

PARLIAMENT OF CEYLON

5th Session 1952



Health Services Act, No. 12 of 1952

Date of Assent : March 8, 1952

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AN ACT TO PROVIDE FOR THE CONSTITUTION AND RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND FOR THE ESTABLISHMENT OF REGIONAL HOSPITALS BOARDS AND HOSPITAL COMMITTEES, AND TO SECURE MORE EFFICIENT ADMINISTRATION BY THE LOCAL AUTHORITIES IN RELATION TO PUBLIC HEALTH.

[Date of Assent: March 8, 1952]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Health Services Act, No. 12 of 1952, and shall come into operation on such date (hereinafter referred to as the "appointed date") as may be appointed by the Minister by Order published in the *Gazette*.

Short title and date of operation.

PART I.

The Department of Health: Its Constitution and responsibilities.

2. (1) There shall be a Department of Health (hereinafter referred to as "the Department") which shall be administered in accordance with the succeeding provisions of this Act.

The Department of Health.

(2) The Department shall consist of three divisions, that is to say, the division of Medical Services, the division of Public Health Services and the division of Laboratory Services.

3. (1) There may be appointed—

Appointment of officers, etc.

(a) a person to be or to act as Director of Health Services (hereinafter referred to as "the Director");

(b) a person to be or to act as Deputy Director of Health (Medical Services);

(c) a person to be or to act as Deputy Director of Health (Public Health Services);

(d) a person to be or to act as Deputy Director of Health (Laboratory Services); and

- (e) such medical officers, matrons, nurses, apothecaries and other officers and servants as may be necessary for carrying out the objects and purposes referred to in section 5.

(2) Each Deputy Director shall, subject to the general supervision and control of the Director, be responsible for the administration of the division of the Department to which he is appointed and for the exercise and performance of the powers, functions and duties conferred on him by any other written law.

Health Council.

4. (1) There shall be a consultative Council to be known as the "Health Council" which shall consist of the Director, the three Deputy Directors, and not more than five other officers of the Department nominated by the Minister, three of whom must be respectively officers of the medical, surgical and obstetrical sections of the Department.

(2) It shall be the function of the Health Council—

(a) from time to time to make recommendations with a view to securing the improvement of the services provided by the Department, and

(b) to tender advice to the Minister on matters referred to the Council for such advice.

(3) The Director shall preside at the meetings of the Health Council; and in the absence of the Director the members present shall elect one of their number to preside at the meeting. The Director shall not be entitled to vote at any such meeting.

(4) The Health Council shall be summoned by the Director to meet at least once in every month; and a report of the proceedings at each meeting shall be transmitted to the Permanent Secretary to the Ministry through the Director.

(5) Any member of the Health Council who dissents from any decision of the Council shall be entitled to record in writing the reasons for his dissent; and it shall be the duty of the Director to transmit such record to the Permanent Secretary to the Ministry together with any such report in relation to the decision as the Director may desire to make.

5. Subject to such general or special directions as may be issued by the Minister, and to the availability of moneys granted from the Consolidated Fund in conformity with the provisions of section 67 of the Ceylon (Constitution) Order in Council, 1946, the Department shall be responsible for carrying out the following objects and purposes, that is to say—

Health services, institutions and general facilities.

- (a) the provision of establishments and services (including courses of training) necessary for the prevention and treatment of disease and generally for the preservation and promotion of the health of the people;
- (b) the encouragement of study and research in subjects relating to health, by the grant of scholarships and other facilities to persons employed or proposed to be employed in the Department and by the grant of financial aid and other assistance to institutions providing courses of study or engaged in research in such subjects; and
- (c) the taking, development or encouragement of measures for the investigation or prevention of disease and for the improvement of the public health, including research and epidemiological investigations and the dissemination of information.

6. (1) The Minister may by Order published in the *Gazette* divide the Island into Health Districts in such manner as he may consider best conducive to the efficient administration of the Department.

Health Districts.

(2) There may be appointed for each Health District such supervisory and other officers of any appropriate division of the Department as may be necessary for the purposes of efficient administration.

