
Legislation

Australia

Health Insurance (Amendment) Bill 1977

Following upon a number of attempts to defraud the funds of Medibank, Australia's National Health Insurance Scheme, this Bill, introduced into Federal Parliament, seeks to amend the Health Insurance Act 1974 in order to substantially increase the penalties for such offences.

The present penalties of a maximum of six months' imprisonment or \$A500 fine for each offence will be increased substantially. Under the new penalty provisions, offences will be made indictable and will carry a maximum term of five years' imprisonment or a \$A10,000 fine. The offences will apply to all persons, including medical practitioners and their patients.

Australia— A.C.T.

Poisons and Narcotic Drugs Ordinance 1977

This Ordinance has been referred to the Territory's Legislative Assembly for its consideration. The Ordinance is based on the National Health and Research Council's uniform poisons standards, which lists a number of poisons and drugs according to their characteristics. The Ordinance also provides for increased penalties for illegal possession or trafficking in the dangerous drugs to which it refers.

Pregnancy Termination Bill 1978

The Australian Capital Territory's Legislative Assembly has rejected in principle this Bill that sought to prohibit the operation of private abortion clinics in the Territory, due to the fact that the Bill did not include all of the 51 recommendations that had been put forward for inclusion in the Bill by the Assembly's Standing Committee on Education and Health.

Transplantation and Anatomy Ordinance 1978

The Ordinance follows the recommendations of the Report of the Australian Law Reform Commission noted at (1978) 4 C.L.B. 350. Matters covered include the donation of tissue by living persons; donation of tissue after death; post-mortem examinations; donations for anatomical purposes; schools of anatomy; prohibition of trading in tissue; and a definition of "death" [which follows the wording set out at (1978) 4 C.L.B. 352].

Australia – New South Wales

Venereal Diseases (Amendment) Bill 1977

The New South Wales Government has introduced legislation in order to enable children over 14 years of age to be treated for venereal diseases at the State's Health Commission Venereal Diseases Clinics without the necessity of obtaining their parents' consent.

At present parents must give their consent before the Health Commission can treat children under 18 years of age for venereal disease. The Health Commission's adviser on communicable diseases has stated that the Government hoped that the Bill would, when enacted, help to break down the hesitation of many young people to receive appropriate and early medical treatment for venereal disease because of their fear of telling their parents.

After the Bill is enacted parental consent will still be necessary for the treatment of children under 14 years of age.

Noise Control Act 1977

The New South Wales Department of Labour and Industry proposes to introduce regulations to curb the increase in noise induced deafness among factory workers. Provision will be made for a maximum noise level of 90 decibels in factories and a maximum period of permitted exposure by workers to that level of noise.

The regulations, which have been drafted in consultation with other Australian states under a plan to provide for uniform noise laws throughout Australia, will provide for a maximum penalty of \$A500 for breaches of the law.

Dangerous Drugs

The New South Wales Government has introduced legislation to prohibit the growing of marijuana and other prohibited drugs. The new legislation also substantially increases the penalties for trafficking in addictive and prohibited drugs.

The state's Minister for Health has also announced that the state Government is considering banning the sale and distribution of books giving information relating to the growing and use of marijuana.

Sports Injuries Insurance Bill 1978

Workers' Compensation (Sporting Injuries) Amendment Bill 1978

The legislation, when passed, will establish a sport injuries insurance scheme.

The first Bill provides for compensation for a wide range of sport injuries, as well as back-dated payments to sportsmen and women who have suffered serious and permanent disabilities since 22 February 1977. Back-dated payments may also apply in cases of

sportsmen and women who suffered injuries causing death from that date.

The Government advertised in August 1978 that the insurance scheme would provide benefits of up to \$A60,000 for people who suffered severe spinal injuries in sports which applied for inclusion in the scheme. A minimum of \$A25,000 would be paid in the case of a person who died from a sporting injury.

The Attorney-General said that all Rugby League players under the jurisdiction of the State's major Rugby League bodies would be covered by the scheme. Other sports could also elect to become involved.

The more people covered by the scheme, the cheaper it would become to operate.

The initial premiums for adults would range from \$A2 a year for low-risk sports to \$A8 for sports such as Rugby League. The legislation also provides for the formation of a sporting injuries committee to administer the scheme.

The aim of the amendment to the Workers' Compensation Act was to continue to exclude people taking part in sporting contests or related activities from the provisions of the Workers' Compensation Act 1926. This would assist the transfer of sports to the new sports insurance scheme.

Australia— Northern Territory

Human Tissue Transplant Act 1979

This Act makes provision regarding the removal and use of human tissues, for the definition of "death" and for related purposes, implementing the recommendations of the Australian Law Reform Commission [ALRC 7] noted at (1978) 4 C.L.B. 350.

The Act defines "tissue" to include "an organ, or part of a human being or a substance extracted from, or from a part of, a human being" but not including a reference to foetal tissue, spermatozoa or ova. The Act makes specific provisions for donations of human tissue by adult persons, certificates by medical practitioners concerning the giving of such consents, the effect of such consents, donations of blood, revocations of consent, donations of tissue after death, the powers of hospital authorities to remove tissue where the body of a deceased person is at a hospital, consents by a coroner, prohibitions on trading in human tissues and the disclosure of information.

With regard to the definition of "death", the Act states that for purposes of the law of the Territory a person has died when there has occurred (a) irreversible cessation of all function of the brain of the person; or (b) irreversible cessation of circulation of blood in the body of the person.

Aged and Infirm Persons' Property Act 1979

This Act makes provision for the protection of the property of persons suffering from certain disabilities.

The Act, which comes into operation on the day on which the Mental Health Act 1979 (N.T.) comes into operation, repeals the application in the Territory of the Inebriates Act 1908 (S.A.) and vests jurisdiction in the Supreme Court of the Northern Territory to make protection orders in respect of the estates of persons resident or domiciled in the Territory whose estates are in need of protection.

The Act provides that applications for protection orders may be made by or on behalf of the person concerned by that person, a spouse or near relation by blood or marriage of that person or by the Public Trustee.

The Act stipulates that the Supreme Court shall not make an order in respect of the estate of a person unless it is satisfied that the person is, by reason of age, disease, illness or mental or physical infirmity, in a position which renders it necessary in his interests or the interests of those dependent on him that his estate should be protected.

The Act also provides that where a protection order is made, the Public Trustee, or one or more persons other than the Public Trustee, shall be appointed to be the manager of the persons estate. The manager is granted certain statutory powers in relation to the estate and is deemed to be a trustee of it.

Australia— Queensland

Child Abuse Bill

The Bill seeks to reduce the incidence of child abuse in the State.

It compels medical practitioners in the State to report all suspected cases of child abuse to the State health authorities. The reports of the medical practitioners' will be privileged against legal proceedings under the Bill and medical superintendants at hospitals will be empowered to order a child's detention in hospital for periods of up to 72 hours during which period medical tests can be performed to determine the child's condition. Such tests could be performed despite the contrary wishes of the child's parents or legal guardians.

Essential Services Bill 1979

This Bill would prohibit the closing down of the State's essential services as a result of industrial disputes. Under the Bill "essential services" are defined to include the public transport of people or freight (except taxi services), fire brigade services, hospital services, ambulance services, electricity, water, garbage, sanitary, and cleansing and sewerage services.

All or any of these essential services can be declared by the State's Governor-in-Council as a service to which the Bill, when enacted, will apply.

The Bill prohibits such acts as the lock-out of employees from an essential service and “sweetheart” agreements between trade unions representing an essential service body and their employer body, and hastens the industrial procedures whereby a State Industrial Commissioner is required to proceed from conciliation to arbitration after a period of 14 days.

The Bill also provides that—

- (i) illegal strikers are to be automatically dismissed if they remain on strike for more than 48 hours;
- (ii) requests for strike funds from persons who continue to work on essential services during an illegal stoppage are prohibited;
- (iii) persons who suffer damage or loss caused by illegal strikes in essential services have a right to sue the trade union concerned to recover damages or costs;
- (iv) a trade union involved in an illegal strike in an essential service may be de-registered and the office-holders of the union dismissed from office;
- (v) the positions of trade union office-holders of trade unions engaged in illegal strikes can be declared vacant;
- (vi) employees of an essential service who decide to continue to work in defiance of their trade union’s recommendations to engage in an illegal strike will be permitted to do so free from intimidation or discrimination; and
- (vii) the Minister of the Crown who is appointed to take control of an essential service during an illegal strike of its employees is empowered to direct all activities necessary to be performed by the service, including the requisitioning of property and the entry onto the property of the service.

The Bill provides that an emergency is limited to a period of one month, unless the period is extended by the Governor-in-Council for a further period or periods not exceeding one month.

Pregnancy Termination Control Bill 1980

This Bill was introduced by the State Minister of Health, who said he firmly believed the decision of the Government to tackle the abortion issue was in the interests of all Queenslanders, particularly the unborn—

In introducing the Bill, I am conscious of the fact that it will place the Queensland Parliament under the closest scrutiny, both in Australia and overseas. We will never be able to legislate on this issue to satisfy everyone. But at least we can make a genuine and honest attempt to protect the unborn child.

The Bill provides for—

- (i) imprisonment with hard labour for 14 years for a person attempting to procure miscarriage;
- (ii) a woman attempting to procure her own miscarriage would be liable to imprisonment for three months;

- (iii) a person supplying drugs or instruments to procure a mis-carriage would be liable to three years' imprisonment; and
- (iv) a lawful abortion is defined.

The Bill also seeks to provide for the necessity to prove that an emergency situation exists involving the serious risk of death of the woman with the continuation of the pregnancy. Two medical practitioners are each required to issue a certificate that they have each examined her and that an abortion is necessary to avoid the risk of her death.

The approval of the State Director-General of Health is required before any prosecution can be proceeded with under the Act.

“Pregnancies resulting from rape and incest and those exposing a woman to a serious risk of death, a potential suicide or self-inflicted grievous bodily harm, are cases where an abortion may be performed”, the Minister said. “Serious risk of major foetal abnormality or disease also provides legal ground for a termination of pregnancy. However, the Bill, in these instances, provides built-in conditions.”

The rape must have been reported to police within seven days and the abortion will have to be performed within 60 days of the report. Also a legally qualified medical practitioner must have examined the woman and be satisfied the pregnancy was a result of rape, by obtaining police verification. These conditions also applied to incest-induced pregnancy.

For a foetal abnormality abortion, a serious risk of major foetal abnormality or disease must be clearly demonstrated.

A person making a false statement to a doctor on the cause of pregnancy, and in order to obtain an abortion, will be liable to three years' imprisonment.

(Note: The Bill aroused considerable controversy, and was defeated.)

Australia — South Australia

Adoption Bill 1978

This Bill seeks to amend the law relating to the adoption of children by —

- (i) provisions for the establishment of a new Adoption Board to hear appeals against the decisions of Adoption Panels (the Adoption Panel will have as its members a clinical psychologist, a qualified medical practitioner registered as a specialist in gynaecology, a legal practitioner, a social worker, a nominee of the State Department of Community Welfare and two members of the public with a special interest in the adoption of children);
- (ii) providing that the ages of the proposed adopting parents should be not less than 25 nor more than 40 at the time they place their names on the Adoption Register, and that they must have been married for at least five years.

Rape

The South Australian Parliament has passed a Bill to amend the State's Criminal Law Consolidation Act which –

- (i) makes rape within marriage an offence;
- (ii) abolishes the presumption that a boy under 14 years of age is incapable of rape;
- (iii) prohibits the cross-examination of an alleged victim of rape as to her previous sexual experiences or morality unless permission is granted by the trial judge; and
- (iv) provides that the victim of a sexual offence need not appear at the preliminary hearing of charges against her alleged assailant unless she is directed to do so by the trial judge.

A husband will not, however, be guilty of the rape or indecent assault of his wife unless the alleged offence consisted of, was preceded or accompanied by, or was associated with assault occasioning actual bodily harm or a threat of such harm on his wife, an act of gross indecency or threat of such an act against his wife, or an act calculated seriously and substantially to humiliate the wife, or a threat of such an act, or a threat of the commission of a criminal act against any person.

The South Australian Government has announced that, in support of the legislation, it will establish a panel of medical practitioners, including women doctors, to examine alleged rape victims, and conduct an education course on the offence of rape for the instruction of the State's Police Force.

Similar legislation has been introduced by both the Victorian and Tasmanian Governments.

Australia – Tasmania

Mental illness

A Bill has been introduced into the Tasmanian Legislative Council that will enable the State's Attorney-General to exercise control over defendants who are found to be incapable of understanding court proceedings, or who are either insane or referred to a mental hospital for treatment.

Under the Bill to amend the State's Criminal Code Act 1924, a defendant who has been committed for treatment will be held under custody until he is fit to stand trial. Where, after a period of two years, it is considered that a person will never be able to stand trial, the Crown may decide not to proceed with the charge and the defendant will become a patient under a restriction order and the responsibility of the State's Mental Health Review Tribunal.

Psychologists Registration Amendment Bill 1979

This Bill, apart from providing for a minimum of two years' experience in the practice of psychiatry and proof of character to the State's Psychology Registration Board before a person can practise

as a clinical psychologist, seeks to regulate exhibitions of, and the practice of, hypnotism in the State.

The Minister for Health told the House of Assembly that the registration requirements were designed to protect the public from "unscrupulous people", and that there was medical opinion that some people suffered bad side effects from being used as volunteers in an hypnotic demonstration on stage.

Australia— Victoria

Poisons (Drugs of Addiction) Act 1976

This Act, which came into operation on 31 August 1977, provides a maximum penalty for trafficking in cannabis of \$A4,000 or a term of imprisonment of up to 10 years. The penalties for trafficking in "hard drugs" such as heroin and LSD have been increased to a fine of up to \$A100,000 or a term of imprisonment of up to 15 years. The penalties for mere possession of illegal drugs are now \$A500 or up to a year's imprisonment.

Possession of a quantity of more than 100 grams of cannabis is taken as prima facie evidence of trafficking in the drug. For LSD the specified quantity is 0.002 grams, and for heroin, morphine, methadone and cocaine, 2.00 grams each.

The powers of the police under the Act to apprehend suspected users or traffickers of prohibited drugs include the power to stop vehicles and vessels if the police have reasonable grounds of suspicion that such drugs are being used or trafficked in.

The Victorian Minister of Health has stated that the Victorian Government may decriminalise the possession of cannabis after studying the findings of three drug inquiries on the subject.

Status of Children (Artificial Insemination) Bill 1979

A Private Member's Bill has been introduced into the Legislative Assembly which seeks to legitimate, in certain circumstances, children conceived by artificial insemination. The operative part of the Bill would insert a new section into the Status of Children Act 1974 of Victoria in the following terms—

5A. (1) A child born to a woman during her marriage or within ten months after the marriage has been dissolved by death or otherwise being a child conceived by her with the consent of her husband after artificial insemination with semen donated by a man not her husband shall be presumed to be the child of its mother and her husband or former husband, as the case may be.

