



## ANALYSIS

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1991, No. 6

An Act to constitute the Ministry of Health

(14 May 1991)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Ministry of Health Act 1991.

2. Interpretation - In this Act unless the context otherwise requires -

"Board" means the Cook Islands Health Board constituted under this Act;

"Chairman" means the Chairman of the Cook Islands Health Board;

"Minister" means the Minister of Health;

"Ministry" means the Ministry of Health constituted under this Act;

"People" includes Cook Islanders, all residents, permanent or otherwise, of the Cook Islands, as well as temporary visitors.

"Secretary" means the Secretary of Health appointed under this Act.

3. Ministry of Health - There is hereby constituted a Department of State to be known as the Ministry of Health which under the control of the Minister, shall be charged with the administration of the enactments specified in Part I of the Schedule to this Act and with such other functions as may be lawfully conferred on it.

4. Principal functions of the Ministry - The principal functions of the Ministry are as follows:

- (a) to take cognizance of and to foster the preservation of health and life among the people of the Cook Islands, recognizing that the physical and social environment is an important determinant of health and of its preservation;
- (b) to recognize and reinforce the responsibility of the individual in the preservation of his own health and well-being and that of his fellows;
- (c) to encourage and facilitate the involvement of the people in the administration of their health services;
- (d) to assist the people in protecting themselves from infectious agents, injurious substances and practices likely to have a damaging effect on health;
- (e) to ensure that each individual has access to appropriate preventive, therapeutic, and rehabilitative services and care;
- (f) to use, and to encourage others in the intelligent and useful collection and use of records relevant to health.

5. Cook Islands Health Board - (1) There is hereby constituted a Cook Islands Health Board accountable to the Minister.

(2) The Board shall consist of at least three members and of no more than five members as follows:

- (a) one person to be appointed by the Minister as Chairman;
- (b) two to three other persons to be appointed by the Minister as Members of the Board;
- (c) the Secretary of Health who shall be an ex-officio member of the Board but who shall not be eligible for the chairmanship of the Board;
- (d) members of the Board shall not be public servants appointed under the Public Service Act 1975 and other than the Secretary, shall not be employees of the Ministry;
- (e) in making these appointments the Minister shall take into consideration recommendations from community organisations and other bodies as the Minister, in his discretion, considers appropriate;
- (f) the term of office shall be three years for the Chairman, and two years for the other two to three members; all appointed members of the Board shall be eligible for successive re-appointments;

- (g) members of the Board shall be paid such salaries, allowances, fees, and expenses as the Minister may from time to time determine.
- (h) any member of the Board other than the Secretary may resign from office at any time by written notice given to the Minister.
- (i) any member of the Board may be removed from office at any time by the Minister for disability, bankruptcy, neglect of duty, incompetence or misconduct, proved to the satisfaction of the Minister, provided the member of the Board is given an opportunity to make representations to the Minister, personally or through a representative, within a period of time of not less than 14 days from written notice by the Minister to him.

6. Primary objectives of the Board - The primary objectives of the Board are as follows:

- (a) to promote, protect, and conserve the public health, and to provide health services;
- (b) to provide for the effective co-ordination of the planning, provision, and evaluation of health services between the public, private, and voluntary sectors;
- (c) to establish and maintain an appropriate balance in the provision and use of resources for health protection, health promotion, health education, and treatment services.

7. Functions and duties of the Board - (1) The primary functions duties and powers of the Board are as follows:

- (a) to manage all institutions and services within the Ministry. Without limiting the generality of the foregoing, institution and services include all hospitals, medical and dental clinics, pharmacies, medical, referral, and prevention services currently or in the future within the jurisdiction of the Ministry in the Cook Islands;
- (b) generally to promote and to protect the health of the people, and, towards that end, to consult and co-operate with individuals and organisations, including voluntary agencies, private agencies, departments of state and others concerned with the promotion and maintenance of health;
- (c) to investigate and assess health needs in the Cook Islands;
- (d) to plan future development of health services, and, towards that end, to consult as appropriate with other community or international agencies involved in the planning of such services;
- (e) to set objectives and determine priorities within the scope of its functions, duties, and powers;
- (f) to seek funding sources, other than Government revenue for the management of Health Services;