7. (1) It shall be the duty of the Registrar-General not later than the month of February in each year to furnish to the Director a statistical analysis of the causes of deaths occurring in the preceding year where such causes have been certified in accordance with the requirements of any other written law in that behalf by persons registered as medical practitioners under the Medical Ordinance.

Death statistics and annual report.

(2) It shall be the duty of the Director to furnish before such date in each year as the Permanent Secretary to the Ministry may determine, a report upon the

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state of the public health of the Island during the preceding year, and such report shall include a statement of conclusions and recommendations of the Director with respect to the information disclosed by the statistics furnished under sub-section (1).

General
supervisory or
directory power
in relation to
local
authorities.

8. (1) In any case where the Minister is satisfied—

(a) that there has been a failure on the part of any local authority to exercise any power or to perform any duty or take any measure which that local authority is authorised or required to exercise, perform or take by any provision contained in that behalf in any other written law, and

(b) that such failure is or is likely to be prejudicial to the public health generally or to the health of persons resident in areas outside the administrative limits of that local authority,

the Director may, if authorised so to do by the Minister, by written notice given by registered post require the local authority to exercise, perform or take any such power, duty or measure (authorised or required by the provision of written law aforesaid) as may be specified in the notice, and to make such appointments or employ such officers or servants as may be necessary for effectively carrying out the objects or purposes of that provision.

(2) Where any local authority fails to comply with the requirements of any notice under sub-section (1) before the expiration of a period of thirty days from the date of the notice or of such longer period as may be specified by the Director in that behalf in the same or a subsequent notice, it shall be lawful for the Director to cause any person or persons acting under his authority to exercise, perform or take any power, duty or measure to which the notice relates; and for the purposes of the exercise of the rights conferred by this sub-section the Director and any such person or persons shall be deemed to have the same powers as are conferred on the local authority by any provision of written law referred to in the notice.

All expenses incurred by the Director or by any person or persons acting under his authority in the exercise of the rights conferred by the preceding provisions of this section shall be recoverable from the local authority as a debt due to the Crown.

(3) The provisions of sub-section (2) shall be in addition to and not in substitution or derogation of any powers conferred on the Director by any other written law.

(4) The Minister may from time to time by notice published in the *Gazette* require every local authority to furnish to the Director annual or other periodical reports with respect to any matter or subject concerning the state of the public health in the area within the administrative limits of that authority.

(5) The Director may by written notice sent by registered post require any local authority to furnish to him within a time specified in the notice a report with respect to any outbreak of disease or other specified matter relating to or affecting the health of persons resident in the area within the administrative limits of that authority.

(6) It shall be the duty of any local authority to comply with any such notice under sub-section (4) or sub-section (5) as may be applicable to that local authority.

(7) In this section, "local authority" means any Municipal Council, Urban Council, Town Council or Village Committee, and includes the Gal Oya Development Board.

PART II.

Hospitals Boards and Committees.

9. (1) The Minister may by Order published in the *Gazette* constitute for any area specified in the Order a Regional Hospitals Board consisting of—

Constitution of
Regional
Hospitals
Board.

(a) a member of the teaching staff of the Faculty of Medicine of the University of Ceylon appointed by the Minister on the recommendation of the Vice-Chancellor;

(b) either the Deputy Director of Health (Medical Services) or any other officer of the division of Medical Services of the Department appointed by the Minister; and

(c) not less than five other persons appointed by the Minister.

(2) An officer of the Department shall not be qualified for appointment to a Board under paragraph (c) of sub-section (1).

(3) In the case of each Board constituted under this section, the Minister shall nominate one of the members to be the Chairman of the Board; and the Board shall elect one of their number to be the Deputy Chairman who shall preside at meetings of the Board in the absence of the Chairman.

(4) The term of office of a member of a Board shall be specified by the Minister at the time of the appointment; and different terms may be so specified for different members.

(5) A member of any such Board who vacates his office by effluxion of time shall be eligible for re-appointment.