(2) Without prejudice to any other mode of proof the production of a certificate filed with the Health Commission of Victoria purporting to be the certificate of a legally qualified medical practitioner who supervised the artificial insemination of a woman in the circumstances referred to in sub-section (1) that the insemination was performed in those circumstances with the consent in writing of the woman and her husband on the day and at the place referred to in the certificate shall be sufficient evidence of the facts stated in the certificate.

(3) Where the Health Commission of Victoria receives a certificate described in sub-section (2) the Commission shall cause it to be filed and kept confidential unless otherwise required by the order of a court.

Workers' Compensation Bill 1979

This Bill has been re-introduced following representations from the labour movement that the Bill, which was originally introduced in June 1979, should be amended. As amended, it now enables employees who are the victims of heart disease and strokes to receive worker's compensation provided that it can be proved that their employment made a substantial contribution to their physical ailments.

Child Abuse Bill 1980

This Bill seeks to monitor and control cases of child abuse in Queensland.

The State Minister for Health said new provisions in the legislation would ensure smooth, efficient, implementation of plans by the State's Co-ordinating Committee on Child Abuse.

The Minister said that the Bill would require medical practitioners who suspected that a child had been maltreated or neglected to notify immediately a person authorised by the Director-General of Health. Notification would provide a confidential central register of children who were at risk and those who had been abused. Persons in certain positions under the Health, Children's Services and Police Departments would form Suspected Child Abuse and Neglect teams. They would be responsible for acting on behalf of the Director-General in the care of abused children.

The Minister said that every team would include a medical practitioner, a social worker and a police officer. The teams' duties would include ensuring that intervention was justified and co-ordinated; to respond to mandatory notification of child abuse; and to provide a continuing management plan for each child and family.

Australia— Western Australia

Health Act Amendment Act 1978

By the amendment—

- (i) a standard scale of penalties is introduced for offences relating to the sale of food, drugs, therapeutic substances, disinfectants and pesticides;
- (ii) local authorities are given the power to grant financial or other assistance towards the provision and maintenance of community health centres and land and buildings to provide practice or living accommodation for the use of private medical or dental practitioners; and

- (iii) expert statutory committees are established to study perinatal and infant deaths and anaesthetic deaths.

Poisons Act Amendment Act 1978

In order to tighten control over the supply of addictive drugs authority is written into the Act to regulate the issue of prescriptions for drugs of addiction and specified drugs. It is intended that supplies of addictive drugs to addicted persons will be confined to authorised outlets and subject to reasonable limitation.

Any person who contravenes or fails to comply with any conditions, limitation or restriction of any notice given by the Commissioner of Public Health pursuant to regulations made under the above amendment will be liable to a maximum penalty of \$500 for a first offence and \$3,000 for a second or subsequent offence.

Bahamas

Dangerous Drugs (Amendment) Act 1980 (No. 1 of 1980)

This Act amends the Dangerous Drugs Act in a number of important respects—

- (i) it amends s. 2(1) (definitions) by redefining certain terms — e.g. “Indian hemp”, is given a wider meaning, by substituting the words “any plant of the genus cannabis” for “the plant cannabis sativa” in the original definition. It also redefines the terms “export”, “import”, and “in transit”, taking into account the change in the status of the Bahamas Islands from a colony to a sovereign State;
- (ii) sections 3, 4 and 7 (which deal with restrictions on cultivation, importation, exportation, and prohibition of certain drugs) are amended by the creation of specific offences in respect of the breach of those sections;
- (iii) section 8 (which makes it a criminal offence to engage in certain acts) is amended in paragraphs (c) and (d) by, in effect, turning the offences created by those paragraphs from being offences of strict liability into offences requiring a mental element. The offences are permitting the use, or being concerned in the management, of premises for the purpose of preparation of opium for smoking or sale;
- (iv) paragraph (c) of s. 10 (which deals with the control of manufacture and sale of cocaine) is amended to extend its application to registered dentists and licensed veterinary surgeons;
- (v) section 16 (which deals with dangerous drugs in transit) is strengthened by the creation of a specific offence for the breach of that section, and provision is made for the mandatory seizure and forfeiture to the Crown of the subject matter of the offence;

- (vi) a new Part VA, restricting or prohibiting the possession and supply of dangerous drugs but with savings in the case of qualified and authorised persons, is also introduced;
- (vii) the Act as a whole is further strengthened by the inclusion of two new sections 27A and 27B which give a general power of seizure of both the subject matter of the offence and articles used in connection with the offence.

Bangladesh

Pharmacy Ordinance, 1976 (XIII/76)

This Ordinance provides for the establishment of a Council to be known as the Pharmacy Council of Bangladesh, whose functions shall be —

- (i) to prescribe subjects for, and approve courses of study and practical training in, pharmacy for the purpose of admission to examinations to be approved by it;
- (ii) to prescribe conditions and procedure for admission to such examinations;
- (iii) to recognise degrees or diplomas in pharmacy for the purpose of registration as pharmacists; and
- (iv) to register pharmacists and grant certificates of registration and to prepare and maintain register of pharmacists and apprentices in pharmacy.

The purpose of the Ordinance is to regulate practice in pharmacy and to make registration as a pharmacist a pre-requisite for practice so that persons not properly qualified may be excluded.

Environment Pollution Control Ordinance 1977 (Ord. no. XIII of 1977)

This law provides for the control, prevention and abatement of pollution of the environment of Bangladesh. It envisages constitution of a Board to be called the Environment Pollution Control Board, the functions of which shall, inter alia, be—

- (i) to formulate policies for the control, prevention and abatement of pollution of the environment;
- (ii) to suggest, measures for the implementation of its policies.

Further, for the purpose of the execution of the policies of the Board there shall be an implementation cell consisting of such officers and employees as the Government may determine. A Director appointed by the Government shall be the executive head of the implementation cell, and shall be responsible for the implementation of the projects approved by the Government and of the policies formulated by the Board. The Director shall have the power to require, by order in writing, any person or commercial or industrial undertaking to adopt such measures for the prevention, control and abatement of pollution of the environment, and to

furnish such information relating thereto as may be specified in the order; failure to comply with such order or, where an appeal is preferred under s. 8(2) of the Ordinance with the final decision thereon, shall be punishable with imprisonment for a term of up to one year, or with fine of up to five thousand Taka, or both.

Prevention of Malaria (Special Provisions) Ordinance 1978 (No. IV of 1978)

This Ordinance provides for, inter alia—

- (i) formulation of schemes and adoption of co-ordinated measures for prevention of malaria;
- (ii) laying down the policy in accordance with which the Directorate of Health Services shall execute any such schemes or measures; and
- (iii) evaluation and assessment of the execution of the schemes and measures.

A scheme or measure formulated or adopted may relate to—

- (a) the spraying of buildings and other premises with insecticides;
- (b) the survey of the country;
- (c) the medical examination of the people;
- (d) the treatment of persons suffering or suspected to be suffering from malaria;
- (e) the delimitation of malarious areas free from malaria and measure to prevent appearance or re-appearance of malaria in the latter areas; and
- (f) such other measures considered necessary for carrying out the purposes of this Ordinance.

Under the provisions of this Ordinance the Government or any person authorised by it in this behalf may, by order—

- (a) require any person to undergo medical examination and treatment;
- (b) require every person having knowledge or information of any case of malaria or suspected malaria to report the case to any specified authority;
- (c) require every person coming from a malarious area and entering a malaria-free area to report for examination at the nearest malaria detection post on arrival at the destination;
- (d) require any employer in the district of Chittagong Hill Tracts to furnish to the nearest malaria detection post particulars of his employees coming from any other district so that necessary measures for their protection against malaria may be adopted;
- (e) prohibit from washing, white-washing, plastering, painting or the application of any other surface treatment to any building or other premises sprayed with insecticide during a period of five months from such spraying; and

- (f) prohibit the doing of anything with respect to any engineering, agricultural and industrial projects which may increase the extent and spread of malaria.

Contravention of any provision of this Ordinance is punishable with imprisonment for three months or a fine of Taka 500, or both.

International Centre for Diarrhoeal Disease Research, Bangladesh Ordinance 1978 (LI of 1978)

This Ordinance provides for the establishment of an international centre for diarrhoeal research in Bangladesh with multinational scientific collaboration and financial contributions to conduct research in diarrhoeal diseases and related subjects.

The aims and objectives of the Centre are declared to be –

- (a) to function as an institution to undertake and promote study, research and dissemination of knowledge in diarrhoeal diseases and the directly related subject of nutrition and fertility with a view to developing improved methods of health care and for the prevention and control of diarrhoeal diseases and the improvement of public health programmes with special relevance to developing countries;
- (b) to provide facilities for training to Bangladeshi and other nationals in areas of the Centre's competence in collaboration with national and international institutions, but not to include the conferring of academic degrees.

An Interim International Committee is constituted for the purpose of assisting in the establishment of the Centre. The Interim Committee consists of the United Nations Development Programme (Chairman) and the following initial members: The Government of Australia, the Government of Bangladesh, the Government of the United Kingdom, the Government of the United States of America, the Ford Foundation, the International Development Research Centre, the United Nations Fund for Population Centre, the United Nations Fund for Population Activities, the United Nations Children Fund and the World Health Organisation.

The Interim Committee is required to take steps to establish a Board and would stand dissolved when the Board first meets, unless the Board otherwise resolves. The Board will consist of 16 members: three nominated by the Government of Bangladesh; one nominated by the WHO; eleven chosen initially by the Interim Committee from amongst its members; and the Director of the Centre. Provision is made to ensure adequate representation by developed and developing countries.

The general direction, management and administration of the affairs of the Centre will rest in the Board which will have full authority to determine and execute the policies and undertakings of the Centre within the framework of the Ordinance.

Other provisions relate to the procedure at meetings of the Board, the establishment of Committees, financial matters, and immunities and privileges.

Medical and Dental Council Act 1980 (No. XVI of 1980)

This Act repeals and, with certain modification, re-enacts the Medical Council Act 1973, to provide for the constitution of a Medical and Dental Council, to regulate the registration of medical practitioners and dentists and to establish a uniform standard of basic and high qualifications for medicine and dentistry.

The Council is a body corporate and consists of ex-officio, nominated and elected members representing a wide variety of interests, including the teaching and practising professions. There is provision for an Executive Committee of the Council which consists of seven members, five of whom are to be elected by the Council from amongst its members.

The Act makes provision for the recognition of medical qualifications granted by medical institutions in and outside Bangladesh. The Council is empowered to enter into negotiations with appropriate authorities in any State or country outside Bangladesh for settling a scheme of reciprocity for the recognition of medical qualifications and to amend, in pursuance of any such scheme, the Schedule showing qualifications granted by institutions outside Bangladesh so as to include any medical qualification which the Council has decided to recognise.

The Act also makes provision for the recognition of dental qualifications granted by dental institutions in or outside Bangladesh and for the registration of medical licences or diplomas granted by medical institutions in or outside Bangladesh.

The Council is empowered to require the medical and dental institutions in Bangladesh which train for or grant degrees, qualifications, licences or diplomas to furnish such information as to courses of study and examinations as it may consider necessary. It is obligatory for the Executive Committee to appoint medical and dental inspectors to attend at any or all of the examinations held by medical or dental institutions for the purpose of granting recognised medical or dental qualifications, or in respect of which recognition has been sought.

Procurement or attempt to procure by any person to be registered under the Act as a medical practitioner or dentist by means of any false or fraudulent representation or declaration, either orally or in writing is punishable by imprisonment, or by a fine.

Belize

Meat and Livestock Ordinance 1977

This Ordinance establishes a Meat and Livestock Commission whose purpose is to oversee the breeding, grading, import and export, slaughter, and packing of livestock with a view to maintaining quality in a fast growing export field. The Commission collects a cess on all cattle sold for slaughter or export. The Ordinance also sets up a Livestock Producers Association whose purpose is the promotion, encouragement and development of the breeding of better livestock by providing technical advice and information and the promotion of cooperation and goodwill among producers and exporters. Membership of the Association is open to all producers of livestock. The Association also negotiates the prices to be paid for cattle by companies purchasing them for slaughter. The costs of the Commission and the Association are to be met by monies collected by way of cess. The accounts of the Commission are to be submitted to the Minister to be laid before the National Assembly.

Dentists (Amendment) Bill 1979

This Bill seeks to amend the principal Ordinance (Cap. 81) to permit trained dental auxiliaries specifically authorised by the Chief Medical Officer to extract teeth.

Bermuda

Medical Practitioners Amendment Act 1980 (No. 66 of 1980)

This amending Act provides for the establishment of the Bermuda Medical Council. The Council is empowered, inter alia, to register medical practitioners and specialists as well as to strike off the name of a registered medical practitioner if the Council is of the opinion that such practitioner is unfit, by reason of a defect or defects in his personal character or by reason of his habitual inefficiency or habitual negligence to continue to have his name on the register. In the case of a specialist, the Council is required to consider, on the expiry of one year after registration, whether he should continue to be treated as such.

Canada

Social Services Financing Bill

In March 1978 the Federal and Provincial Ministers of social services reached an agreement on a proposal to block finance, the federal contribution to the cost of social services in Canada which will result in a new Social Services Financing Act. The services to be financed under the proposed Act include crisis intervention services, information and referral services, family planning services, meal services, employment-related services, transportation services for the disabled, children's services, rehabilitation services, social integration services, day care services for children, day care services for adults, home support services, counselling services, and certain

developmental and preventative services to communities. The Act would cover social services developmental activities, the administration of social services, the administration of nursing home and adult residential services, and the administration of public assistance.

A separate Rehabilitation Fund is proposed to provide conditional cost-sharing in the amount of \$50 million over a period of five years, for the development of rehabilitation facilities and capital expenditure programmes whose purpose is to integrate the disabled into the community.

Under the block financing arrangement, financial contributions to the provinces are determined by a formula which includes current expenditures on social services, an annual escalation based on changes in the gross national product and the population, an additional amount to provide for more comprehensive coverage, (first payable in 1979-80) and a levelling adjustment that would gradually eliminate over a ten-year period, the provincial differences above or below the national average contribution by Canada so that at the end of the period each province would be receiving the same per capita amount. A similar funding arrangement has been in effect since 1977 for health services.

There are two conditions which the provinces would be required to meet under the block funding arrangement—

- (a) a province cannot impose on Canadian citizens or landed immigrants, a period of residence in a province or in Canada as a prerequisite for receiving a social service, and
- (b) a province must provide the federal government with comparable cost and programme data on an annual basis for the services being block funded.

The legislation provides that the Federal payments will be guaranteed for five years. The Minister will be authorised at any time after 1 April 1980 to give notice of intention to terminate block financing three years from the date on which such notice is given.

The Federal government will continue to share 50 per cent of the provinces' costs of providing social assistance direct to individuals, and for this purpose will retain the Canada Assistance Plan.

Canada – Nova Scotia

Mental Health legislation

The amendments made to the Public Hospitals Act of Nova Scotia (re-titled the Hospitals Act) by Chapter 45 of the Statutes of 1977, came into force on 1 April 1979. The major portion of that Act made far-reaching new provisions governing the admission into hospitals and treatment of patients suffering from psychiatric disorders, designed to safeguard and protect their rights.) An article on these innovations by Lorne E. Rozovsky, under the title "New Developments in Nova Scotia Psychiatric Legislation" has been published in [1979] 5 Dalhousie Law Journal 505.)

