive, but the board must not finalise those terms and conditions, or agree to any amendments to any or all of those terms and conditions once they have been finalised, without first obtaining the consent of the Public Service Commissioner.
- (3) The individual for the time being acting in the position of chief executive of an organisation may enter into a collective agreement on behalf of the organisation with any or all employees of the organisation, except that that individual must not finalise any such collective agreement without first consulting the Director-General on the terms and conditions of any such collective agreement.
- (4) The Governor-General may, by Order in Council,—
  - (a) exempt any organisation, or any organisation specified in the order, from the requirement to consult in subclause (3); or
  - (b) revoke any order made under paragraph (a) in order to end an exemption from that requirement for the organisations or organisation concerned.
- (5) This clause applies despite section 117(2) to (3) of the Crown Entities Act 2004, but section 117(1) of that Act applies to a chief executive of an organisation.
- (6) Despite section 116(2) of the Crown Entities Act 2004, the Governor-General may not make an Order in Council under section 116(1) of that Act in relation to an organisation.

Compare: 1993 No 22 s 43(1)–(3)

Schedule 6 clause 29(1): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 6 clause 29(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Schedule 6 clause 29(5): replaced, on 31 October 2018, by section 19 of the State Sector and Crown Entities Reform Act 2018 (2018 No 31).

Schedule 6 clause 29(6): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Borrowing and investment*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**30 Borrowing**

*[Repealed]*

Schedule 6 clause 30: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**31 Investment**

*[Repealed]*

Schedule 6 clause 31: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Tax status*

*[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**32 Tax status**

*[Repealed]*

Schedule 6 clause 32: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Public Records Act 2005 to apply*

Heading: substituted, on 21 April 2005, by section 67(1) of the Public Records Act 2005 (2005 No 40).

**33 Public Records Act 2005 to apply**

An organisation (other than NZBOS) is a public office for the purposes of the Public Records Act 2005.

Schedule 6 clause 33: substituted, on 21 April 2005, by section 67(1) of the Public Records Act 2005 (2005 No 40).

Schedule 6 clause 33: amended, on 30 November 2020, by section 25(3) of the Organ Donors and Related Matters Act 2019 (2019 No 65).

*Address for service**[Repealed]*

Heading: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**34 Address for service***[Repealed]*

Schedule 6 clause 34: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**Schedule 7**  
**Vesting of assets and liabilities of hospital and health services in DHBs**

s 95(3)

<b>Hospital and health service whose assets and liabilities are vested</b>	<b>DHB in whom assets and liabilities vested</b>
Northland Health Limited	Northland DHB
Waitemata Health Limited	Waitemata DHB
Auckland Healthcare Services Limited	Auckland DHB
Counties-Manukau Health Limited	Counties Manukau DHB
Health Waikato Limited	Waikato DHB
Lakeland Health Limited	Lakes DHB
Pacific Health Limited	Bay of Plenty DHB
Tairāwhiti Healthcare Limited	Tairāwhiti DHB
Taranaki Healthcare Limited	Taranaki DHB
Healthcare Hawke's Bay Limited	Hawke's Bay DHB
Good Health Wanganui Limited	Whanganui DHB
MidCentral Health Limited	MidCentral DHB
Hutt Valley Health Corporation Limited	Hutt DHB
Capital Coast Health Limited	Capital and Coast DHB
Wairarapa Health Limited	Wairarapa DHB
Nelson Marlborough Health Services Limited	Nelson Marlborough DHB
Coast Health Care Limited	West Coast DHB
Canterbury Health Limited, Healthlink South Limited	Canterbury DHB
Health South Canterbury Limited	South Canterbury DHB
HealthCare Otago Limited	Otago DHB
Southern Health Limited	Southland DHB

## Schedule 8

### Consequential revocations of instruments

s 110(2)

