

PUBLIC HOSPITALS (VISITING PRACTITIONERS) AMENDMENT BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Area Health Services (Visiting Practitioners) Amendment Bill 1988 is cognate with this Bill.

The object of this Bill is to amend the Public Hospitals Act 1929 so as to provide—

- (a) that the conditions of service of visiting medical officers who take up appointments in public hospitals are to be set out in written service contracts, in appropriate cases containing common form provisions approved under that Act by the Minister; and
- (b) that, where a provision of that Act (or a regulation or by-law under it, whenever made) is inconsistent with the rights and obligations under a service contract, the provisions of the contract will prevail to the extent of the inconsistency.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Public Hospitals Act 1929.

SCHEDULE 1—AMENDMENTS

Amendments relating to the conditions under which visiting medical officers perform their duties

Part 5C of the Principal Act now provides a system for the arbitration of disputes arising between visiting medical officers and hospitals or other similar bodies over the conditions on which visiting medical officers provide medical services.

Public Hospitals (Visiting Practitioners) Amendment 1988

The proposed Act will have the effect of dividing Part 5C of the Principal Act into 3 Divisions (Schedule 1 (1), (3) and (5)). Division 1 will consist of definitions of terms used in the amended Part (set out in section 29K, as amended by Schedule 1 (2)). Division 2 will consist of the existing provisions of the Part. Division 3 will consist of proposed new sections 29RA–29RC.

Under these new provisions, the rights and obligations under which a person is appointed as a visiting medical officer to a hospital or other similar body will be set out in a written "service contract" between that person and those who control the hospital (proposed section 29RA). The Minister will be empowered (on the recommendation of the New South Wales Branch of the Australian Medical Association) to approve of standard service contracts containing common form provisions (proposed section 29RB).

After the commencement of the new provisions, the appropriate standard service contract (if any) is to be used as the contract under which any new appointment (or re-appointment) of a visiting medical officer (other than an honorary medical officer) is made (proposed section 29RC). An existing service contract continues to have effect in accordance with its tenor until it expires.

The system of arbitration now in place under the existing provisions of Part 5C of the Principal Act will continue in force in relation to service contracts that are not standard service contracts. Standard service contracts, too, will be capable of arbitration, but unlike non-standard contracts, they cannot be the subject of arbitration at any time. Proposed section 29L (4) (inserted by Schedule 1 (4)) provides, in effect, that a condition of a standard service contract cannot be brought up, either by the Minister or by the A.M.A., for arbitration until 5 years have elapsed since the time of its inclusion in the standard service contract. (This of course does not prevent the variation at any time, by an order under proposed section 29RB, of any of the conditions of a standard service contract.)

Amendment relating to the conditions on which visiting practitioners (whether medical or dental practitioners) perform their duties

Schedule 1 (6) and (7) contain amendments to Part 5D of the Principal Act.

Schedule 1 (6) repeals section 29S of the Principal Act. That section currently specifies certain conditions that form part of the conditions of service of visiting medical and dental officers.

Schedule 1 (7) substitutes section 29T of the Principal Act. Under that section, as currently in force, the provisions of a service agreement between a visiting practitioner and the controllers of a hospital prevail (to the extent of any inconsistency) over the provisions of any regulation or by-law made under the Principal Act. Under the new section, the provisions of such an agreement will prevail over the provisions of the Principal Act itself (other than the provisions relating to service agreements), as well as those regulations and by-laws.