The new provisions have the following principal features –

- (i) every person admitted to a psychiatric facility is first admitted as a person under observation, and not as a patient. He must be examined by a physician of the facility within 24 hours of admission and by a psychiatrist within three days of admission. The period of observation can last no longer than seven days;
- (ii) involuntary admission for observation can only occur by one of the following means –
 - (a) a person may be detained in a hospital for observation on the basis of two medical certificates, each signed by a physician who has examined the person. Each certificate must state that the physician has reasonable and probable grounds to believe that the person suffers from a psychiatric disorder, that he should be admitted to the facility because he requires the in-patient services there, and that he requires care that cannot be adequately provided outside the facility because he is a danger to his own safety or the safety of others,
 - (b) a magistrate may direct two physicians to examine a person and determine whether the person's mental health justifies the completion of medical certificates for involuntary admission to hospital. If the person cannot be examined by the physicians, the magistrate may issue a warrant for the person's apprehension and direct that a medical examination be performed. This examination may take place in a hospital, medical facility, physician's office, or other suitable place, but not a jail or lockup unless no other suitable place is available,
 - (c) if a peace officer has reasonable and probable grounds to believe that a person suffers from a psychiatric disorder, and is a danger to his own safety or the safety of others, or is committing or about to commit an indictable offence, the officer may take the person to an appropriate place for medical examination. The physicians examining the person determine whether medical certificates should be completed for involuntary admission to hospital. Every peace officer who apprehends a person under these circumstances must file a report with the Attorney-General within 24 hours of the apprehension;
- (iii) following the observation period, a person will either be released, admitted as an informal patient or admitted to hospital as a formal patient;
- (iv) if, during the initial seven days observation period, a psychiatrist on the staff of the facility makes a written declaration stating that the person suffers from a psychiatric disorder (defined as meaning any disease or disability of the mind

including alcoholism and drug addiction) and is a danger to his own safety or the safety of others, the person will continue to be detained in the facility for treatment as a formal patient. If no declaration has been completed, the person must be released from the facility unless he wishes to remain as an informal patient;

- (v) if the mandatory examination by a psychiatrist determines that a patient in a hospital is capable of consenting to treatment, no treatment can be given without his consent. If a patient is found to be incapable of consenting, treatment can only be given upon obtaining the consent of his guardian if he has one, or if he does not, upon obtaining consent of his spouse or next of kin, or where they are not available, upon obtaining consent of the Public Trustee. This examination, to determine capacity of consent to treatment, must occur at least every three months for the first year during which the person is a patient, and at least once every 12 months thereafter;
- (vi) provision is made to allow an appropriate person to administer a patient's estate if a psychiatrist on the staff of the hospital determines that the person is not competent to administer it himself. An examination to determine a patient's competence to administer his estate must be performed at least once every three months for the first year during which the person is a patient and at least once every 12 months thereafter;
- (vii) no psychosurgery can be performed unless the patient to be treated consents, has been assessed at a specially designated facility, the treatment has been recommended by two independent psychiatrists as well as the patient's personal psychiatrist, and is performed at a specially designated hospital. In addition, all proposals for psychosurgery must be reviewed by an independent Review Board to make certain that the regulations governing it have been followed. If the patient is not capable of consenting, consent must be obtained from his guardian, spouse, next of kin or the Public Trustee;
- (viii) a Review Board of not less than three members is established and given authority to: determine whether a patient should continue to be held under formal admission; review declarations of capacity to consent to treatment, declarations of competency to administer an estate; make recommendations respecting the treatment or care of any patient; advise on where a patient can receive the best treatment; and to determine whether all requirements have been met before psychosurgery is performed at any time. Subject to certain restrictions, it must make such a review at the request of (a) the patient, (b) any person authorised by the patient to act on his behalf, (c) the administrator of the facility, (d) the medical director of the

facility, (e) the administrator of psychiatric mental health services of the Province, or (f) the Minister of Health. In addition, the Review Board must review the file of each patient detained under a declaration of formal admission at least once every six months for the first two years during which the person is a patient, and at least once every 12 months thereafter, regardless of whether or not the patient asks for such a review. The Review Board may conduct a hearing when reviewing a patient's file and the patient may be represented by his lawyer, or some other person;

- (ix) the Act gives a person under observation, or a patient, the right to send mail freely and have reasonable access to letter writing materials and stamps. The administrator of the hospital may be present at the opening of mail and remove harmful contents. There is also the right to make and receive unmonitored telephone calls, except that outgoing calls may be prohibited where, in the opinion of a psychiatrist, this would be detrimental to the person making the calls or to others. Visitors are allowed at all reasonable times and circumstances. The facility must post patients' rights and, at a patient's request, provide assistance in understanding them, in contacting a lawyer and in applying for a review by the Review Board;
- (x) hospital records are confidential and ordinarily may be examined only with the patient's consent. Exceptions to this rule include hospital staff, a patient's physician, the courts, and the Minister of Health. A hospital or a physician may refuse to make information in a patient's records available if he has reasonable grounds to believe it would be against the patient's best interests to do so;
- (xi) an informal patient is discharged in the same way as a patient is discharged from any hospital; that is, he may leave either on the advice of his physician, or against medical advice;
- (xii) a formal patient may be discharged only by a psychiatrist of the hospital. However, the patient, his guardian, his spouse, or the next of kin may apply to the Review Board, or to a judge of the County Court for an order for discharge;
- (xiii) a patient may be transferred to another facility if it is in his best interest to be so transferred, or if he is a resident of the area served by the other facility. The nearest relative must be notified of the transfer if the patient so desires.

**Canada—
Prince Edward
Island**

Public Health Act (1980)

This Act, when proclaimed, will replace the Public Health Act, R.S.P.E.I. 1974, Cap. P.29, and also the Venereal Disease Prevention Act, R.S.P.E.I. 1974, Cap. V-2. The background to, and the philosophy of, the legislation was explained in the following

terms, in the Explanatory Notes which accompanied its introduction—

It has been prepared by the Department of Health with advisory consultation from most other provincial departments, members of professional (medical, nursing) and trade (restaurant, dairy, tourism) associations, municipal health officials, legal counsel, federal public-health specialists and comparable legislation from all across Canada.

The existing Public Health Act's last significant revision was in 1951, but its essential character dates from the 1920's and 30's when there was little provincial government and public health meant rudimentary sanitation and suppression of epidemic diseases: smallpox and measles, tuberculosis and typhoid fever. Because of this origin and half-century history, the Act is cluttered with anachronisms, rambling appendage clauses and procedural details. More important, its basic concept of the communal health and the role of health officers as needle-giving and privy-policing simply does not address the greater part of what has come in the past decade to be recognized as "Health".

Thus this bill embodies a philosophy that includes health-care services, research and professional education, safety, rehabilitation and positive lifestyle promotion: public health is not merely contagious-disease control but touches any condition which may affect the well-being of a significant element of the province's population. Though broader in concept, the bill is much shorter because of the deletion of many obsolete specifics and a more sensible organization. It has been de-particularized in several areas, leaving much of the detail, especially for the now rare threats such as tuberculosis (20 sections in the current Act), to be fleshed out, and adapted according to changing conditions and newly significant diseases or problems, in the form of regulations.

The Public Health Act is the fundamental legislative authority for most of any department of health's routine activities. And it must at base make provision for strong, direct authority so that immediate action can be taken to protect the public's health in times of danger. That is the basis of every Public Health Act, for although they have fortunately subsided over recent decades, the chain-reaction threats to the community's health do still exist.

Canada— Québec

An Act to secure the handicapped in the exercise of their rights 1978

The main intent of this Act is to ensure handicapped persons the full and equal recognition and exercise of the rights and freedoms shared by all citizens. A handicapped person is any person limited in the performance of normal activities who is suffering, significantly and permanently, from a physical or mental deficiency, or who regularly uses an orthopedic device or a prosthesis to palliate his handicap.

This act establishes a board to provide services to the handicapped (the *Office des personnes handicapées du Québec*), which will see to the co-ordination of the services provided for the handicapped, inform and advise handicapped persons, promote their interests and facilitate their educational, vocational and social integration.

The Board (*Office*) will be empowered to grant subsidies to promotional organizations mainly devoted to the assertion of the rights and promotion of the interests of the handicapped. It may also issue "adapted work centre" certificates to associations or organisations employing, in majority, handicapped persons incapable of working under ordinary conditions, to allow them to utilize and develop their capacity for work under appropriate working conditions.

This Act provides various measures designed to ensure the educational, vocational and social integration of the handicapped person. For that purpose, the Act provides, in particular, for the formulation and carrying out of service programmes which must take account of the free choice of each person benefiting from such programmes. The board (*Office*) may grant material assistance to a handicapped person for the carrying out of a service programme, in proportion to his needs. It may also enter into a contract, with any employer and a handicapped person eligible for a service programme, for the vocational integration of such person into the labour market.

This Act provides that the board (*Office*) will be empowered to grant subsidies to an employer to allow him to adapt job openings to the capacities of a handicapped person or to otherwise promote his employment. It requires any employer having 50 employees or more, in co-operation with the representative of the association of employees where that is the case, to submit a programme for the hiring of handicapped persons to the board (*Office*) for approval.

This Act requires certain public transport companies and every telephone undertaking governed by the Public Service Board (the *Régie des services publics*) to submit to the Minister of Transport (the *ministre des transports*) or to the Minister of Communications (the *ministre des communications*), as the case may be, a development programme designed to ensure handicapped persons access to means of transportation and telephone services within a reasonable time. Moreover, every owner of an immoveable not subject to the Building Code will be required to submit to the approval of Minister of Labour and Manpower (the *ministre du travail et de la main d'oeuvre*) a development programme designed to ensure within a period of five years, accessibility to his immoveable for handicapped persons. The Government, by Regulation, may exempt certain types of classes of submitting a development programme. The Minister of Labour and Manpower (the *ministre du travail et de la main d'oeuvre*) will also be empowered to exempt the owner of an immoveable from submitting a programme, in certain cases.

This Act amends various existing laws, in particular, the Charter of Human Rights and Freedoms, to provide that there be no discrimination against a person on the ground that he is handicapped or uses any device as a palliative to his handicap. This amendment is accompanied with the transitional provisions necessary to allow

handicapped persons access to immoveables, means of transportation and telephone services.

The Municipal Code, the Cities and Towns Act and the charters of certain municipalities are amended to provide that the construction, reconstruction or relocation of sidewalks must be so done by municipal corporations as to facilitate access to them and their utilization by handicapped persons. The Acts establishing transit commissions are amended to compel these commissions to set up a special transit system for handicapped persons unable to use the regular public transit system, or see that such a system is organised.

The Collective Agreement Decrees Act is amended to make it applicable to the work performed by a blind employee or an employee whose physical or mental capacities are limited.

The Minimum Wage Act is amended to prevent the Minimum Wage Commission (the *Commission du salaire minimum*) from imposing, on an employee whose physical or mental capacities are limited, working conditions other than those provided in its ordinances.

Finally, the Act provides that handicapped persons aggrieved pursuant to certain decisions of the board (*Office*) will be entitled to appeal from such decisions to the Social Affairs Commission (the *Commission des affaires sociales*), and that the Act to ensure the handicapped in the exercises of their rights will be binding on the Crown.

An Act respecting Occupational Health and Safety (1979)

The purpose of this Act is to provide mechanisms for worker-employer participation in eliminating causes of work accidents and occupational diseases. In that regard, it sets forth the rights and obligations of those workers, employers, owners and suppliers who are made subject to the Act.

The right of a worker to work conditions that have proper regard for his health, safety and physical well-being is recognised, as is his right to refuse to perform work should he have reasonable grounds for believing that such work would endanger his health, safety or physical well-being or would expose another person to such danger. That right of refusal cannot be exercised, however, if his non-performance of the work puts the life, health, safety or physical well-being of another in immediate danger, or if the conditions under which the work is to be performed are conditions normal to his type of work. A worker also has the right to protective re-assignment of duties in the case where his exposure to a contaminant is a danger to him in his present state of health.

A pregnant worker is entitled to protective re-assignment where her work conditions present physical danger to her unborn child or to herself. A woman is also entitled to protective re-assignment if her

work conditions are such that they constitute a danger to the child she is breast-feeding.

The Act provides for the creation of one or more health and safety committees in certain categories of establishments, determines their composition and the mode of appointment of the members, their functions and the frequency of meetings. Provision is also made for the appointment of safety representatives from among the workers in certain categories of establishments and their functions are defined.

Joint sector-based associations may be established to provide the workers and employers of the sector concerned with training, information and counselling services in matters of occupational health and safety.

The public health establishments are given responsibility for organising and dispensing health services at the workplace. The functions of the employer, the health and safety committee, the community health department, the hospital centre, the Minister of Social Affairs and the Commission de la santé et de la sécurité du travail (occupational health and safety commission) are prescribed in regard to the preparation and implementation of health programmes. The mode of appointment of the physician in charge of health services in an establishment and the content of an establishment's particular health programme are provided for. The health services existing at 20 June 1979 (the date when the Act in Bill form was introduced) may be recognised by a hospital centre insofar as they are equivalent to those envisaged in the Act.

A new agency is established called the Commission de la santé et de la sécurité du travail (mentioned above); it replaces the Commission des accidents du travail du Québec (Québec Workmen's Compensation Commission) and has responsibility for implementing the occupational health and safety plan. The Commission is administered by a board of directors with equal employer and worker representation and it has regulatory powers for carrying out its duties.

The Act provides for the appointment of inspectors to ensure compliance with its provisions; inspection costs are assumed by the Government.

Besides being subject to the other provisions of the Act, the construction sector receives particular attention through provisions specifying the obligations of principal contractors and employers, establishing job-site committees and detailing their composition and functions, appointment of safety representatives, special conditions attaching to inspections, and rules applicable to major construction sites.

Workers are provided with recourses if they are laid off, discharged, suspended, transferred or otherwise subjected to discriminatory or disciplinary action for exercising a right or carrying out a function which is their prerogative under the Act. Penalties are provided for offences under the Act and the Labour Court is

empowered to make orders. Transitional measures to deal with existing Acts and regulations are included and provision is made for the Government to designate a Minister responsible for the application of the Act.

Cyprus

Dentists (Associations, Discipline and Pension Fund) (Amendment) Law 1977 (No. 33 of 1977)

The Disciplinary Board now comprises—

- (i) the President of the District Court or a Senior District Judge nominated by the Supreme Court, as Chairman;
- (ii) a Counsel of the Republic nominated by the Attorney-General of the Republic;
- (iii) two Dental Officers nominated by the Minister of Health as ex-officio members; and
- (iv) three dental practitioners of whom two must have exercised their profession for at least ten years, elected every three years by the Annual General Meeting of the Pancyprian Dentists Association.