(6) In the event of the death, resignation or vacation of office of any member of a Board, the Minister may by notice published in the *Gazette* appoint another person to hold office during the remainder of the term of office of such member.

(7) The Minister shall in every Order made under sub-section (1) specify the date on which the Board constituted thereby shall commence to hold office.

Regional
Hospitals
Board:
Functions and
procedure.

10. (1) It shall be the function of a Regional Hospitals Board from time to time to make to the Director such recommendations as will in the opinion of the Board secure co-ordination in the provision of services at Government hospitals in the area for which the Board is constituted or secure improvement in the nature or extent of the services so provided, including recommendations for the provision of buildings or equipment, for fulfilling the needs of any such hospital in respect of personnel, and for the admission or denial of admission to any such hospital of patients suffering from any specified disease.

(2) A Board shall meet at least once in every two months and at such other times as the Chairman may determine.

(3) The Medical Superintendent or other officer in charge of each Government hospital in the area for which a Board is constituted shall be entitled to be present but not to vote at any meeting of that Board; and any such Superintendent or other officer shall be present at any such meeting if he is summoned by the Chairman to attend.

(4) A member of the Department nominated by the Director for the purpose shall be the Secretary of a Board.

(5) It shall be the duty of the Secretary of a Board to transmit to the Permanent Secretary to the Ministry and to the Director copies of the minutes of every meeting of the Board.

11. (1) The Minister may by Order published in the *Gazette* constitute for any Government hospital or hospitals specified in the Order a Hospital Committee consisting of—

Hospital
Committees.

(a) either the Deputy Director of Health (Medical Services) or any other officer of the division of Medical Services of the Department appointed by the Minister; and

(b) not less than four other persons appointed by the Minister.

(2) An officer of the Department shall not be qualified for appointment to a Hospital Committee under paragraph (b) of sub-section (1).

(3) In the case of each Committee constituted under this section, the Minister shall nominate one of the members to be the Chairman of the Committee; and the Committee shall elect one of their number to be the Deputy Chairman who shall preside at meetings of the Committee in the absence of the Chairman.

(4) The term of office of a member of a Hospital Committee shall be specified by the Minister at the time of the appointment; and different terms may be so specified for different members.

(5) A member of any such Committee who vacates his office by effluxion of time shall be eligible for re-appointment.

(6) In the event of the death, resignation or vacation of office of any member of a Hospital Committee, the Minister may by notice published in the *Gazette* appoint another person to hold office during the remainder of the term of office of such member.

(7) The Minister shall in every Order made under sub-section (1) specify the date on which the Hospital Committee constituted thereby shall commence to hold office.

12. (1) A Hospital Committee shall be charged with the following powers, duties and responsibilities in relation to each hospital for which it is constituted:—

Powers, duties,
etc. of Hospital
Committee.

(a) the power to make determinations as to the utilisation of such part of the sums appropriated by law or by resolution of the

House of Representatives for the purposes of the Department as are allocated by the Director for the purpose of meeting expenses incurred during each financial year in the maintenance or administration of the hospital, other than expenses upon salaries, wages and the provision of diet for patients;

- (b) the power to make determinations as to the description and quantity of drugs or equipment to be purchased from time to time out of the sums referred to in paragraph (a);
- (c) the power to issue directions with respect to—
 - (i) the admission or discharge of patients;
 - (ii) the admission of visitors to the wards or other places in the hospital;
 - (iii) the maintenance of order, decency and cleanliness among the inmates of and visitors to the hospital;
 - (iv) the maintenance of order and the regulation of traffic in the hospital premises;
- (d) the responsibility of supervising the provision of diet for patients in the hospital for the purpose of securing that the diets are of the standard and value prescribed in that behalf by the Director and that the sums expended for the provision of diet are economically utilised;
- (e) the function of making such recommendations to the Director in relation to the hospital as will in the opinion of the Committee secure improvement in the nature or extent of the services provided in the hospital, including recommendations for the provision of new buildings or equipment, for fulfilling the needs of the hospital in respect of personnel, and for the admission or denial of admission to the hospital of patients suffering from any specified disease;
- (f) the duty to prepare and transmit to the Director, before the first day of February in each year, an estimate of sums which in the opinion of the Committee will be necessary for the purpose of meeting expenditure during the succeeding financial

year in the maintenance and administration of the hospital, other than expenditure on salaries and wages; and

(g) the duty to advise and assist the Director, if so required by him, in the examination of tenders for diets for patients in the hospital.