**Drug Tariff 1993 (SR 1993/115)**

**Health and Disability Services Amendment Act 1998 Commencement Order 1998 (SR 1998/239)**

**Health and Disability Services Amendment Act Commencement Order 1995 (SR 1995/303)**

**Health and Disability Services (Establishment of Transitional Health Authority) Order 1997 (SR 1997/57)**

**Health and Disability Services (Health Funding Authority) Order 1997 (SR 1997/312)**

**Health Reforms (Transitional Provisions) Regulations 1993 (SR 1993/170)**

**Hospital Boards and Committees of Management Regulations 1959 (SR 1959/130)**

**Hospital Districts (Borough of Kapiti) Order 1974 (SR 1974/219)**

**Hospital Districts Order 1988 (SR 1988/311)**

**Hospitals Amendment Act (No 2) Commencement Order 1972 (SR 1972/38)**

**Hospitals (Tuarangi Home) Order 1969 (SR 1969/37)**

**Revocation of Health and Disability Service (Employment Contracts) Order 2000 (SR 2000/165)**

**Revocation of Regional Health Authorities Establishment Order 1997 (SR 1997/99)**

## Schedule 9 Consequential amendments to Acts

s 111(1)

**Accident Insurance Act 1998 (1998 No 114)**

*Amendment(s) incorporated in the Act(s).*

**Charitable Trusts Act 1957 (1957 No 18)**

*Amendment(s) incorporated in the Act(s).*

**Children, Young Persons, and Their Families Act 1989 (1989 No 24)**

*Amendment(s) incorporated in the Act(s).*

**Civil Defence Act 1983 (1983 No 46)**

*Amendment(s) incorporated in the Act(s).*

**Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16)**

*Amendment(s) incorporated in the Act(s).*

**Contraception, Sterilisation, and Abortion Act 1977 (1977 No 112)**

*Amendment(s) incorporated in the Act(s).*

**Dental Act 1988 (1988 No 150)**

*Amendment(s) incorporated in the Act(s).*

**Disabled Persons Community Welfare Act 1975 (1975 No 122)**

*Amendment(s) incorporated in the Act(s).*

**Education Act 1989 (1989 No 80)**

*Amendment(s) incorporated in the Act(s).*

**Electoral Act 1993 (1993 No 87)**

*Amendment(s) incorporated in the Act(s).*

**Employment Relations Act 2000 (2000 No 24)**

*Amendment(s) incorporated in the Act(s).*

**Finance Act 1994 (1994 No 73)**

*Amendment(s) incorporated in the Act(s).*

**Hazardous Substances and New Organisms Act 1996 (1996 No 30)**

*Amendment(s) incorporated in the Act(s).*

**Health Act 1956 (1956 No 65)**

*Amendment(s) incorporated in the Act(s).*

**Health Amendment Act 1998 (1998 No 86)**

*Amendment(s) incorporated in the Act(s).*

**Health and Disability Commissioner Act 1994 (1994 No 88)**

*Amendment(s) incorporated in the Act(s).*

**Health Research Council Act 1990 (1990 No 68)**

*Amendment(s) incorporated in the Act(s).*

**Health Sector (Transfers) Act 1993 (1993 No 23)**

*Amendment(s) incorporated in the Act(s).*

**Hospitals Act 1957 (1957 No 40)**

*Amendment(s) incorporated in the Act(s).*

**Income Tax Act 1994 (1994 No 164)**

*Amendment(s) incorporated in the Act(s).*

**Land Transport Act 1998 (1998 No 110)**

*Amendment(s) incorporated in the Act(s).*

**Local Government Act 1974 (1974 No 66)**

*Amendment(s) incorporated in the Act(s).*

**Medical Practitioners Act 1995 (1995 No 95)**

*Amendment(s) incorporated in the Act(s).*

**Medicines Act 1981 (1981 No 118)**

*Amendment(s) incorporated in the Act(s).*

**Mental Health Commission Act 1998 (1998 No 5)**

*Amendment(s) incorporated in the Act(s).*

**Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46)**

*Amendment(s) incorporated in the Act(s).*

**Misuse of Drugs Act 1975 (1975 No 116)**

*Amendment(s) incorporated in the Act(s).*

**Ngāi Tahu Claims Settlement Act 1998 (1998 No 97)**

*Amendment(s) incorporated in the Act(s).*

**Official Information Act 1982 (1982 No 156)**

*Amendment(s) incorporated in the Act(s).*

**Ombudsmen Act 1975 (1975 No 9)**

*Amendment(s) incorporated in the Act(s).*

**Public Finance Act 1989 (1989 No 44)**

*Amendment(s) incorporated in the Act(s).*

**Public Works Act 1981 (1981 No 35)**

*Amendment(s) incorporated in the Act(s).*

**Rating Powers Act 1988 (1988 No 97)**

*Amendment(s) incorporated in the Act(s).*

**Reserves Act 1977 (1977 No 66)**

*Amendment(s) incorporated in the Act(s).*

**Social Security Act 1964 (1964 No 136)**

*Amendment(s) incorporated in the Act(s).*

**Social Security Amendment Act (No 3) 1993 (1993 No 57)**

*Amendment(s) incorporated in the Act(s).*

**Tuberculosis Act 1948 (1948 No 36)**

*Amendment(s) incorporated in the Act(s).*

## Schedule 10

### Consequential amendments to other instruments

s 111(2)