Medical (Associations, Discipline and Pension Fund) (Amendment) Law 1977 (No. 32 of 1977)

The Disciplinary Board now comprises—

- (i) the President of the District Court or a Senior District Judge nominated by the Supreme Court, as Chairman;
- (ii) a Counsel of the Republic nominated by the Attorney-General of the Republic;
- (iii) two Medical Officers nominated by the Minister of Health as ex-officio members; and
- (iv) three Medical Practitioners of whom two must have exercised their profession for a period of at least 15 years, elected every three years at the Annual General Meeting of the Pancyprian Medical Association.

Meat Hygiene Law (Law 94 of 1979)

This Law provides that no person shall slaughter, cause or allow the slaughter of any animal except in a slaughter house save in cases where an animal is slaughtered for personal consumption; that no person shall cut, display for sale or store up fresh meat or any of its by-products except within a shop. The law also makes provision for the inspection of animals before and after they are slaughtered by a government veterinary officer.

Drugs (Control of Quality, Supply and Prices) (Modification) Law 1980 (No. 30 of 1980)

This law amends the basic law and provides, inter alia, that the Minister of Health is entitled, when fixing the highest price of

medical supplies or the highest proportion of profit which one may be allowed to get from the sale of medical supplies, to take into account, when he deems it in the public interest, the existing prices of sale of such medical supplies in any foreign country in which the economic conditions and the way of living are similar to those in the Republic.

Transportation Allowance to Incapacitated Persons Law 1980

In this Law incapacitated person means a permanently incapacitated citizen of the Republic who by birth or due to a subsequent event is partly or totally incapacitated. His incapacity must derive from a serious distortion or serious mutilation of the legs, total loss of sight or any other connected cause and the transportation of the incapacitated person for the purpose of attending his work becomes difficult as a result of the nature and degree of his incapacity.

The Law sets up a Special Committee responsible for the granting of the transportation allowance as well as a Special Fund which will consist of government grants.

The question whether an incapacitated person is entitled to a grant is determined by the Special Committee on the advice of the Medical Council as to the nature and degree of his incapacity. The amount of the grant is determined by the Committee after a detailed examination into the financial position of the incapacitated person and his travelling expenses incurred for the purpose of attending his work.

Health Protection (Smoking Control) Law 1980 (No. 51 of 1980)

This Law provides for the taking of measures for the restriction of smoking.

Section 3 provides that irrespective of the provisions of any other law a supplier of tobacco to a person under the age of 18 years is guilty of an offence and liable, in the case of a first conviction, to a fine not exceeding £100 and in case of subsequent convictions to a fine not exceeding £200. After the fourth conviction the Court may order that the license of the convicted person to sell tobacco be revoked and that he may not be allowed to obtain such a license for a period not exceeding five years.

Section 4 of the law sets up a Commission for the control of advertisements of tobacco. By s. 5 the transmission of such advertisement by radio or television is prohibited. Smoking in public places is also prohibited (s. 10).

These legislative measures are in accordance with the provisions of the Cyprus Constitution and are necessary for the protection of public health (Para. 2 of Article 25 of the Constitution).

Dominica

Medical (Amendment) Bill 1979

This Bill would amend the Medical Act (Cap. 149) to enable the Medical Board to issue a licence to a person to administer by

injection under the skin or otherwise such drugs for the treatment of such diseases as the Board specifies, or for anaesthetic purposes, if the Board is satisfied that the person concerned –

- (a) is adequately trained and otherwise competent to administer by injection or otherwise the drugs in respect of the administration of which the licence is sought;
- (b) is in the public service or a nurse in private practice;
- (c) is working under the orders and general supervision of a medical officer in the public service.

These provisions would not apply to any person working under the immediate personal supervision of a registered medical practitioner.

The Board would have power, at any time, to cancel a licence granted under this new provision, and such a licence would expire at the end of the year in which it was issued.

Fiji

Medical Assistants Bill 1978

This Bill is to provide for the regulation and control of “medical assistants”, the first group of whom qualified in January of this year. Various designations were considered (e.g. “para-medics”, “primary health officers”, “medical auxiliaries”) until finally “medical assistants” was settled on. They are trained to provide a basic health service, particularly in outlying rural areas where fully qualified medical practitioners are not readily available and are to be specially registered and disciplined by a Medical Assistants Registration Council. They may only be employed in government service and are prohibited from receiving any fee or other reward from any other source unless it has been authorised by the Permanent Secretary of Health acting with the approval of the Minister.

Medical Assistants Regulations 1978

The Regulations concern duties of medical assistants. They are authorised to act only within the defined limits of the areas to which they are posted and to issue certificates of temporary incapacity for work for up to seven days in any one month in respect of any one person.

They are also required to refer to a medical practitioner any person –

- (a) in respect of whom they are unable to establish a diagnosis,
- (b) whose condition demands immediate surgical intervention,
- (c) whose condition does not respond to treatment within a reasonable time.

A medical assistant is to perform such medical and administrative functions as are assigned to him by the Permanent Secretary, which may include any or all of the following duties –

- (a) in the absence of a medical practitioner to undertake medicolegal work of a non-specialist nature including the giving of medical evidence before any court, tribunal, commission or other body duly constituted under the provisions of any written law;
- (b) to perform simple laboratory tests;
- (c) to operate any portable X-ray unit and to interpret simple films;
- (d) to assist registered nurses and midwives in the discharge of their duties;
- (e) to provide advice, guidance and assistance in matters relating to family planning;
- (f) to promote and participate in programmes relating to health education, disease control and sanitation;
- (g) to form and maintain health records;
- (h) to exercise administrative control over any medical unit or part thereof.

Every medical assistant is required to accept and comply with the legal, ethical and moral responsibilities associated with the practice of medicine.

Fiji Sports Council Bill 1978

The Bill seeks to fulfill a long felt need amongst sporting bodies in Fiji by establishing a Council whose functions will be –

- (a) to foster and promote the development of amateur sport and recreation in Fiji;
- (b) to foster support and undertake the provision of facilities for sport and recreation;
- (c) to promote the utilisation of sporting and recreational facilities in Fiji;
- (d) to investigate developments in sport and recreation and disseminate knowledge and information about such developments;
- (e) to advise the Minister on any matters relating to sport and recreation.

Private Hospitals Bill 1979

This Bill seeks to introduce legislation for the purpose of controlling private hospitals and nursing homes and ensuring that proper standards are maintained. The Bill therefore provides for a system of licensing of private hospitals and similar institutions.

Provision is made for the establishment and membership of the Private Hospitals Board and for its procedure. The Bill makes provision for the licensing of private hospitals and makes it an offence to operate such a hospital unless it is licensed. No person may use the term “hospital” in respect of any place which is not licensed. Before a licence may be granted the Minister must be satisfied that the conditions specified are satisfied. Licences would specify the type of service which is provided and the number of

patients who may be accommodated. In case of emergency the number may be exceeded in certain circumstances.

The Board would be given power to revoke a licence in certain circumstances subject to notice affording the licensee an opportunity to show cause why revocation should not take place. Power is also given to the Board to refuse the renewal of a licence when the hospital is not operated in accordance with the Act. An appeal lies to the Minister against the decision of the Board to revoke or refuse a licence.

Provision is made for there to be a resident superintendent in every private hospital, and the licensee is required to keep a register of patients giving certain particulars. The procedure to be carried out in the case of the death of a patient is also specified.

No structural alteration may be made to a hospital without the Board's approval. The Bill makes provision for the appointment of Inspectors, and for the inspection of private hospitals and also of places suspected of being used as hospitals. Every private hospital is to be inspected at least once annually.

Pharmacy and Poisons (Amendment) Bill 1980

This Bill seeks to amend the Pharmacy and Poisons Act to make provision for regulating and controlling the manufacture of medicine in Fiji as well as wholesale dealings in medicines and advertisement of medicines. The opportunity has been taken to include provision for the establishment on a statutory basis of the Fiji Pharmaceutical Society, and to make certain other amendments to the Pharmacy and Poisons Act to bring the law in line with modern developments and practices.

The memorandum of Objects and Reasons explains that from time to time studies have been carried out by private companies as to the feasibility of manufacturing medicines in Fiji, and interest in this matter has grown considerably in recent years. It is considered timely to enact provisions now to ensure that in the event that medicines are manufactured in Fiji, modern standards as to safety and quality will be observed.

Wholesale dealings in medicines are not now regulated by the Act and whilst there is at present a limited regulation of certain advertisements, it is considered that existing provisions do not provide adequate protection to the public. The Bill therefore seeks to make provision with regard to wholesale importation of medicines and to make further provision regarding wholesale distribution of medicines.

It is also proposed to expand the scope of s. 16 of the Act so as to regulate advertisements of medicines relating to all diseases which may from time to time be prescribed by regulations made by the Pharmacy and Poisons Board with the approval of the Minister; and to prohibit false or misleading advertisements.

Gilbert Islands Medical Assistants Ordinance 1978 (No. 5 of 1978)

This Ordinance makes provision for the registration of medical assistants and for the regulation of their practice, in the service of the Government. A Medical Assistants Board is established with the following duties—

- (a) to form and keep a register of medical assistants,
- (b) to arrange for and regulate courses for training for medical assistants and the examination of such persons seeking admission to the register,
- (c) to make provision for the issue of certificates to medical assistants registered under the Ordinance.
- (d) to regulate, supervise and restrict the practice of medical assistants.

The Board is given power to grant a certificate to any person (entitling him or her to be registered as a medical assistant) who has one or other of the following qualifications—

- (i) has undergone a course of training approved or prescribed by the Board in an institution approved by the Board and has passed, to the satisfaction of the Board, an examination approved by the Board; or
- (ii) is or has been registered as a medical assistant, or in a similar capacity, in a country where the standard of training and examination is no lower than that required by the Ordinance, and satisfies the Board as to his good character; or
- (iii) possesses such other special qualifications as in the opinion of the Board justify admission to the register.

Provision is made for the removal of the name of a person from the register upon conviction of an offence punishable by more than six months' imprisonment, or, after due enquiry by the Board, for serious misconduct in a professional matter. An appeal lies to the High Court from the Board's decision.

Guyana Medex Act 1978 (Act No. 19 of 1978)

The introduction of "Medex" as an extension of the health services now available in Guyana is intended to provide much needed assistance to medical practitioners, particularly in the rural areas, in providing health care for the people of Guyana.

This Act provides for the registration as "Medex", of persons who are certified by the University of Guyana as having successfully undergone an approved programme of training or who are similarly certified by a recognised institution outside Guyana. Provision is also made for publication annually of a list of persons registered as "Medex" and for the removal from the register of the names of any medex guilty of negligence or misconduct.

Medical Service (Amendment) Act 1979 (No.4 of 1979)

This Act amends the Medical Service Ordinance to reconstitute the Medical Board, to make provision for the registration of persons practising osteopathy, and to regulate the practice of osteopathy in Guyana.

A person may only practise or hold himself out as practising osteopathy if he is registered as an osteopath under that Ordinance. In order to be registered, a person must be the holder of a diploma, degree, fellowship, membership licence, certificate or other status or form of recognition granted by a University, College or other body empowered to confer authority to practise osteopathy by the law of the country or place where it is granted and which, in the opinion of the Board, is evidence of satisfactory osteopathic training.

A registered osteopath is entitled to take and use the title of doctor of osteopathy.

Hong Kong

Pharmacy and Poisons (Amendment) Ordinance 1977

Provisions similar to those applying to dentists will apply to registered pharmacists who will be obliged to obtain annual practising certificates from the Pharmacy and Poisons Board.

The Ordinance also brings up to date the definitions of “pharmaceutical products” and “medicine” to conform with those used by the World Health Organization.

Dentists Registration (Amendment) Ordinance 1977

This Ordinance contains provisions, which will come into effect on 1 January 1978, whereby registered dentists will be required to obtain annual practising certificates from the Dental Council.

Law Amendment and Reform (Consolidation) (Amendment) Ordinance 1978 (No. 2 of 1978)

The law [briefly noted at (1978) 4 C.L.B. 530] concerns liability to a child in respect of disabilities with which it might be born (i.e. born alive—the moment of a child’s being when it first has life separate from its mother). If a child is born disabled as a result of an occurrence before its birth, and a person other than a mother is responsible for that occurrence, the child’s disabilities are to be regarded as damage resulting from the acts of that person and actionable accordingly at the suit of the child. An “occurrence” to which the law applies is one which affected either parent’s ability to have a normal, healthy child or affected the mother during pregnancy or the child during birth, so that the child was born with disabilities which otherwise would not have been present. A defence is provided where a person acted in a professional capacity in treating or advising a parent provided he took reasonable care having due regard to the then current state of professional opinion.

executive Committees to deal with applications for licences etc; and to make provision for appeals against the decisions of such committees and the Board.

Pneumoconiosis (Compensation) Ordinance 1980 (No. 51 of 1980)

This Ordinance establishes a scheme for compensating persons or their dependants for incapacity or death resulting from pneumoconiosis.

The compensation which is to be on the same scale as workmen's compensation, is to be paid from a Pneumoconiosis Compensation Fund to be financed by levies on the construction and quarry industries and contributions by the Government. The Fund will be administered by a Board, the Fund Board, which will also be responsible for making recommendations concerning the rate of levy.

India

Mental Health Bill

This Bill seeks to provide for the treatment and care of the mentally ill, and modifies the concept of "lunacy". It replaces the Lunacy Act of 1912 which has been described as anachronistic and ill-suited.

Hospitals and Educational Institutions (Conditions of Service of Employees and Settlement of Employment Disputes) Bill 1978

This Bill seeks to give employees of educational, scientific, research and training institutions protection on the lines of that available to workmen under the industrial disputes legislation. The Bill's Statement of Objects and Reasons explains that while such employees need this protection (and a machinery for the resolution of their individual and collective employment disputes) the institutions by which they are employed have special characteristics requiring the maintenance of an atmosphere devoid of strife. For these reasons they have been excluded from the operation of the Industrial Relations Bill noted above.

The Bill applies to hospitals, educational, scientific, research and training institutions, in which 20 or more persons are employed or were employed on any day of the preceding twelve months. Employees drawing wages exceeding the prescribed amount would not be covered by the Bill. Certain other categories of employees are also excluded.

The Bill's principal features are the following—

- (i) the Bill enjoins an employer to constitute, within a specified period, a Grievance Settlement Committee for the resolution of individual employment disputes, and a Consultative Council and a Local Consultative Council for the resolution of employment disputes of a collective nature. It also provides for the arbitration of disputes not resolved by the Committee or the Councils;

- (ii) there is provision for the recognition of an association of employees which has the support of the majority of employees in an establishment. The representatives of employees on the Committee and the Councils would be nominees of a recognised association. Since the Bill provides effective machinery for the resolution of individual and collective employment disputes, lock-outs or strikes would be prohibited;
- (iii) where any matter is referred for arbitration under the provisions of the Bill, the arbitration award would have to be given within a specified period. Employers and employees would have the right to choose arbitrators either from the panels maintained by the appropriate Government or from outside. Matters which would constitute individual employment disputes include termination of employment of any employee whether by way of discharge, dismissal or retrenchment or otherwise, suspension and computation of moneys due to an employee. Matters which would be employment disputes of a collective nature include wages and allowances, hours of work, leave with wages and holidays, rationalisation, medical benefits, superannuation benefits and rules of discipline;
- (iv) the Central Government would be the appropriate Government in respect of establishments which are under its control or those which have branches or units or offices in two or more States – in respect of others the State Government would be the appropriate Government.