(2) The Medical Superintendent or other officer in charge of a hospital for which a Hospital Committee is constituted shall be consulted before any determination is made by the Committee under paragraph (a) or paragraph (b) of sub-section (1); and in any case where the Medical Superintendent or such other officer does not concur with any such determination, it shall be referred to the Director, and his decision on the question whether or not the determination should be carried out shall be final.

(3) Subject to the provisions of sub-section (2), it shall be the duty of the Medical Superintendent or other officer in charge of a hospital to carry out all determinations of the Hospital Committee under paragraph (a) or paragraph (b) of sub-section (1), relating to that hospital except in so far as any such determination is contrary to or in conflict with any Financial Regulation of the Government or instructions issued by or on behalf of the Permanent Secretary to the Ministry or the Secretary to the Treasury.

(4) It shall be the duty of the Medical Superintendent or other officer in charge of a hospital for which a Hospital Committee is constituted to carry out and to cause or require personnel employed in the hospital to carry out all such directions with respect to the hospital which may be issued under paragraph (c) of sub-section (1) by the Hospital Committee.

(5) It shall be lawful for any member of a Hospital Committee constituted for any hospital at any time to visit and inspect the hospital or any ward thereof.

13. (1) Every Hospital Committee shall meet at least once in each month and at such other times as the Chairman may determine.

(2) At any meeting of a Hospital Committee three members shall constitute a quorum; and any question arising for decision shall be decided by a majority of the members present and voting, the Chairman having a deliberative vote but not a casting vote.

(3) The Medical Superintendent or other officer in charge of each hospital for which a Hospital Committee is constituted shall be entitled to be present but

Meetings, etc.
of Hospital
Committee.

not to vote at any meeting of the Committee; and any such Superintendent or other officer shall be present at any such meeting if he is summoned by the Chairman to attend.

(4) Any member of the professional staff of any hospital for which a Hospital Committee is constituted may be consulted, whether at a meeting or otherwise, by the Hospital Committee with respect to any matter connected with the powers, functions and responsibilities of the Committee.

(5) A member of the Department nominated by the Director for the purpose shall be the Secretary of a Hospital Committee.

(6) It shall be the duty of the Secretary of a Hospital Committee to transmit to the Permanent Secretary to the Ministry and to the Director copies of the minutes of each meeting of the Committee.

Annual report
of Hospital
Committee.

14. Every Hospital Committee shall in the month of December in each year prepare and furnish to the Permanent Secretary to the Ministry a report upon the exercise and performance during the preceding financial year of its powers, functions and responsibilities under this Act.

Limitation of
authority of
Hospital
Committee.

15. A Hospital Committee constituted under this Act shall not be deemed or construed—

(a) to be authorised or permitted to incur or undertake any expenditure or liability or to enter into any contract or other obligation, whether by itself or as an agent of the Government or of the Director; or

(b) to be the employer of any person employed at any hospital in any capacity whatsoever.

Representation
of Hospital
Committee on
Regional
Hospitals
Board.

16. Where a Hospital Committee is constituted for any hospital situated in any area for which a Regional Hospitals Board is constituted under section 9, one of the members of the Committee selected by the Minister shall be appointed under paragraph (c) of sub-section (1) of that section as a member of the Regional Hospitals Board to represent the Committee.

Exercise of
functions of
Hospital
Committee by
Regional
Hospitals
Board.