**Accident Insurance (Insurer's Liability to Pay Cost of Treatment) Regulations 1999 (SR 1999/104)**

*Amendment(s) incorporated in the regulations.*

**Cremation Regulations 1973 (SR 1973/154)**

*Amendment(s) incorporated in the regulations.*

**Education (Early Childhood Centres) Regulations 1998 (SR 1998/85)**

*Amendment(s) incorporated in the regulations.*

**Education (Home-Based Care) Order 1992 (SR 1992/238)**

*Amendment(s) incorporated in the order(s).*

**Health (Burial) Regulations 1946 (SR 1946/132)**

*Amendment(s) incorporated in the regulations.*

**Health Entitlement Cards Regulations 1993 (SR 1993/169)**

*Amendment(s) incorporated in the regulations.*

**Health (Infectious and Notifiable Diseases) Regulations 1966 (SR 1966/87)**

*Amendment(s) incorporated in the regulations.*

**Health (Infirm and Neglected Persons) Regulations 1958 (SR 1958/54)**

*Amendment(s) incorporated in the regulations.*

**Health (Needles and Syringes) Regulations 1998 (SR 1998/254)**

*Amendment(s) incorporated in the regulations.*

**Health (Retention of Health Information) Regulations 1996 (SR 1996/343)**

*Amendment(s) incorporated in the regulations.*

**Medicines Regulations 1984 (SR 1984/143)**

*Amendment(s) incorporated in the regulations.*

**Social Security (Disability Services) Regulations 1993 (SR 1993/250)**

*Amendment(s) incorporated in the regulations.*

**Social Security (Disability Services—Financial Assessment) Regulations 1994 (SR 1994/32)**

*Amendment(s) incorporated in the regulations.*

**Veneral Diseases Regulations 1982 (SR 1982/215)**

*Amendment(s) incorporated in the regulations.*

**War Pensions Regulations 1956 (SR 1956/7)**

*Amendment(s) incorporated in the regulations.*

**Water Supplies Protection Regulations 1961 (SR 1961/86)**

*Amendment(s) incorporated in the regulations.*

**Wine Makers Regulations 1990 (SR 1990/77)**

*Amendment(s) incorporated in the regulations.*

# New Zealand Public Health and Disability Amendment Act 2012

Public Act	2012 No 41
Date of assent	6 June 2012
Commencement	see section 2

## 1 Title

This Act is the New Zealand Public Health and Disability Amendment Act 2012.

## 2 Commencement

This Act comes into force on 1 July 2012.

## 3 Principal Act amended

This Act amends the New Zealand Public Health and Disability Act 2000.

### *Provisions relating to disestablishment of Alcohol Advisory Council and Health Sponsorship Council*

## 15 Interpretation

In sections 16 to 24, unless the context otherwise requires,—

**Alcohol Advisory Council** means the Alcohol Advisory Council of New Zealand established by section 3(1) of the Alcohol Advisory Council Act 1976

**Health Sponsorship Council** means the Health Sponsorship Council established by section 43(1) of the Smoke-free Environments Act 1990.

## 16 Disestablishment of councils

On the commencement of this section,—

- (a) the Alcohol Advisory Council and the Health Sponsorship Council are disestablished; and
- (b) the term of office of the members of those councils ends.

## 17 Transfer of property and liabilities of councils

On and from the commencement of this section,—

- (a) all real and personal property of the Alcohol Advisory Council and the Health Sponsorship Council vests in HPA free of all trusts; and
- (b) all rights of those councils vest in HPA; and
- (c) all money payable to either of those councils is payable to HPA; and
- (d) all liabilities of each of those councils vest in HPA; and

- (e) all proceedings pending by or against either of those councils may be continued, completed, or enforced by or against HPA.

**18 Transfer not gift, supply of goods and services, or disposition for certain purposes**

To avoid doubt, anything transferred to HPA by section 17 is not—

- (a) a dutiable gift for the purposes of the Estate and Gift Duties Act 1968;
- (b) a supply of goods and services for the purposes of the Goods and Services Tax Act 1985;
- (c) a sale, disposition, distribution, or transfer of property or liability for the purposes of the Income Tax Act 2007.