Jamaica

The Status of Children Act, 1976

The Act removes at one stroke most, if not all of the obvious legal disabilities of children conceived and born out of wedlock by abolishing illegitimacy itself. It also overcomes some of the lingering difficulties in identifying the father of a child by widening the ways in which paternity may be established, including the use of blood tests in court proceedings.

Maternity Leave Act 1979 (No. 44 of 1979)

This Act, which came into operation on 31 December 1979, provides for the right of female workers to be granted maternity leave by their employers and to receive maternity pay in some cases.

Basically, the female worker who comes within the scope of the Act is one who has entered into, or works under, a contract with an employer, whether the contract is express or implied and (if it is express) whether it is oral or in writing and whether it is a contract of service or apprenticeship. This includes any such individual who is employed in the service of the Government (including service in the Jamaica Defence Force and Jamaica Constabulary Force.)

Subsection (1) of s. 3 of the Act sets out the circumstances under which a duty arises in the employer of a female worker who comes within the

scope of the Act to grant her maternity leave, namely, if that female worker—

- (a) informs the employer that she is, or wishes to be, absent from work wholly or partly because of her pregnancy or confinement and that she intends to return to work with the employer;
- (b) has been continuously employed by the employer for a period of not less than fifty-two weeks at the date on which her absence begins, or, being in seasonal employment, has been engaged by that employer in that employment for periods which amount to not less than fifty-two weeks during the five years immediately preceding that date; and
- (c) produces for the inspection of the employer, if the employer so requests, a certificate from a registered medical practitioner stating that it is necessary for the worker to be absent from work wholly or partly because of her pregnancy or confinement.

Subsection (2) of s. 3 stipulates the period (or, if more than one, the aggregate of periods) for which a worker is entitled under subsection (1) to be granted maternity leave, namely, the period or periods during which she is absent from work wholly or partly because of her pregnancy or confinement. This, however, is subject, save in certain specified cases, to a limitation of 12 weeks in respect of each pregnancy or confinement.

By virtue of subsections (3) and (4) of s. 3 the 12 weeks limitation on the period of maternity leave does not apply if the worker who has been granted maternity leave for 12 weeks in respect of a pregnancy or confinement furnishes her employer with a certificate from a registered medical practitioner certifying that as a result of her illness arising from that pregnancy or confinement or as a result of the state of health of the child to whom she has given birth, it is necessary for the worker to be absent from work for an additional period, not exceeding 14 weeks, specified in the certificate. For this purpose, the worker must submit herself or the child, as the case may require, to a medical examination by a registered medical practitioner chosen and paid by her, if her employer requires her so to do. Her employer may require that this medical examination be carried out in the presence of, and in consultation with, a registered medical practitioner chosen and paid by the employer. If there is a disagreement between the two registered medical practitioners the matter is required to be referred to the Chief Medical Officer, and any decision made by him or by a registered medical practitioner nominated by him is made final. In this case, the additional leave granted would begin immediately after the end of the initial 12 weeks.

Subsection (5) of s. 3 of the Act provides that any period (not exceeding three weeks) which is required for the determination of any medical question in relation to the grant of additional leave shall be regarded as leave granted to the employee pursuant to s. 3.

Section 4 gives to every worker to whom maternity leave is granted an entitlement to return to work—

- (a) with the employer who granted the leave or, where appropriate, his successor;
- (b) in the capacity and place in which she was employed under the original contract of employment, to do work of the nature for which she was employed under that contract of employment;
- (c) on terms and conditions that, as regards seniority, pension rights and other similar rights, the period of her employment immediately prior to her absence on maternity leave shall be regarded as continuous with her employment following that absence.

This entitlement does not arise however, unless the worker serves on her employer or, where appropriate, his successor, at least three weeks before the day on which she proposes to return to work, a notice that she proposes to return to work on that day. Nor does it arise in an employee if the Minister by Order provides that the subsection which gives the entitlement shall not apply to any worker who immediately prior to her absence on maternity leave was employed, under her contract of employment, to do work of a nature specified in the Order and the employee is such a worker. Further, the provisions as to entitlement may apply with modifications if the Minister makes an Order to that effect.

Special provision is made by subsection (4) of s. 5 for the case where a worker who is entitled to return to work has notified a day of return but there is an interruption of work (whether due to industrial action or some other reason) which renders it unreasonable to expect the worker to return to work on that day. In that event the worker may instead return to work when work resumes after the interruption or as soon as is reasonably practicable thereafter.

Special provision is also made by subsection (5) of s. 4 to cover the case where a worker is entitled to return to work, but it is not practicable by reasons of redundancy for the employer to permit her to do so. In that event she is entitled, where there is a suitable available vacancy, to be offered alternative employment with her employer, or his successor, or an "associate employer" as defined in the Act, under a new contract of employment—

- (a) under which the work to be done is of a kind which is both suitable in relation to the worker and appropriate for her to do in the circumstances;
- (b) the provisions of which as to the capacity and place in which she is to be employed are not less favourable to her than if she had returned to work in accordance with her entitlement to do so.

In this case too, she is entitled to return to work on terms and conditions that as regards seniority, pension rights and other similar rights, the period of her employment immediately prior to her absence on maternity leave is to be regarded as continuous with her employment following that absence.

Where a worker who is entitled to return to work has complied with the provisions of the Act but is unable to return to work by reason of redundancy, she is required to be treated for the purposes of the Employment (Termination and Redundancy Payments) Act—

- (a) as having been continuously employed by her employer until the notified day of return; and
- (b) as if her employment had been terminated by her employer by reason of redundancy and without notice on the notified day of return.

A female worker granted maternity leave under the Act is entitled under s. 5 of the Act to maternity pay in respect of the first eight weeks of her maternity leave beginning on, or falling after, the first day of the eleventh week before the expected week of her confinement—in the Act called "the relevant day"—provided that—

- (i) she comes within the definition in the Act of "qualified worker", that is, that on "the relevant day"
 - (a) she is not less than 18 years of age, and

- (b) is not employed as a domestic worker as defined in the National Insurance Act;
- (ii) she informs her employer (in writing if the employer so requests) not less than two weeks before the relevant day or, if that is not reasonably practicable, as soon thereafter as reasonably practicable, of the expected week of her confinement;
- (iii) she produces for the inspection of her employer, if her employer so requests, a certificate from a registered medical practitioner or a registered midwife stating the expected week of her confinement; and
- (iv) that the employer has not granted her maternity leave with pay under the Act in respect of three or more pregnancies before “the relevant day”.

The Act also provides as to the records to be kept by employers who come within the scope of the Act and imposes penalties for contravention of the provisions of the Act. It also makes it an offence for an employer without reasonable cause to terminate the employment of a worker wholly or partly because of her pregnancy or confinement. The section which creates these offences does not, however, apply to the Government.

Section 9 requires that nothing in the Act is to be construed as preventing any worker from being granted maternity leave for any period in excess of the period specified in the Act or from being paid in respect of any period of maternity leave an amount in excess of the maternity pay specified by the Act.

National Insurance (Amendment) (No. 2) Act 1979 (No. 43 of 1979)

This Act, a companion measure to the Maternity Leave Act (noted at page 27 of this issue), creates a new benefit under the National Insurance Act 1966, namely a maternity benefit. “Maternity benefit” is defined as including maternity allowance to domestic workers and maternity grants to certified exporters. The details of the benefit conferred are set out in the new ss. 20A and 20B added by the amending Act.

By s. 20A a domestic worker who is an insured person is entitled to a maternity allowance in respect of a pregnancy or confinement if she satisfies the relevant contribution conditions. This provision is specifically designed to benefit domestic workers as they are not entitled to maternity leave pay under the Maternity Leave Act.

The fourth Schedule of the principal Act is amended to prescribe the contribution conditions for maternity allowance. These are that not less than 26 contributions must have been paid as a domestic worker in the period of 52 weeks immediately preceding the period for which allowance is payable. For the purpose of this requirement a domestic worker may, in relation to any pregnancy, elect to have the 52 weeks period determined by reference to any date not earlier than 11 weeks before her expected week of confinement for that pregnancy.

The amount payable as maternity allowance is equivalent to the national minimum wage in force at the time of entitlement. This allowance will be payable for eight weeks from the week of claim, if the claim is made prior to the date of confinement, or the date of confinement, in any

other case. The allowance is not payable in respect of any period earlier than 11 weeks before the expected date of confinement. Also, it is not payable unless the claimant confirms the date of confinement or expected date of confinement by furnishing one of the following—

- (i) a certificate from a registered medical practitioner,
- (ii) a certificate from a registered midwife, or
- (iii) such other evidence as the Minister shall consider satisfactory.

The new s. 20B deals with maternity benefit conferred on certified exporters. A certified exporter is one whose business falls within the scheme for the encouragement of exports introduced by the Government on the 3rd day of January 1979 under Ministry Paper No. 47 of 1978. The section gives to an employer in such a business who has, pursuant to the Maternity Leave Act, paid maternity leave pay for eight weeks to an employee in that business who is an insured person, the right to a maternity grant. This maternity grant is to be equivalent to the amount, less any statutory deductions, paid to that employee in respect of the last two weeks of the eight weeks. A further condition for eligibility of a maternity grant stipulated is that not less than 75 per cent of the total labour force employed by the employer in that business should consist of female labour.

Kenya

Medical Practitioners and Dentists Act 1977 (No. 20 of 1977)

The Act consolidates and amends the law relating to the registration of medical practitioners and dentists. A Medical Practitioners and Dentists Board is established consisting ordinarily of—

- (a) the Chairman, to be appointed by the Minister;
- (b) the Director of Medical Services or the person for the time being acting in that post;
- (c) a Deputy Director of Medical Services, to be nominated by the Minister;
- (d) four medical practitioners to be nominated by the Minister;
- (e) a representative of the Faculty of Medicine of the University of Nairobi who shall be nominated by the Faculty Board; and
- (f) five medical practitioners and two dentists, who shall be elected by the votes respectively of all medical practitioners and of all dentists at the prescribed times and in the prescribed manner.

The Board is given responsibilities in relation to the eligibility of persons to be registered under the Act, and power to exercise disciplinary control over the profession. Penalties are provided for practising by unregistered or unlicensed persons, and prosecutions may only be instituted with the consent of the Attorney-General.

The Board is given power to license persons not otherwise eligible, to render medical or dental services in the following terms—

13(1) Notwithstanding any of the other provisions of this Act, the Board may, if it is satisfied that it is in the public interest to do so, confer upon any person who is not otherwise eligible to be registered as a medical practitioner or as a dentist under the provisions of this Act, by the issue, under the signature of the Director of Medical Services, of a licence to do so, the right to render medical or dental services.

(2) Every such licence shall be for such period and may contain such conditions as the Director of Medical Services shall, with the consent or on the instruction of the Board, impose.

(3) Any licence issued under this section may be cancelled or revoked and withdrawn at any time by the Director of Medical Services with the consent or on the instructions of the Board.

Veterinary Surgeons (Amendment) Bill 1979

This Bill seeks to amend the Veterinary Surgeons Act (Cap. 366) in a number of ways. The following would be qualified to be registered under the Act as Veterinary Surgeons—

- (a) holders of a degree in veterinary science of a university in Kenya approved by the Board; or
- (b) holders of a degree in veterinary science of any other university approved by the Board; or
- (c) holders of a degree, diploma or other qualification in veterinary science, who have satisfied the Board by examination that their professional knowledge and skill are equivalent to those of persons registerable under paragraph (a) or (b).

The Board would have power, if it is of the opinion that any degree approved by it is no longer of a satisfactory standard, at any time to cancel such approval; but no such cancellation would invalidate the registration of any person who had been registered prior to the cancellation.

The Bill contains provision for the supervision by the Board of courses and examinations leading to degrees in veterinary science in Kenya to ensure as far as possible that professional standards in Kenya remain as high as those elsewhere.

Whenever the Board is satisfied that it is in the public interest so to do, it would have power, in its discretion, to grant a licence to practise veterinary surgery to any person who holds a veterinary qualification which would entitle him to practise veterinary surgery in the country in which it was awarded.

The Bill also makes a number of minor, consequential and other amendments to the principal Act, some to rectify anomalies or out-dated provisions.

Medical Practitioners and Dentists (Disciplinary Proceedings) (Procedure) Rules 1979 (L.N.No.157 of 1979)

These Rules, made by the Minister of Health under the enabling provisions contained in the parent Act (Cap.253), make provision for the procedure to be followed in disciplinary proceedings against members of the medical and dental professions.

Proceedings relating to applications for restoration to the register are also regulated.

Medical Practitioners and Dentists (Private Practice) Rules 1979 (L.N. No. 182 of 1979)

These Rules, made by the Minister under s. 23 of the Medical Practitioners and Dentists Act (Cap. 253), regulate general and specialist practice, private clinics, private clinical and radiological laboratory medicine, and nursing homes and hospitals.

Since their promulgation, these Rules have been amended by Legal Notices Nos. 288 and 289 of 1979.

Lesotho

Natural Therapeutics Practitioners Act 1976 (No. 14 of 1976)

This Act prohibits persons whose names do not appear on the register maintained by the registrar (an officer in the Ministry of Health designated by the Minister of Health) from practising as natural therapeutics. "Natural therapeutics", as defined by the Act, mean services for the purpose of preventing, healing or alleviating sickness or disease or alleviating or preventing or curing pain by any means other than those normally recognised by the medical profession and includes methods commonly used by homeopaths, naturopaths, osteopaths, chiropractors and acupuncturists.

Malaysia

Medical (Amendment) Act 1976

The Act amends the Medical Act 1971 —

- (i) to provide that a person who holds a suitable qualification in medicine and surgery but one which is not listed in the Second Schedule to the Act, must in addition to any other existing requirements, pass an examination to be prescribed or set by a body approved by the Minister before he can become entitled to be provisionally registered as a medical practitioner;
- (ii) to enable a medical student if he does so under the control and supervision of a fully registered medical practitioner holding a valid and current annual practising certificate, to carry out, in pursuance of his studies, any investigation, examination or treatment of patients in any medical or health institution approved by the Minister;
- (iii) to extend the period of compulsory medical service for national purposes from not less than two years to not less than three years.

Malta

Control of Tattooing Act, 1976

The legislation seeks to control tattooing by subjecting its performance to the possession of an appropriate licence. Not only is it made an offence for an unlicensed person to perform the act of tattooing, but it is also made an offence for a person to seek to be tattooed by any person other than a person in possession of a valid licence.

Children and Young Persons Bill 1979

This Bill seeks to make new provision for the care of children and young persons (those under the age of 16 years). A court convicting a child or young person would be given power to commit him to the care of the Minister for a period between one and five years not extending beyond his 18th birthday if the court is of the opinion that—

- (a) none of the other methods in which the case may be dealt with is suitable, and
- (b) he is in need of care or control which he is unlikely otherwise to receive.