17. The Minister may, in lieu of constituting a Hospital Committee for any hospital, by Order published in the *Gazette* declare that the Regional Hospitals Board constituted for the area in which the hospital is situated shall have and exercise in relation

to the hospital all the powers, functions and responsibilities of a Hospital Committee; and while such Order is in force the provisions of sections 12 to 15 shall apply *mutatis mutandis* in all respects as though the Regional Hospitals Board were a Hospital Committee duly constituted under section 11:

Provided, however, that any person who has been appointed as a member of a Regional Hospitals Board in accordance with section 16 to represent a Hospital Committee for any hospital, shall not function as a member of the Board when it is exercising the powers, functions or responsibilities of a Hospital Committee in relation to any other hospital.

18. A member of a Regional Hospitals Board or Hospital Committee shall vacate his office as such—

- (a) if, having been adjudged an insolvent or a bankrupt, he has not been granted by a competent court a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly by unavoidable losses or misfortunes; or
- (b) if he is adjudged by a competent court to be of unsound mind; or
- (c) if he absents himself, without leave of the Board or Committee, as the case may be, from three consecutive meetings of the Board or Committee; or
- (d) if he resigns office by writing under his hand addressed to the Minister; or
- (e) if he is removed from office by the Minister upon a recommendation made in that behalf by the Board or Committee, as the case may be.

Vacation of office of members of Regional Hospitals Board or Hospital Committee.

19. (1) The Minister may by Order published in the *Gazette* provide for the payment in such cases and circumstances as may be specified in the Order of remuneration and travelling or other allowances to members of Hospital Boards or of Hospital Committees.

Allowances to members of Hospital Boards and Committees.

(2) No Order made under sub-section (1) shall have effect unless it is approved by the Senate and the House of Representatives.

20. The Minister may make rules prescribing the procedure to be followed in the transaction of business by Regional Hospitals Boards and Hospital Committees. Subject to such rules, if any, any such Board or Committee may regulate its own procedure.

Procedure for transaction of business.

PART III.

Amendment and Construction of other law.

Amendment of
Chapter 90.

21. (1) Sections 3 and 5 of the Medical Ordinance are hereby repealed with effect from the appointed date.

(2) Sections 8 and 9 of the Medical Ordinance (as amended by Ordinance No. 35 of 1939) are hereby further amended, by the substitution, in each of those sections, for the expression "Assistant Director of Medical Services", of the expression "Deputy Director of Health (Medical Services)".

Continuation in
employment of
members of the
Department of
Medical and
Sanitary
Services.

22. Notwithstanding the change of designation of the Department heretofore called the Department of Medical and Sanitary Services, all persons holding office as members of that Department at the appointed date or otherwise employed in that Department at that date shall continue in office or employment in the Department of Health constituted by this Act.

Amendment of
other written
laws, etc.

23. (1) Wherever, in any provision of any other written law or of any notice, permit, communication, form or other document issued, made, required or authorised by or under any other written law, the expression "Director of Medical and Sanitary Services" occurs, there shall be substituted therefor the expression "Director of Health"; and accordingly wherever in any such provision the abbreviation "Director" is used to denote the Director of Medical and Sanitary Services, such abbreviation shall be read and construed as a reference to the Director of Health.

(2) If the designation of any office in the Department of Medical and Sanitary Services (as constituted prior to the appointed date) is altered—

(a) the Minister may by Order published in the *Gazette* declare that the provisions of this sub-section shall apply in relation to that designation; and

(b) upon such declaration being made, then, wherever that designation occurs in any provision of any other written law or of any notice, permit, communication, form or other document issued, made, required or authorised by any other written law, there shall be substituted for that designation the new designation assigned to the corresponding office in the Department of Health.

24. Every contract, agreement or other instrument or document whatsoever made, issued or executed prior to the appointed date by or in favour of the Director of Medical and Sanitary Services or any officer of that Department in his capacity as such, shall be deemed on and after the appointed date to be and to have been made, issued, or executed by or in favour of the Director of Health or of the officer holding the corresponding office in the Department of Health in his capacity as such; and any reference in any such contract, agreement or other instrument or document to any officer in the Department of Medical and Sanitary Services (as constituted prior to the appointed date) shall be read and construed as a reference to the officer holding the corresponding office in the Department of Health.

Savings for
contracts, etc.