- (g) in its discretion but subject to the provisions of other enactments, to grant financial or other assistance to any individual or organisation in the promotion of health and well-being.
  - (h) to report directly to the Minister and to prepare or cause to be prepared reports requested from time to time by the Minister in writing, and to supply copies of reports to such persons as the Minister may from time to time direct;
  - (i) to perform such other functions as the Minister may from time to time assign or delegate to the Board under this Act;
  - (j) generally to carry out the functions of the Ministry under section 4 of this Act.
- (2) The Board shall have such other functions and duties as may from time to time be imposed on it by this or any other Act.

8. Budget of the Board - The annual budget of the Board shall consist of the sum total of the following:

- (a) the sum of money determined and appropriated to the Ministry by Parliament in that fiscal year;
- (b) all amounts lawfully paid to the Ministry in the cause of that fiscal year from sources other than sums appropriated by Parliament; and
- (c) all amounts paid to the Board in the course of that fiscal year from grants, contributions, and other sources; and
- (d) any part of the sums received from any source whatever in any previous fiscal year but remaining unspent.

9. Management of financial affairs - (1) Notwithstanding the provisions of any Act to the contrary but subject to the provisions of the Constitution, the Board shall have the power to manage and allocate its financial resources as it sees fit, provided that expenditures authorized by the Board in any one fiscal year shall not exceed the annual budget available to the Board for that year pursuant to section 8 herein.

(2) Where in the opinion of the Minister (upon the advice of the Board) that the Ministry of Health budget will be overspent by the end of the financial period, before any such over-expenditure is incurred, the matter is to be referred through the Financial Secretary to the Minister of Finance who may authorise the over-expenditure subject to such conditions as he thinks fit to impose, and any sum so approved shall be unauthorised expenditure under Article 70 3(b) of the Constitution.

10. Meetings of the Board - (1) Meetings of the Board shall be held at least every month and at such additional times as may be called for by the Chairman or the Secretary.

(2) Two members of the Board and the Secretary shall constitute a quorum.

(3) The Secretary shall be the Secretary to the Board.

(4) A record of the proceedings of the Board shall be maintained and made available for public inspection.

(5) The Board shall regulate its own procedures in such manner as the Board thinks fit.

11. Secretary of Health - (1) Notwithstanding the provisions of any enactment to the contrary, there shall from time to time be appointed by the Board in consultation with the Minister, a Secretary of Health.

(2) The term of office of the Secretary shall be four years with an initial probationary period of one year; the Secretary shall be eligible for successive re-appointments.

(3) The Secretary shall be the administrative head of the Ministry, and the Chief Executive Officer of the Board and shall be accountable to the Board for the efficient management of the Ministry.

(4) The Secretary may be removed from office at any time by the Board for disability, bankruptcy, neglect of duty, incompetence or misconduct, proved to the satisfaction of the Board, provided the Secretary is given an opportunity to make representations to the Board, personally or through a representative within a period of time of not less than 14 days from written notice by the Board to him.

12. Officers and other employees to act under the direction of the Secretary - (1) Notwithstanding the provisions of any enactment to the contrary, there may from time to time be appointed by the Board such other medical, dental, nursing, and other health professionals and employees as the Board considers necessary for the carrying out of the functions of the Ministry.

(2) All officers and employees of the Ministry shall act under the direction of the Secretary in the performance of their duties.

(3) All health professionals employed by the Ministry shall be licensed to practice their profession within the Cook Islands as follows:

- (a) medical and Dental Practitioners shall be registered or provisionally registered under the Medical and Dental Practitioners Act 1976;
- (b) nursing personnel shall be registered and licensed under the Nursing Practice Act 1989;
- (c) other health professionals may from time to time be licensed under regulations pursuant to this Act.