An order made under these provisions would be subject to appeal in the usual manner.

The Bill would also make provision for the other circumstances in which care orders can be made and sets out the powers and duties of the Minister in relation to children and young persons in care.

A Children and Young Persons Advisory Board would be established whose members would be appointed by the Minister and whose membership would include a “mother”, and a person who, in the opinion of the Minister, has an adequate knowledge of psychology, one of whom would be the chairman of the Board.

Prevention of Disease Ordinance (Amendment) Act 1980 (No. 25 of 1980)

This Act amends the principal law (Cap. 59) in a number of ways. Inter alia, it makes provisions—

- (i) for controlling and regulating the rearing and keeping of animals;
- (ii) for controlling and regulating the movement of animals from one place to another;
- (iii) for controlling and regulating the collection and transport of swill and the feeding of swill to animals;
- (iv) increasing the maximum fines payable on a wide range of offences under the principal law.

Dangerous Drugs (Amendment) Act 1980 (No. XXIII of 1980)

This Act imposes harsher punishments on “drug pushers” and attempts to rehabilitate, rather than punish, drug addicts by amending the Dangerous Drugs Ordinance (Cap. 161). It achieves this object by—

- (i) substituting for s. 8 of the Ordinance a new s. 8 by which any person who has in his possession, cultivates, produces or sells “Indian hemp” whether the whole or any portion of the plant, or the resin obtained therefrom but excluding its medicinal preparations, commits an offence;

- (ii) substituting for ss. (2) and (3) of s. 22 of the Ordinance dealing with penalties new sub-sections which have the effect of increasing the minimum and maximum penalties and providing for the forfeiture of all articles in respect of which the offence was committed, with savings in the case of registered drug addicts;
- (iii) providing for the revocation of the licence to practise his profession of anyone licensed under the Ordinance or under the Medical and Kindred Professions Ordinance who is convicted of any offence under the Ordinance.

Nauru

Abortion Law

In the Penal Code Bill 1977, section 377 will permit the termination of pregnancy if –

- (i) The termination is carried out by a medical practitioner, and
- (ii) Two registered medical practitioners are of the opinion, formed in good faith either –
 - (a) that the continuance of the pregnancy would involve risk to the life of the pregnant woman or of injury to her physical and mental health greater than if the pregnancy were terminated, or
 - (b) that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormality as to be seriously handicapped; and
- (iii) The prior consent of the pregnant woman, if she is capable of giving consent, has been obtained; and
- (iv) Where the pregnant woman is married, the prior consent of her husband or, if he is not readily available to give his consent or is not capable of stating whether or not he consents, the prior consent of the most closely related adult member of her family who is readily available and is capable of stating whether or not he consents has been obtained or where the pregnant woman is not married the prior consent of the most closely related adult member of her family who is readily available and is capable of stating whether or not he consents has been obtained.

In determining whether the continuance of a pregnancy would involve such risk of injury to health as would allow termination on the grounds of injury to her physical or mental health, accounts may be taken of the pregnant woman's actual or reasonably foreseeable environment.

The provisions are to be the subject of a "free vote".

Sale of Liquor Amendment Act 1976

This Act makes significant changes to the complex laws which regulate the sale of liquor in New Zealand, and without diminishing this complexity represents a further step towards the treating of the consumption of alcohol as an adjunct of everyday life rather than as an end in itself. Perhaps the most noteworthy features of the Act are those which allow for young people to be gradually introduced to the moderate use of liquor in a controlled social environment. Although the minimum drinking age of 20 years was retained as the result of a non-party vote in Parliament the law will now allow liquor to be supplied in hotels, taverns and clubs to persons 18 years and over where accompanied by an adult spouse or parent. Children of all ages may accompany their parents into designated family lounge bars and be supplied with liquor. A new type of licence – the general ancillary licence – is introduced and is available to sporting associations, ethnic and cultural groups and the like, where the consumption of liquor is merely incidental to some other principal activity. These clubs will be authorised to sell liquor to their members and guests on any day except Good Friday (this in itself represents a significant liberalisation of the general prohibition on Sunday trading). Provision is also made for the extension of trading hours in respect of some types of licences, notably hotels and taverns, which may be permitted (on individual application) to stay open until 11 p.m. on Friday and Saturday nights.

The New Zealand wine industry is given encouragement by the creation of a vineyard bar permit which enables the winemaker to sell his product for consumption on his premises. Unlicensed restaurant permits may be granted, allowing diners in unlicensed restaurants to consume liquor they have themselves provided.

Alcoholic Liquor Advisory Council Act 1976

This Act implements the recommendation of a recent Royal Commission on liquor that the personal, social and economic evils flowing from the misuse of alcoholic liquor be attacked by setting up an Alcoholic Liquor Advisory Council. It provides for the establishment of a body of nine members – six appointees of the Governor-General and three representatives of relevant Government Departments – who are collectively charged with the task of seeking to encourage temperate attitudes and practices in respect of liquor and to reduce the harm it presently causes. Broadly, the functions of the Council will be to promote research into the use and misuse of liquor, disseminate information about liquor-related problems, stimulate education programmes, and provide for the care and rehabilitation of those already suffering from or because of the misuse of liquor. The Council will work in close co-operation with any existing bodies, associations or persons engaged in activities in these fields, and may

appoint advisory and technical committees or co-opt specialist advice. The financing of the Council's activities is to be by way of a levy on all liquor imported into or manufactured in New Zealand.

Contraception, Sterilisation and Abortion Act 1977

In recent and controversial legislation following in the wake of the report of the Royal Commission on Contraception, Sterilisation and Abortion (noted at (1977) 3 C.L.B. 472) the New Zealand Parliament has enacted new laws, the procedural elements of which are designed to ensure that abortions are available only in strict compliance with the law.

Although rejecting the Royal Commission's recommendation that panels consisting of two doctors and a social worker be set up to consider each request for an abortion, Parliament in the Contraception, Sterilisation and Abortion Act 1977 has provided an alternative but similar procedure. Under the new procedure a woman seeking an abortion must have her case referred by her doctor to two certifying consultants. To establish a list of medical practitioners who will be certifying consultants (half the total number of such persons are to be practising obstetrician or gynaecologists) and to otherwise administer the new procedure under the Act an Abortion Supervisory Committee consisting of a Chairman (the first chairman is a Magistrate) and two medical practitioners has been established. There is an interesting point that in appointing certifying consultants the Supervisory Committee is to have regard to the desirability that their assessment of cases "will not be coloured by news in relation to abortion that are incompatible with the tenor" of the Act.

If the certifying consultants agree, a certificate authorising the abortion must be forwarded to the hospital where the operation is to take place. There is provision in the case where two certifying consultants disagree for a third such consultant's opinion to be sought.

An amendment to the Crimes Act 1961 passed at the same time as the Contraception, Sterilisation and Abortion Act gives for the first time statutory grounds to be applied in the case of a woman seeking an abortion. Hitherto it was an offence for a person to unlawfully procure a miscarriage, the word "unlawfully" being interpreted in the light of *R. v. Bourne* [1939] 1.K.B. 687.

The feature of the new Crimes Act provisions that has caused the greatest difficulty is the meaning to be ascribed to the words, forbidding the performance of an abortion if the danger to the women can be averted by other means. The Crimes Amendment Act 1977 defines "unlawfully" as follows—

- (1) The carrying out of an abortion is unlawful unless in the case of a pregnancy of not more than 20 weeks gestation, the person doing the act believes—

- (a) that the continuance of the pregnancy would result in serious danger (not being danger normally attendant upon childbirth) to the life, or to the physical or mental health, of the woman or girl, and that the danger cannot be averted by any other means; or
 - (b) that the pregnancy is the result of sexual intercourse between—
 - “(i) A parent and child; or
 - (ii) A brother and sister, whether of the whole blood or of the half blood; or
 - (iii) A grandparent and grandchild; or
 - (c) that the pregnancy is the result of sexual intercourse that constitutes an offence against section 131(1) of this Act; or
 - (d) that the woman or girl is severely subnormal within the meaning of section 138(2) of this Act.
- (2) The following matters, while not in themselves grounds for an abortion may be taken into account in determining whether the continuance of the pregnancy would result in serious danger to the woman’s life or to her physical or mental health—
- (a) the age of the woman or girl concerned is near the beginning or the end of the usual child-bearing years;
 - (b) the fact (where such is the case) that there are reasonable grounds for believing that the pregnancy is the result of rape.
- (3) In the case of a pregnancy of more than 20 weeks gestation, the person doing the act must believe that the miscarriage is necessary to save the life of the woman or girl or to prevent serious permanent injury to her physical or mental health.

The ground for abortion of foetal abnormality recommended by the Royal Commission was struck out of the bill during its Committee stages.

Safety of Children’s Night Clothes Act 1977 (No. 87 of 1977)

This Act makes provision for the prevention or reduction of the risk of death and personal injury through the use of certain approved fabrics and designs in the manufacture of children’s night clothes. Instructions and warnings require to be fixed to garments according to the class of material used. Penalties are provided for contraventions of the Act. Transitional exemption provisions are included.

Children and Young Persons Amendment Act 1977

Among amendments to the principal Act of 1974 is a redefinition of a child or young person “in need of care, protection, or control”, the protection of social workers and school teachers furnishing reports other than in bad faith or without reasonable care, and the giving of power to the court to direct in certain cases that psychiatric reports be obtained. Provision is also made for authorised social workers to arrange for psychiatric treatment, subject to the obtaining of specified consents.

Nurses Act 1977

The Act consolidates and amends the legislation providing for the training, registration and enrolment of nurses, the handling of complaints against nurses, and the establishment of the Nursing Council of New Zealand.

State Services Conditions of Employment Act 1977 (No. 95 of 1977)

This Act consolidates and amends the legislation enacted in 1969 regarding the remuneration and conditions of employment of State employees. For the public sector, provision is made for the criteria for prescribing conditions of employment; the issue of determinations; reviews of conditions of employment, the settlement of disputes as to the application of determinations; and the establishment, constitution and jurisdiction of the Public Sector Tribunal.

Separate provision is made for the establishment, composition, jurisdiction and procedure of single service tribunals (the Government Service Tribunal, the Government Railways Industrial Tribunal and the Hospital Service Tribunal). Other provisions govern Appeals to the Court of Appeal.

Special provisions control strikes and lockouts in certain essential services and export slaughter-houses. The essential services to which special procedures apply are set out below and are contained in a Schedule to the Act, which may be amended by Order in Council —

- (i) the production or supply of electricity;
- (ii) the working of any railway used for the public carriage of goods or passengers;
- (iii) the working of any transport service within the meaning of the Transport Act 1962;
- (iv) any service for the carriage of passengers or goods by water between the North Island the South Island or any service necessary for the operation of such a service;
- (v) any air transport service, being a service by aircraft for the public carriage of passengers or goods for hire or reward (but excluding an air topdressing service), or any service necessary for the operation of such an air transport service;
- (vi) the work of any fire brigade within the meaning of the Fire Service Act 1975 (but excluding the work performed by members of volunteer fire brigades);
- (vii) the operation of a hospital within the meaning of the Hospitals Act 1957 or of a psychiatric hospital within the meaning of the Mental Health Act 1969 or of any service necessary for the operation of such a hospital or psychiatric hospital;
- (viii) the operation of welfare institutions by the Department of Social Welfare;

- (ix) the operation of penal institutions by the Department of Justice.
- (x) meat inspection services associated with the slaughtering or supply of meat for domestic consumption.

Crimes Amendment Act 1978

The New Zealand Parliament has again been wrestling with the vexed question of abortion, despite its earlier hopes that last year's legislation had settled the matter.

Following the implementation of the Crimes Amendment Act 1977 [noted at (1978) 4 C.L.B. 239] considerable uncertainty was felt as to the meaning of s. 187A subsection (1)(a)—

- (1) The carrying out of an abortion is unlawful unless in the case of a pregnancy of not more than 20 weeks gestation, the person doing the act believes—
 - (a) that the continuance of the pregnancy would result in serious danger (not being danger normally attendant upon childbirth) to the life, or to the physical or mental health of the woman or girl, and that the danger cannot be averted by any other means.

Because of the uncertainty, which specifically related to the words "and that the danger cannot be averted by any other means", the Abortion Supervisory Committee which administers the provision of abortion in New Zealand, recommended that these words in question be deleted. This now leaves the law as it was recommended by the Royal Commission on Contraception, Sterilisation and Abortion.

The Crimes Amendment Act 1978 also makes foetal abnormality a ground for an abortion. That, too, had been recommended by the Royal Commission, but a provision to that effect in the Contraception, Sterilisation and Abortion Bill 1977 was struck out by Parliament. The Crimes Amendment Act 1978 now reverses that position.

Massage Parlours Act 1978

Responding to what was seen as an increasing tendency for organised crime to use so called "massage parlours" as a front for prostitution and as a source of income to finance criminal ventures, including drug dealing, the New Zealand Parliament enacted the Massage Parlours Act.

The Act is designed to control the activities of parlours in two ways—

- (i) no person can operate a massage parlour without a licence issued by a Magistrate. In deciding whether a licence will be issued the Magistrate must hear any objections from the police, or members of the public. All managers of massage parlours must also be approved by a Magistrate. No person who has had, within ten years of the date of applying for a licence, any

conviction for a drugs or prostitution offence is eligible to obtain a licence or manager's certificate;

- (ii) when the premises are licensed as a massage parlour the police may inspect the premises at any time. It is an offence for a proprietor to refuse entry to a member of the police. If a police believe that an offence against the Massage Parlours Act is being committed on licensed premises they may be issued with a warrant to enter those premises.

The police are also given the right to make a complaint to a Magistrate about the operation of a parlour with a view to the licence being cancelled. Among the grounds for complaint are— convictions for drug or prostitution offending, and a finding by the Magistrate that acts of prostitution had occurred due to a licensee's failure to effectively supervise his business.

The Massage Parlours Act is to come into force on 1 April 1979.

New Zealand Council for Postgraduate Medical Education 1978

The Act establishes the Council, which is to advise the Minister on national and regional needs in respect of the organisation and financing of postgraduate medical education; is to initiate, co-ordinate and support schemes for such education; collect and disseminate relevant information; liaise with teaching institutions; and initiate, co-ordinate and support research into the evaluation of programmes for postgraduate education.

Misuse of Drugs Amendment Act 1978

This measure enacts the recommendations of a special government caucus committee that was established to seek methods of combating the increasing incidence of offending involving "hard drugs" (those scheduled under the Misuse of Drugs Act 1975 as Class A and B controlled drugs). The amendment deals only with those categories of drugs.

The major changes to the law include an increase in the maximum penalty for dealing in Class A drugs from 14 years imprisonment to life imprisonment and, in the case of Class B drugs, from ten years to 14 years imprisonment.

