

Health Amendment Act 1998

Public Act 1998 No 86
Date of assent 2 July 1998

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An Act to amend the Health Act 1956**BE IT ENACTED by the Parliament of New Zealand as follows:****1 Short Title and commencement**

- (1) This Act may be cited as the Health Amendment Act 1998, and is part of the Health Act 1956 (“the principal Act”).
- (2) This Act comes into force on the second day after the date on which it receives the Royal assent.

Part 1**Amendments to principal Act relating to collection of blood****2 Duty to provide information for purposes of blood collection**

This section inserted section 22E of the principal Act.

3 Part 3A substituted

This section substituted Part 3A of the principal Act.

Part 2**Provisions relating to dissolution of blood transfusion trust****4 Vesting of assets of blood transfusion trust**

- (1) In this section and in sections 6, 7, 8, and 9, the term **the Trust** means the blood transfusion trust established under section 92J of the principal Act (as in force before the commencement of this Act).
- (2) On the date that this Act comes into force, the assets and the liabilities of the Trust vest in the hospital and health service known as New Zealand Blood Service Limited freed of all trusts affecting those assets or liabilities.
- (3) Sections 6, 8, and 9, and Schedule 1 of the Health Reforms (Transitional Provisions) Act 1993 apply in respect of the vesting of assets and liabilities by subsection (2) as if—

- (a) Those assets and liabilities were transferred under section 5 of that Act; and
 - (b) The Trust were the transferor and New Zealand Blood Service Limited were the transferee under a proposal approved by an Order in Council made under that section.
- (4) Unless in any case the context otherwise requires, every reference to the Trust in any document (other than an enactment) is, after the commencement of this Act, to be read as a reference to New Zealand Blood Service.
- (5) In this section, unless the context otherwise requires, the terms **assets**, **liabilities**, and **transfer** have the same meaning as they have in section 2 of the Health Reforms (Transitional Provisions) Act 1993.

Subsection (4) was amended, as from 1 January 2001, by section 111(1) New Zealand Public Health and Disability Act 2000 (2000 No 91) by omitting the word "Limited".

5 Respect for donated blood

- (1) New Zealand Blood Service Limited must, in managing any blood or controlled human substance vested in it by section 4, give due recognition to the fact that the blood or controlled human substance has been donated.
- (2) In this section, the terms **blood** and **controlled human substance** have the same meaning as they have in section 92A of the principal Act.

6 Blood transfusion trust dissolved

- (1) On the date that this Act comes into force the Trust is dissolved.
- (2) On the date that this Act comes into force every trustee of the Trust ceases to hold office as trustee of the Trust.

7 Final report of Trust

- (1) Subject to section 8, New Zealand Blood Service Limited (in this section and in section 8 referred to as the transferee) must prepare the Trust's final report within 3 months after the date on which this Act comes into force.
- (2) The final report referred to in subsection (1) consists of—

- (a) An annual report setting out the information specified in section 41I of the Public Finance Act 1989 in relation to the Trust's operations for the period beginning with 1 July 1997 and ending with the close of the day immediately before the commencement of this Act; and
 - (b) The Trust's financial statements for that period, which must—
 - (i) Set out the information specified in section 41 of the Public Finance Act 1989; and
 - (ii) Be accompanied by an audit opinion prepared by the Audit Office in accordance with section 43 of that Act.
- (3) The final report must be signed on behalf of the transferee or by the persons appointed, under section 8, to prepare the report, as the case may require.
 - (4) As soon as practicable after receiving a copy of the final report, the Minister must present the report to the House of Representatives.

8 Appointment of persons to discharge reporting obligations

- (1) In any case where the transferee is, because of section 7 or the operation of section 4(2), required to prepare a report concerning the Trust, the transferee may, by notice in writing, appoint 2 persons, eligible to be appointed under subsection (2), to prepare that report.
- (2) The following persons are eligible to be appointed under subsection (1):
 - (a) Two former trustees of the Trust; or
 - (b) One former trustee of the Trust and 1 former executive officer of the Trust.
- (3) When a report prepared by persons appointed under subsection (1) is presented in properly completed form to the Minister, the obligation of the transferee to prepare the report is discharged.
- (4) If in any case a person appointed under subsection (1) is, at any time, unable or unwilling to prepare the report required by the appointment, the transferee may—

- (a) Replace that person by appointing another person who is, in the circumstances of the case, eligible to be appointed under subsection (2) to prepare the report; or
- (b) Terminate the appointment of both persons appointed to prepare the report and—
 - (i) Appoint 2 other persons who are eligible to be appointed under subsection (2) to prepare the report; or
 - (ii) Prepare the report itself.

9 Protection of former trustees

- (1) Section 92L of the principal Act (as in force before the commencement of this Act) continues to apply to former trustees of the Trust as if this Act had not been passed.
- (2) If, in the period commencing on 31 March 1998 and ending with the close of the day immediately before the commencement of this Act, a former trustee or officer of the Trust did an act, or failed or refused to do an act, in order to prepare for, or assist in, the implementation of this Act, the trustee or officer is under no civil or criminal liability for doing, or failing or refusing to do, the act.
- (3) Subsection (2) does not exclude the liability of a former trustee or officer of the Trust for doing, or failing or refusing to do, an act in bad faith or without reasonable care.
- (4) Subsection (2) applies despite any provision in the deed by which the Trust was established.

10 Consequential amendment to Ombudsmen Act 1975

The Ombudsmen Act 1975 is consequentially amended by omitting from Part 2 of Schedule 1 the item relating to the blood transfusion trust established under section 92J of the Health Act 1956.

11 Consequential amendment to Public Finance Act 1989

The Public Finance Act 1989 is consequentially amended by omitting from Schedules 4, 5, and 6 the item relating to the blood transfusion trust established under section 92J of the Health Act 1956.

12 Consequential repeals

The following enactments are consequentially repealed:

- (a) Section 27 of the Health Amendment Act 1993:
- (b) Section 2 of the Health Amendment Act (No 3) 1994.