(4) Upon recommendation of the Secretary, any officer or employee of the Ministry may be removed from office at any time by the Board for disability, bankruptcy, neglect of duty, incompetence or misconduct, proved to the satisfaction of the Board, provided the officer or employee is given an opportunity to make representations to the Board, personally or through a representative within a period of time of not less than 14 days from written notice by the Board to him or her.

(5) At the time of the coming into force of this Act, all officers and employees of the Ministry of Health as constituted under the Ministry of Health Act 1984, will become officers and employees of the Ministry.

13. Board may organise Ministry - Notwithstanding the provisions of any Act to the contrary, but subject to the provisions of the Constitution, the Board may, so as to further the purposes of this Act:

- (a) create or modify any office or division or organisational arrangements within the Ministry;
- (b) create or modify salaries, fees and allowances payable to each of the health professionals within the Ministry.

14. Delegation of powers of the Minister - (1) Except as otherwise provided in this section, the Minister may from time to time, by writing under his hand, delegate to the Board all or any of the powers exercisable by him under this or any other Act.

(2) Every delegation by the Minister under this section shall be revocable at will, and no such delegation shall prevent the exercise by the Minister of any power that has been delegated by him.

(3) Any such delegation may be made subject to such restrictions and conditions (if any) as the Minister thinks fit, and may be made either generally or in relation to any particular case.

(4) Every such delegation shall, unless and until revoked, continue in force according to its tenor, notwithstanding the fact that the Minister by whom it was made may have ceased to hold office, and in any such case every such delegation shall continue in force as if made by the successor in office of the Minister.

15. Delegation of powers of the Board - (1) Except as otherwise provided in this section, the Board may from time to time, by writing under its hand, delegate to the Secretary all or any of the powers exercisable by the Board under this or any other Act.

(2) Every delegation by the Board under this section shall be revocable at will, and no such delegation shall prevent the exercise by the Board of any power that has been delegated by the Board.

(3) Any such delegation may be made subject to such restrictions and conditions (if any) as the Board thinks fit, and may be made either generally or in relation to any particular case.

(4) Every such delegation shall, unless and until revoked, continue in force according to its tenor, notwithstanding the fact that the Secretary to whom it was made may have ceased to hold office, and in any such case every such delegation shall continue in force as if made to the successor in office of the Secretary.

16. Delegation of powers of the Secretary - (1) Except as otherwise provided in this section, the Secretary may from time to time, verbally or in writing under his hand, delegate to any employee of the Ministry all or any of the powers exercisable by him under this Act or any other Act.

(2) Every delegation by the Secretary under this section shall be revocable at will, and no such delegation shall prevent the exercise by the Secretary of any power that has been delegated by him.

(3) Any such delegation may be made subject to such restrictions and conditions (if any) as the Secretary thinks fit, and may be made either generally or in relation to any particular case.

(4) Every such delegation shall, unless and until revoked, continue in force according to its tenor, notwithstanding the fact, if the delegation was made in writing, that the Secretary who made it or the employee to whom it was made may have ceased to hold office, and in any such case every such delegation shall continue in force as if made by the successor in office of the Secretary or to the successor in office of the employee as the case may be.

(5) An employee to whom the Secretary has delegated one or more of his powers, in writing or otherwise, must exercise this power personally and may not delegate it in turn to another employee or other person.

17. Investigations - (1) The Board may order an investigation to be made in respect of any matter connected with or affecting the protection of the health of the public.

(2) For the purpose of any investigation the Board may, by order in writing, require any person, partnership, company or other organisation involved in any activity relating to or affecting the subject matter of investigation, to produce records for the inspection by the Board or its delegate or to set down in writing facts relating to the subject matter of the investigation which are within the knowledge of the person, partnership, company or other organisation and to allow copies or extracts from any such materials to be made by the person inspecting them.

(3) Any person or organisation failing to comply with any order of the Board under this section or deceiving or obstructing the Board or its designee in the conduct of any such investigation, commits an offence, and shall be liable on conviction to a fine not exceeding five thousand dollars.