A specific offence of conspiracy to deal in drugs has been included in the amendment. Previously the general provisions relating to conspiracy in the Crimes Act 1961 were used for such cases, and provided a maximum penalty of seven years' imprisonment. Under the Misuse of Drugs Amendment Act this offence is now punishable by a maximum penalty of 14 years imprisonment in the case of Class A drugs and ten years imprisonment in the case of Class B drugs.

The amendment Act also makes provision for a judge, on the application of a commissioned officer of the Police, to issue a

warrant authorising the interception of private communications by means of a listening device or telephone tap. The warrant may be issued when the judge is satisfied that other detection methods will be or have been successful. It authorises an interception for a maximum of 30 days although it may be renewed. There is provision for an emergency authorisation to be issued by a judge on an oral application. Such an authorisation must later be validated by the formal procedure provided. Only evidence of drug offending gained from the listening device is admissible in evidence. There is provision for the defence to see the police affidavits filed in support of an application for an interception warrant where a judge is satisfied that such disclosure will not unduly prejudice the police interests.

Bail is also affected where an accused is charged with a Class A or B drug dealing offence. In these cases, an accused person cannot be granted bail except by a Judge of the Supreme Court and either the accused or the Crown may appeal to the Court of Appeal against the Judge's decision.

Provision is also made for a judge, on the conviction of a person charged with a drug dealing offence, to order that the offender should pay a fine both for that offence, and also in respect of previous offending that the judge is satisfied has occurred. Fines enforcement procedures are tightened to ensure that there is an effective mechanism to enforce any such fine.

Dietitians Amendment Act 1979 (No. 44 of 1979)

This Act amends the principal Act of 1950 and makes new provision for the composition and procedure of the Dietitians Board, and widens its functions.

Provision is also made for the establishment of a committee of the Board (to be known as the Penal Cases Committee) with power to investigate complaints and refer them to the Board for further inquiry. The disciplinary powers of the Board are laid down and its procedure prescribed.

Appeals against decisions of the Board are to be heard by the Administrative Division of the Supreme Court.

Health Amendment Act 1979

The Act, *inter alia*, adds a new Part IIIA, which prohibits unauthorised trading in "human blood", an expression defined as including "any human organ or human tissue, including the placenta, of a kind that is suitable as a source from which to derive a constituent of blood for therapeutic use or for the preparation of a substance for therapeutic use."

Toxic Substances Act 1979 (No. 27 of 1979)

This Act makes new provision for the control of toxic substances, and consolidates (with amendments) the Poisons Act 1960, as amended. A Toxic Substances Board is established whose principal function is to advise the Minister or the Director-General of Health on matters relating to—

- (a) the manufacture, importation, exportation, sale, supply, storage, use, disposal, carriage, packaging, labelling, advertising, destruction, or accidental spillage of toxic substances,
- (b) the protection of human health from the harmful effects of toxic substances,
- (c) the protection of the environment from any such harmful effects.

Provision is made for controlling the sale, packing, custody and advertising of poisons; for the granting, effect, duration and display of licenses required under the Act; and for the enforcement of the Act's provisions.

The Act also provides for appeals to the Supreme Court against decisions of the Medical Officer of Health in relation to the licensing provisions of the Act on the grounds that any relevant requirement of the Act (or of regulations made under the Act) has not been complied with, or that the Medical Officer of Health, in reaching his decision, acted unreasonably. In certain circumstances, a further appeal lies to the Court of Appeal.

Disabled Persons Community Welfare Amendment Act 1979 (No. 84 of 1979)

This Act amends the principal Act of 1975 to allow grants and loans to be made to disabled persons for the purchase of motor vehicles or other mechanical means of transport (or for the alteration of their mechanism) as may be necessary to enable a disabled person to undergo training for, or to obtain or retain employment, which will enable him to achieve a substantial measure of financial independence.

The Act also contains guidelines for the exercise of the Director-General's discretion.

Misuse of Drugs Amendment (No. 2) Act 1979 (No. 132 of 1979)

This Act amends the principal Act of 1975 by making provision to regulate internal searches of persons under arrest on suspicion of having committed certain specific offences under the principal Act.

Papua New Guinea

Baby Feed Supplies (Control) Act 1977

The Act restricts the right of freedom of expression conferred by s. 46 of the Constitution in order to protect baby health from the consequences of the unhygienic, insufficient or wrong use of certain items connected with the feeding of babies. (e.g. feeding bottles, teats, dummies, and the purchase or use of milk or other products in connection with them).

Under the Act it is an offence to publish an advertisement whose intention or likely effect is to encourage the bottle feeding of babies or the purchase or use of prescribed articles or the purchase or use of milk or other products in connection with the use of prescribed articles. However a pharmacist may display within his pharmacy an advertisement which may otherwise be prescribed to an extent necessary to enable persons obtaining prescribed articles in accordance with an authorization given under the Act, to choose those articles. Suppliers may also use advertisements in the course of their business but only display to pharmacists, nurses, or persons empowered by the Act to give authorizations.

Authorization to obtain a prescribed article is only to be given where it would be in the interests of the baby or infant to be fed or soothed by the prescribed article, and at the time the authorization is given instructions as to the article's proper use are also to be given.

The International Planned Parenthood Federation notes that this legislation is the first of its kind to have been received at its London Headquarters.

St. Lucia

Public Health Regulations

The following Regulations have been made under the Public Health Act 1975—

- (i) Public Health (Nuisances) Regulations 1978
(S. R. & O. 1978, No. 10)
- (ii) Public Health (Offensive Trades) Regulations 1978
(S. R. & O. 1978, No. 11)
- (iii) Public Health (Communicable and Notifiable Diseases) Regulations 1978
(S. R. & O. 1978, No. 12)
- (iv) Public Health (Barber) Regulations 1978
(S. R. & O. 1978, No. 13)
- (v) Public Health (Water Quality Control) Regulations 1978
(S. R. & O. 1978, No. 14)
- (vi) Public Health (Apartment Houses, Guest Houses and Hotels) Regulations 1978
(S. R. & O. 1978, No. 15)
- (vii) Public Health (Swimming Pools) Regulations 1975
(S. R. & O. 1978, No. 16)

- (viii) Public Health (Notification of Births) Regulations 1978
(S. R. & O. 1978, No. 17)
- (ix) Public Health (Bakeries) Regulations 1978
(S. R. & O. 1978, No. 18)
- (x) Public Health (Transportation of Human Remains)
Regulations 1978
(S. R. & O. 1978, No. 19)
- (xi) Public Health (Barracks and Tenements) Regulations 1978
(S. R. & O. 1978, No. 20)
- (xii) Public Health (Disposal of Offensive Matter) Regulations 1978
(S. R. & O. 1978, No. 21)
- (xiii) Public Health (Sewage and Disposal of Sewage and Industrial
Waste Works) Regulations 1978
(S. R. & O. 1978, No. 22)

Labour Bill 1980

This is a very comprehensive Bill dealing with all aspects of industrial relations. Its long title describes its purpose as being—

to improve the security of employment of employees; to reassert the right of free association of employees and employers and the right to take industrial action; to encourage the growth of responsible trade unions and the development of collective bargaining by making provision for the regulated recognition of trade unions by employers; to set new and improved standards of occupational health and safety; generally to modernise, co-ordinate and harmonise the labour laws of the State; to ensure that the labour laws of the State comply with its international obligations; to establish a judicial tribunal to decide disputes and other matters arising out of this Act; and to establish formal methods of consultation to assist the Minister in the carrying out of his duties.

The Bill seeks to repeal all the existing legislation relating to industrial relations. Its 424 sections are classified as follows—

- (i) *Preliminary* (including definitions of such terms as “absenteeism”, “bargaining in good faith”, “continuous employment”, “fixed term contract”, “immediate family”, “irregular industrial action short of a strike”, “lockout”, and “temporary cessation of work”) In this part, the right of an employee to join the trade union of his choice or not to join a trade union as well as the right to resort to industrial action are recognised.
- (ii) *The Labour Department* This part contains the administrative arrangements within the department as well as provision for a Labour Advisory Board, a Wages Committee and a Tribunal.
- (iii) *Terms of employment* Included here are reasons for dismissal which are “fair”, distinguished from those which are “unfair”.
- (iv) *Employment of women, young persons and special provisions for the employment of domestic servants and shop assistants*
- (v) *Work permits*
- (vi) *Control of wages*, including duty to pay the minimum wage and particulars relating to the payment of wages.
- (vii) *Health and security*

- (viii) *Training and manpower development* This part provides for the establishment of a Training and Manpower Development Commission.
- (ix) *Trade Unions and Employers' Associations*
- (x) *Settlement of trade disputes*
- (xi) *Recruitment*
- (xii) *Offences, penalties and legal proceedings*

The Schedule contains a Code of Industrial Relations Practice which is designed to give practical guidance for promoting good industrial relations. While the Code imposes no legal obligations, its provisions may be taken into account in proceedings before any court. It deals exhaustively with responsibilities, employment policies, conditions and consultations, recognition of Trade Unions, collective bargaining, employee representation at the place of work, grievance and dispute procedures and disciplinary procedures.

Among other material in the Schedule are the Rules of the Tribunal, Rules for the conduct of a ballot under the Labour Act, occupations in which women, young persons and children may not be employed, and notifiable occupational diseases.

St. Vincent

Arrowroot Industry Act 1976 (Act No. 20 of 1976)

The Act establishes the Arrowroot Industry Association to encourage the industry, to supervise production and processing, and to control export marketing.

Public Health Act 1977 (No. 9 of 1977)

The purpose of this Act is to secure and maintain public health, mainly by the prevention and suppression of communicable diseases, by ensuring treatment of persons suffering from venereal diseases, by providing hospitals for lepers, and by the construction and regulation of buildings used for the storage of foodstuffs.

The Act also provides for the constitution of a Central Board of Health, having the Medical Officer of Health as the Chief Executive Officer, and a Public Health Department, under the control of the Medical Officer of Health.

Evidence (Amendment) Act 1977 (No. 31 of 1977)

The Act makes new provision for the admission in evidence of the certificate of the Government chemist, in the following terms—

7. (1) In criminal proceedings the certificate of a Government chemist purporting to be signed by him is admissible as prima facie evidence of the matters stated therein if it is proved by other evidence that the seals or other fastenings of the container of the substance or thing analysed and in respect of which the certificate was given were intact at the time the container was delivered to him.

(2) When a certificate of a Government chemist is used in criminal proceedings the judge or magistrate may, if he thinks fit, require the

attendance of the Government chemist and examine him as to the subject-matter thereof.

(3) In criminal proceedings either of the parties may require the attendance of a Government chemist to give evidence and in that case the costs of his attendance shall, unless the judge or magistrate otherwise orders, be payable by the party so requiring.

(4) In criminal proceedings a court may presume that the signature to a certificate of a Government chemist is genuine and that the person who signed it held the office and qualifications which he professed to hold at the time when he signed it.

Central Water and Sewerage Authority Act 1978 (No. 6 of 1978)

This Act repeals the Central Water Authority Ordinance 1969 and establishes the Central Water and Sewerage Authority with power to formulate proposals for meeting water supply or sewerage disposal requirements and to levy and collect rates and charges for water supplied and for other services provided by the Authority.

Nurses, Midwives and Nursing Assistants Act 1978 (No. 11 of 1978)

This Act consolidates and amends the law relating to the registration of Nurses and Midwives and provides for enrolment of Nursing Assistants.

The Act also provides for the establishment of a General Nursing Council having responsibility for the education, qualification, practice and conduct of Nurses, Midwives and Nursing Assistants.

Professions Licensing Act 1979 (No. 8 of 1979)

This Act makes provision for the levy and collection of licence fees from members of the professions listed in the Schedule. Included among the 24 professions liable to a licence fee are Barristers and Solicitors, Medical and Dental Practitioners, Veterinary Surgeons, Electrical and Civil Engineers, Architects, Chartered Accountants, and Insurance Brokers and Agents.

Singapore

Infectious Diseases Act 1976

This Act replaces the Diphtheria Immunisation Act (Cap. 153), the Leprosy Act (Cap. 159) and the Quarantine and Prevention of Disease Act (Cap. 166) with a new, comprehensive and up-to-date framework for dealing with quarantine and the prevention of infectious diseases in Singapore. The Act also gives formal recognition to the separate responsibilities of the Ministry of Health and the Ministry of the Environment in the administration of this branch of the law, and confers wider powers on the authorities for more efficient administration.

Misuse of Drugs (Amendment) Act 1977

This Act, inter alia, empowers the Director of the Central Narcotics Bureau to make an order requiring a drug addict or a person whose urine has been found to be positive as a result of a urine test to be admitted to an approved institution to undergo treatment and rehabilitation. A person so admitted will be detained therein for a period of six months unless earlier discharged by the Director or a Review Committee of the institution.

The Review Committee of an approved institution has the power to extend the period of detention of an inmate for a further period not exceeding six months at any one time; but no inmate who has been admitted pursuant to an order of the Director may be detained for more than two years after his admission to an approved institution.

The Review Committee of an approved institution is required to keep the case of every inmate under review and to consider as often as practicable whether he should be discharged.

Swaziland

Medical and Dental Practitioners Act 1970 (No. 3 of 1970)

Legal Notice No. 85 of 1977 adds to the number of Medical and Dental Councils recognised by the Swaziland Council for purposes of registration as medical practitioners or dentists, corresponding Councils in Ghana, Israel, Kenya, Nigeria, Tanzania, West Germany and Zambia.

Control of Natural Therapeutic Practitioners Regulations 1978

These Regulations relate to the registration and control of "natural therapeutic practitioners" who are defined as persons who practice as chiropractors, homeopaths, naturopaths or electropaths. The Registration and Control of Para-Medical Practitioners' Regulations 1972 are applied mutatus mutandis. Para-medical practitioners, as opposed to natural therapeutic practitioners, are persons entitled to practice any of the following occupations as set out in the Swaziland Medical and Dental Practitioners Act 1970, namely, chiropodists, diagnostic radiographers, dietitians, food inspectors, health inspectors, medical technologists, anaesthetic assistants, occupational therapists, optometrists, orthopaedic mechanics, surgical appliance makers, physiotherapists and dental mechanics. It is specially provided that a person practising as a natural therapeutic practitioner shall not —

- (a) practise midwifery;
- (b) perform any surgical operation or administer any injection to any person;
- (c) withdraw blood from any person;

- (d) treat or offer to treat cancer or prescribe a remedy for cancer or claim that any article, apparatus or substance will or may be of value for the alleviation of the effects of the curing or treatment of cancer;
- (e) perform any internal examination on any person;
- (f) claim or by any means whatsoever hold himself out, to be a medical practitioner or use the name medical practitioner, or doctor or any other name, title, description, or symbol indicating or calculated to lead persons to infer that he possesses any qualifications of a medical practitioner; or
- (g) prevent any person from being treated by, or improperly influence any person to abstain from treatment by a person registered in terms of the Act.

No prosecution for a contravention of these regulations can be brought without the prior written consent of the Attorney-General.