**19 Compensation**

No member of the Alcohol Advisory Council or the Health Sponsorship Council is entitled to compensation for loss of office resulting from the disestablishment of the council.

**20 Restriction of compensation for technical redundancy**

- (1) An employee is not entitled to receive any payment or other benefit on the ground that his or her position in the Alcohol Advisory Council, the Health Sponsorship Council, or the Ministry of Health has ceased to exist if—
  - (a) the position ceases to exist as a result of a transfer of functions from the council to HPA; and
  - (b) in connection with that transfer of functions,—
    - (i) the employee is offered equivalent employment in HPA (whether or not the employee accepts the offer); or
    - (ii) the employee is offered, and accepts, other employment in HPA.
- (2) In this section, **equivalent employment** to the employee's employment in the Alcohol Advisory Council, the Health Sponsorship Council, or the Ministry of Health is employment in HPA—
  - (a) in substantially the same position; and
  - (b) in the same general locality; and
  - (c) on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer of equivalent employment (including any service-related, redundancy, and superannuation conditions); and
  - (d) on terms that treat the period of service with the council (and any other period of service recognised by the council as continuous service) as if it were continuous service with HPA.
- (3) This section overrides Part 6A of the Employment Relations Act 2000.

**21 Application of collective agreements to employees**

- (1) This section limits which employees may be bound by a collective agreement that binds the chief executive of the Alcohol Advisory Council or of the Health Sponsorship Council before a transfer of functions from those councils to HPA and that, as a consequence of section 17, binds the chief executive of HPA after that transfer of functions.
- (2) After that transfer of functions, the only employees of HPA who are entitled to be bound by or enforce the collective agreement are those employees who are appointed to a position in HPA that has been established (whether or not previously existing in any of those councils) to enable HPA to perform the transferred functions.
- (3) Subsection (2) does not bind an employee to a collective agreement, or entitle an employee to be bound by or enforce a collective agreement, if the employee would not otherwise be bound by, or be entitled to be bound by or enforce, that agreement.
- (4) This section limits which employees may be bound by collective agreements (including collective employment contracts), and the coverage of those agreements, under sections 56(1), 57, 62(3), 63(3), and 243 of the Employment Relations Act 2000.
- (5) This section does not apply to a collective agreement to the extent that the parties agree otherwise.

**22 Superannuation**

- (1) Any employee of the Alcohol Advisory Council, the Health Sponsorship Council, or the Ministry of Health who, immediately before becoming an employee of HPA, is a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is deemed, for the purpose of that Act, to be employed in the Government service so long as he or she continues to be an employee of HPA.
- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of HPA were Government service.
- (3) Subsection (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- (4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of HPA is the controlling authority.

*Provisions relating to disestablishment of Crown Health Financing Agency***27 Disestablishment of Crown Health Financing Agency**

On the commencement of this section, the Crown Health Financing Agency is disestablished.

**28 Transfer of property and liabilities of Crown Health Financing Agency**

On and from the commencement of this section,—

- (a) all real and personal property of the Crown Health Financing Agency (the **Agency**) vests in the Crown free of all trusts; and
- (b) all rights of the Agency vest in the Crown; and
- (c) all money payable to the Agency is payable to the Crown; and
- (d) all liabilities of the Agency vest in the Crown; and
- (e) all proceedings pending by or against the Agency may be continued, completed, or enforced by or against the Crown.

**29 Transfer not gift, supply of goods and services, or disposition for certain purposes**

To avoid doubt, anything transferred to the Crown by section 28 is not—

- (a) a dutiable gift for the purposes of the Estate and Gift Duties Act 1968;
- (b) a supply of goods and services for the purposes of the Goods and Services Tax Act 1985;
- (c) a sale, disposition, distribution, or transfer of property or liability for the purposes of the Income Tax Act 2007.

**30 Compensation**

No member of the Crown Health Financing Agency is entitled to compensation for loss of office resulting from the disestablishment of the Agency.