(4) All information obtained by the Board or its designee by means of any such investigation shall be treated as confidential. Information so obtained may be published, only where such publication is made in support of the purposes of this Act, and where no privilege recognized at law is violated, and where the name or identity of persons mentioned in such information is not revealed.

18. Annual Report - (1) The Secretary shall, after the end of each financial year, furnish to the Board a report of the activities of the Ministry for the preceding year.

(2) Every Annual Report shall be laid before Parliament within twenty-eight days after the furnishing thereof to the Board if Parliament is then in session and if not, shall be laid before Parliament within twenty-eight days after the date of commencement of the next ensuing session.

19. Regulations - The Queen's Representative, by Order in Executive Council, may make such regulations as are deemed necessary for the purpose of giving full effect to this Act and for the due administration thereof, including the imposition of penalties not exceeding five thousand dollars for offences against the regulations.

20. Repeal - The Ministry of Health Act 1984 is hereby repealed.

21. Consequential amendments - The enactments specified in Part II of the Schedule to this Act are hereby amended in the manner set out therein.

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This Act is administered by the Health Department

SCHEDULEPART ISection 3 ENACTMENTS ADMINISTERED BY MINISTRY  
OF HEALTH

Dental Act 1970-71  
 Manufacture and Sale of Food Ordinance 1948  
 Manufacture and Sale of Food Ordinance Amendment  
 Ordinance 1951  
 Manufacture and Sale of Food Amendment Ordinance 1959  
 Manufacture and Sale of Food Ordinance 1963  
 Medical and Dental Practices Act 1976  
 Medical and Dental Practices Amendment Act 1977  
 Medical and Dental Practices Amendment Act 1981  
 Mosquito Control Amendment Ordinance 1951  
 Mosquito Control Amendment Ordinance 1960  
 Notifiable Disease Ordinance 1953  
 Notifiable Disease Amendment Ordinance 1954  
 Notifiable Disease Amendment Ordinance 1963  
 Quarantine Ordinance 1952  
 Quarantine Amendment Ordinance 1961  
 Nursing Practice Act 1989  
 Narcotics Act 1965

PART IISection 19 CONSEQUENTIAL AMENDMENTS

Enactments Amended	Amendment
Cook Islands Amendment Act 1957	By repealing sections 24
Dental Act 1970-71	<p>By deleting the definition of "Ministry" in section 2 (as inserted by section 14 of the Ministry of Social Services Act 1973-74) and substituting the following definition:</p> <p>"means the Ministry of Health"</p> <p>By deleting the words "Health Division of the Ministry of Social Services" (as substituted for the words Department of Health by section 14 of the Ministry of Social Services Act 1973-74) wherever they occur and substituting the words "Ministry of Health".</p>

Entry, Residence and  
Departure Act 1971-72

By omitting in section 9  
subsection (1) paragraph (b) the  
words "Director General of  
Health" and substituting the  
words:

"Secretary of Health".

Medical and Dental  
Practices Act 1976

By deleting in section 2 the  
definition of "Department of  
Health" and substituting the  
following definition:

"Secretary" means the  
Secretary of Health for the  
Ministry of Health.

Ministry of Social Services  
Act 1973-74

By deleting paragraphs (a) and  
(b) of section 4.

By deleting from paragraph (a)  
of section 6 the words "A  
Director of the Health  
Division of the Ministry".

By repealing subsection (2) of  
section 14.

By deleting from the First  
Schedule the following  
enactments:

"Dental Act 1970-71 Cook  
Islands Amendment Act 1957:  
Section 24 Manufacture and  
Sale of Food  
Ordinance 1948 No. 1  
Amendment 1951 No. 1  
Mosquito Control Ordinance  
1947 No. 1  
Notifiable Disease Ordinance  
1953 No. 1

Public Service Act 1975

By omitting from the First  
Schedule the words "Director  
General of Health".