Tanzania

National Institute for Medical Research Act 1979 (No. 23 of 1979)

This Act is one of many that were passed to fill the vacuum created by the breakdown of the East African Community. The Act establishes an Institute for Medical Research and among its main functions are, to take over and continue the business and activities of medical research centres in Tanzania which were formerly run under the auspices of the defunct East African Community; in co-operation with the government or other persons to promote or provide training facilities for local personnel for medical research and to monitor, control and, co-ordinate medical research carried out within Tanzania or elsewhere and to evaluate the findings of that research.

Trinidad and Tobago

St. John Ambulance Association and Brigade of Trinidad and Tobago (Incorporation) Bill

The Bill seeks to give corporate status to the above voluntary and charitable organization, especially as its establishment and continuance is still dependent upon the statutes of the Order of the Grand Priory of the Most Venerable Order of the Hospital of St. John of Jerusalem in the United Kingdom. With incorporation the organization would become a separate and distinct legal entity though at the same time it will adhere to the traditions and principles of the Order as embodied in its motto "Pro Fide, Pro Utilitate Hominum".

Disaster Measures Act 1978

This Act provides for the taking of effective measures to cope with disasters. It seeks to empower the President to declare by Proclamation published in the Gazette a disaster area where any area is affected by calamity such as any fire, flood, landslide, hurricane, disease or other calamity.

The Act provides that for so long as the area is a disaster area the President or someone duly authorised by him may take such measures and exercise such powers as may be considered necessary to mitigate the effects of the disaster. Such measures include—

- (a) assuming control of and regulating—
 - (i) all means of communication and transport,
 - (ii) all supplies of food and other necessities,
 - (iii) all water, fuel and power installation;
- (b) entering into and taking possession of any building for the purpose whatsoever including the demolition of that building;
- (c) prohibiting or restricting the possession or use by any person of any specified articles or commodities;
- (d) imposing restrictions on persons leaving or entering the disaster area.

Dental Profession Bill 1980

This Bill seeks to regulate the practice of dentistry by the establishment of a Dental Board with provision for the election of a Council of the Board exercising executive functions on its behalf. The Bill makes provision for the registration of dentists and the emolument of dental auxiliaries. In addition there is provision for the establishment of a Register of Dentists, and Rolls for dental auxiliaries. The Bill would make it an offence, inter alia, to hold out as a dentist or dental auxiliary or practise as a dentist or dental auxiliary, while not being registered or enrolled, as the case may be.

There are also miscellaneous provisions dealing with appeals to a Judge in Chambers by a person aggrieved by the refusal of the Council to register or enroll him, as the case may be, or who has been suspended from practising or whose name has been removed from the Register or Roll.

United Kingdom Congenital Disabilities (Civil Liability) Act 1976

The Act provides for civil liability in the case of children born disabled as a result of some person's fault. It also extends the Nuclear Installations Act 1965, so that children born disabled in consequence of a breach of duty under that Act may claim compensation.

Criminal Law Act 1977

The Act implements the Report of the Law Commission (for England and Wales) on Conspiracy and Criminal Law Reform, (Law Com. No. 76) and some of the principal recommendations of the James Committee on the distribution of criminal business; and modifies the criminal law and procedure in a number of areas, including—

- (vii) *definition of "cannabis"*: the Act amends the definition of "cannabis" in the Misuse of Drugs Act 1971 to include all parts of any plant of the genus *Cannabis* other than cannabis resin (already separately defined), the mature stalk, the fibre produced from mature stalk and the seed, after separation from the plant. [This amendment was necessitated by the decisions of the Court of Appeal in *Reg. v. Goodchild* [1977] 1 W.L.R. 473 and *Reg. v. Mitchell* [1977] 1 W.L.R. 753.];
- (viii) *incest*: the Act makes it an offence for a man to incite a girl under the age of 16 (whom he knows to be his grand-daughter, daughter or sister) to have sexual intercourse with him. The relationship does not have to be traced through lawful wedlock;

Medical Act 1978

This Act provides for the constitution and functions of the General Medical Council, branch councils and committees; and amends certain enactments relating to medical education, the registration of medical practitioners and their professional conduct and fitness to practice.

In the Part of the Act which deals with the registration of practitioners qualified overseas, a Review Board is established with jurisdiction to give advisory opinions on decisions made by the General Council which fall into prescribed categories. The Review Board's opinion is then transmitted to the President of the General Council, or to a Council member appointed for this purpose, who may, if having regard to the Board's opinion he thinks fit, direct that the decision which was subject of review be reversed.

One of the Schedules to the Act sets out the procedure to be followed by the Professional Conduct Committee and the Health Committee, with power for the General Council to make rules for the purposes of proceedings before such Committees.

National Health Service (Scotland) Act 1978

This Act consolidates a number of enactments relating to the health service in Scotland.

Vaccine Damage Payments Act 1979 (c. 17)

This Act makes provision for payments to be made out of public funds in cases where severe disablement occurs as a result of vaccination against certain diseases or of contact with a person who has been vaccinated against any of those diseases; and makes provision in connection with similar payments made before the passing of the Act.

The diseases to which the Act applies are –

- (a) diphtheria,
- (b) tetanus,
- (c) whooping cough,
- (d) poliomyelitis,
- (e) measles,
- (f) rubella,
- (g) tuberculosis,
- (h) smallpox, and
- (i) any other disease specified by the Secretary of State for the purposes of the Act by statutory order.

The Act gives power to the Secretary of State, in accordance with the provisions of the Act, to make payment of £10,000 to or for the benefit of a person, (or to his personal representative) if he is satisfied that the applicable conditions of entitlement set out in the Act are fulfilled, and that the person concerned is (or was immediately before his death) severely disabled as a result of vaccination against one of the specified diseases.

The Act also make provision regarding the manner in which claims are to be determined; the review by independent medical tribunals (to be established by regulation) of the extent of disablement and causation; the reconsideration of determinations; the manner in which ex gratia payments, or claims, made before the passing of the Act are to be treated; and financial matters.

The Act also applies to a person who is severely disabled as a result of a vaccination given to his mother before he was born as if the vaccination had been given directly to him.

Pneumoconiosis etc. (Workers' Compensation) Act 1979 (c. 41)

This Act makes provision to enable the Secretary of State to make lump sum payments to persons who are disabled by pneumoconiosis, byssionosis or diffuse mesothelioma, or where applicable, to the dependants of persons who were, immediately before they died, disabled by one of those diseases.

The amounts to be paid are to be prescribed by regulations, which may specify different amounts for different cases or classes of cases or for different circumstances.

The Act also sets out the conditions of entitlement; who are dependants for the purposes of the Act; the manner in which claims

are to be determined or may be reconsidered; and provides for other related matters.

Nurses, Midwives and Health Visitors Act 1979 (c. 36)

This Act [the Bill was briefly noted at (1979) 5 C.L.B. 48] establishes a Central Council for Nursing as a corporate body, and National Boards for England, Wales, Scotland and Northern Ireland. The principal functions of the Central Council are to establish and improve standards of training and professional conduct for nurses, midwives and health visitors, and in the discharge of its functions the Council is required to have proper regard for the interests of all groups within the professions, including those with minority representation. The Council must ensure that the standards of training they establish meet any Community obligation of the United Kingdom. The Council is also required, by means of rules, to determine the conditions of a person's being admitted to training, and the kind and standard of training to be undertaken, with a view to registration, and such rules may also make provision with respect to the kind and standard of further training available to persons who are already registered. The powers of the Council include that of providing advice for nurses, midwives and health visitors on standards of professional conduct.

The Secretary of State is required to constitute as standing committees of the Council, a Midwifery Committee and a Finance Committee, and he may constitute other standing committees of the Council and (to the extent prescribed by the order) require the Council to consult them on, or empower them to discharge functions of the Council with respect to, other matters including in particular—

- (a) training,
- (b) clinical nursing studies,
- (c) mental nursing, and
- (d) occupational health nursing.

The National Boards have the following functions—

- (a) to provide, or arrange for others to provide, at institutions approved by the Board—
 - (i) courses of training with a view to enabling persons to qualify for registration as nurses, midwives or health visitors or for the recording of additional qualifications in the register, and
 - (ii) courses of further training for those already registered;
- (b) to ensure that such courses meet the requirements of the Central Council as to their content and standard;
- (c) to hold, or arrange for others to hold, such examinations as are necessary to enable persons to satisfy requirements for registration or to obtain additional qualifications;
- (d) to collaborate with the Council in the promotion of improved training methods; and

(e) to carry out investigations of cases of alleged misconduct, with a view to proceedings before the Central Council or a committee of the Council for a person to be removed from the register.

The National Boards must discharge their functions subject to and in accordance with any applicable rules of the Council and must have proper regard for the interests of all groups within the profession, including those with minority representation.

Other provisions of the Act relate to the preparation and maintenance of the professional register; admission to, removal from and restoration to, the register; miscellaneous provisions about mid-wifery; and financial provisions.

An appeal by a person aggrieved by a decision to remove him from the register (or to remove or alter any relevant entry) lies to the High Court, the Court of Session or the High Court in Northern Ireland, depending on the appellant's ordinary place of residence.

Hypnotism (No. 2) Bill

The purpose of this Bill is to control demonstrations of hypnotism at clubs, and to prohibit advertisements and records relating to hypnotism. The Bill would extend to clubs the provisions of the Hypnotism Act 1952 which at present prohibit exhibitions, demonstrations or performances of hypnotism on persons at entertainments to which the public are admitted unless authorised under s. 2 of that Act. Authorisations may be subject to conditions and are granted by a local authority. It also would increase the maximum fines which can be imposed for offences under that Act.

The Bill also prohibits taking part in –

- (a) the publication of any advertisement relating to hypnotism or in respect of any person as a hypnotist, or
- (b) the issue to the public of any record capable of inducing hypnotism.

It would be a defence for the accused to prove that he is a person whose business it is to publish or arrange for the publication of advertisements (or to issue or arrange for the issue of records) and that he received the advertisement or record in question for publication or issue in the ordinary course of business and did not know, and had no reason to suspect, that its publication or issue would amount to an offence.

Pneumoconiosis etc. (Workers' Compensation) (Determination of Claims) Regulations 1979 (S.I. 1979 No. 727)

These Regulations, made under the Act noted at (1979) 5 C.L.B. 636, prescribe the manner in which claims for payment are to be made for determination by the Secretary of State. Provisions are also made for applications for reconsideration of such determinations.

Tribunals and Inquiries (Vaccine Damage Tribunals) Order 1979 (S.I. 1979 No. 659)

These Regulations place under the supervision of the Council on Tribunals, the tribunals constituted under the Vaccine Damage Payments Act 1979, noted at (1979) 5 C.L.B. 635. Provision is also made for the selection of the Chairmen of such tribunals.

Laboratory Animals Protection Bill

The Bill seeks to replace the Cruelty to Animals Act 1876 and make new provisions for the protection of laboratory animals.

Clause 1 prohibits the performance on living animals of any procedure (defined to include experimental and testing procedures and those used in the production of vaccines, sera etc.) which may cause the animal distress, pain or ill-health, except subject to the restrictions imposed by the Act.

Clause 2 states the conditions under which procedures may be carried out and provides for special restrictions, by means of specific licence conditions made by the Home Office (referred to as the Secretary of State) on procedures liable to cause pain and those carried out for special purposes. Inter alia, it prohibits the making of visual recordings (films etc.) when the purpose is only to make the recording. Paragraph (h) requires animals subjected to painful procedures to be killed at the end of the procedure, or during the procedure if the pain is severe or enduring. It also protects the offspring of such animals.

Clause 3 confers power on the Secretary of State to amend the range of species protected by the Act, which are mentioned in a Schedule.

Procedures are introduced for the licensing of premises and places (which could for example be a particular field on a farm) and prohibits the performance of procedures except on licensed premises or places. Also prohibited is the performance of procedures except under licence save that unlicensed students are enabled to carry out procedures on unconscious animals under the close supervision of a full licence holder who must ensure that the animals do not regain consciousness. A system for the application and issue of licences is set out which replaces the present system involving various types of certificate and provide for the issue of a basic licence to carry out procedures in which the animal is fully anaesthetised and is killed before retaining consciousness and also for endorsements to be added, laying down special conditions such as the species of animals to be used and the definition of the procedures permitted, when such procedures may cause the animals pain. The system also provides for the sponsorship of applications for licenses by two sponsors, one of whom has charge and knowledge of the applicant and the laboratory, and the other of whom is an independent professor of a

biological science whose name is on a register kept by the Secretary of State and compiled from names recommended to him by any of the persons listed in a Schedule.

The issue of probationer licences is provided for, permitting procedures to be carried out only under the supervision of a full licensee; and for all first licences to be subject to this restriction.

The Secretary of State is required to publish a Guide to Good Laboratory Animal Practice covering the management and use of laboratory animals, including advice on the use of alternative methods. This will enable guidance to be given on standards of excellence without making them necessarily mandatory.

The appointment of inspectors is provided for and their duties defined. They will have a right of access to licensed premises to carry out their duties and power to order the killing of any animal they consider to be suffering unduly, and in the event of dispute it gives the inspectors an absolute power of decision.

The Secretary of State is also required to publish an annual report on all procedures carried out, analysed by purpose of procedures and species of animals used, and giving a statement of recorded infringements.

Transplant of Human Organs Bill 1979

This private member's Bill seeks to allow hospitals to take organs from a patient once clinical death has been established unless he has previously registered his dissent.

The Bill has the following features—

- (i) a registered medical practitioner would be able, at the request of another such practitioner, to authorise the removal and use for therapeutic or curative purposes of any part of the body of a person who has died while under his care, unless he has before his death registered his objection to the use of his body, or part of his body, for such purposes;
- (ii) no authorisation could be given, and no removal effected until the death has been certified by two registered medical practitioners, neither of whom can be the practitioner requesting the removal, and one of whom must be of not less than five years' standing;
- (iii) a certification of death under these provisions must be accompanied by notes recording the observations of the practitioners at the time of the death and the clinical action taken immediately to, before and after death. Both the certificate and the notes must be made available, if required, to a coroner;
- (iv) the removal of a part of a body must only be effected by a registered medical practitioner;

- (v) if there is reason to believe that an inquest or a post-mortem may be required, the practitioners need the consent of the coroner;
- (vi) registration of objections would be effected by the Secretary of State. Objection may be notified by a person only in respect of his own body (or any specified part) and in the case of a person under 16, by his parent or guardian. A notification can be varied or revoked by a subsequent notification;
- (vii) the Secretary of State would have power to make regulations prescribing the form in which notification of objections is to be made, and to make any other provision he deems necessary for the proper performance of his functions. Regulations would be subject to annulment by a resolution of either House of Parliament;
- (viii) the Secretary of State would be required to ensure that information contained in the register is recorded on a computer and is available at all times for immediate transmission on request to registered medical practitioners.

Note: The Report of a Government working party aimed at giving guidance to all concerned with transplants, and at reducing public anxiety by eliminating uncertainty, is expected shortly. The working party was under the chairmanship of Lord Smith of Marlow, a former President of the Royal College of Surgeons.

Residential Homes Act 1980 (c.7)

This Act consolidates certain enactments relating to the registration, inspection and conduct of residential homes for disabled, old or mentally disordered persons and to the provision, by district councils, of meals and recreation for the aged.