**31 Restriction of compensation for technical redundancy**

- (1) An employee is not entitled to receive any payment or other benefit on the ground that his or her position in the Crown Health Financing Agency has ceased to exist if—
  - (a) the position ceases to exist as a result of a transfer of functions from the Agency to a department; and
  - (b) in connection with that transfer of functions,—
    - (i) the employee is offered equivalent employment in the department (whether or not the employee accepts the offer); or
    - (ii) the employee is offered, and accepts, other employment in the department.
- (2) In this section, **equivalent employment** to the employee's employment in the Crown Health Financing Agency is employment in the department—
  - (a) in substantially the same position; and
  - (b) in the same general locality; and
  - (c) on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer of equiva-

lent employment (including any service-related, redundancy, and superannuation conditions); and

- (d) on terms that treat the period of service with the Agency (and any other period of service recognised by the Agency as continuous service) as if it were continuous service with the department.
- (3) This section overrides Part 6A of the Employment Relations Act 2000.

### **32 Application of collective agreements to employees**

- (1) This section limits which employees may be bound by a collective agreement that bind the chief executive of the Crown Health Financing Agency before a transfer of functions from the Agency to a department and that, as a consequence of section 28, binds the chief executive of the department after that transfer of functions.
- (2) After that transfer of functions, the only employees of the department who are entitled to be bound by or enforce the collective agreement are those employees who are appointed to a position in the department that has been established (whether or not previously existing in the Agency) to enable the department to perform the transferred functions.
- (3) Subsection (2) does not bind an employee to a collective agreement, or entitle an employee to be bound by or enforce a collective agreement, if the employee would not otherwise be bound by, or be entitled to be bound by or enforce, that agreement.
- (4) This section limits which employees may be bound by collective agreements (including collective employment contracts), and the coverage of those agreements, under sections 56(1), 57, 62(3), 63(3), and 243 of the Employment Relations Act 2000.
- (5) This section does not apply to a collective agreement to the extent that the parties agree otherwise.

### **33 Superannuation**

- (1) Any employee of the Crown Health Financing Agency who, immediately before becoming an employee of a department, is a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is deemed, for the purpose of that Act, to be employed in the Government service so long as he or she continues to be an employee of the department.
- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the Agency were Government service.
- (3) Subsection (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.

- (4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the department is the controlling authority.

*Other matters*

**35 Other savings and transitional matters**

The Governor-General may, by Order in Council, provide for savings and transitional matters connected with the disestablishment of an entity under this Part, including the transfer of functions formerly carried out by the entity.

## Reprints notes

### 1 *General*

This is a reprint of the New Zealand Public Health and Disability Act 2000 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

New Zealand Public Health and Disability (Schedule 4B) Order 2021 (LI 2021/48)

New Zealand Public Health and Disability Amendment Act 2020 (2020 No 61)

Public Service Act 2020 (2020 No 40): section 135

Privacy Act 2020 (2020 No 31): section 217

Organ Donors and Related Matters Act 2019 (2019 No 65): Part 2

State Sector and Crown Entities Reform Act 2018 (2018 No 31): section 19

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Te Ture mō Te Reo Māori 2016/Māori Language Act 2016 (2016 No 17): section 50

Health and Disability (Geographical Areas of DHBs) Order 2015 (LI 2015/133)

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Inquiries Act 2013 (2013 No 60): section 39

Crown Entities Amendment Act 2013 (2013 No 51): sections 42, 72

New Zealand Public Health and Disability Amendment Act 2012 (2012 No 41)

Criminal Procedure Act 2011 (2011 No 81): section 413

New Zealand Public Health and Disability Amendment Act 2010 (2010 No 118)

Health and Disability (Establishment of Southern DHB) Order 2010 (SR 2010/78): clause 4

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Human Tissue Act 2008 (2008 No 28): section 92

New Zealand Public Health and Disability Amendment Act 2005 (2005 No 63)

Public Records Act 2005 (2005 No 40): section 67(1)

Relationships (Statutory References) Act 2005 (2005 No 3): section 7

Crown Entities Act 2004 (2004 No 115): section 200  
Health (Geographical Areas of District Health Boards) Order 2004 (SR 2004/227): clause 3  
New Zealand Public Health and Disability Amendment Act 2003 (2003 No 87)  
Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)  
Local Electoral Amendment Act 2002 (2002 No 85): sections 51, 52  
Local Government Act 2002 (2002 No 84): section 262  
Local Electoral Act 2001 (2001 No 35): sections 150, 151  
Health (Constituencies of District Health Boards) Order 2001 (SR 2001/77): clause 7  
Health Sector (Transfers) Amendment Act 2000 (2000 No 92): section 4(3)