

Reprint  
as at 1 July 2012



**Mental Health Commission Act  
1998**

Public Act 1998 No 5  
Date of assent 27 March 1998  
Commencement see section 1(2)

Mental Health Commission Act 1998: expired, on 1 July 2012, by section 13(1).

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Health.**

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**Title** *[Repealed]*

Title: repealed, on 30 August 2007, by section 4 of the Mental Health Commission Amendment Act 2007 (2007 No 30).

*[Repealed]***1 Short Title and commencement**

- (1) This Act may be cited as the Mental Health Commission Act 1998.
- (2) This Act comes into force on 1 April 1998.

**2 Interpretation**

- (1) In this Act, unless the context otherwise requires,—
  - Commission** means the Mental Health Commission established by section 5
  - district health board** means a district health board established by or under section 19 of the New Zealand Public Health and Disability Act 2000
  - family** includes whanau, hapu, iwi, and family group
  - Minister** means the Minister of Health
  - Ministry** means the Ministry of Health
  - national mental health strategy**—
    - (a) means the strategic directions for the mental health services of New Zealand described in—

- (i) the document entitled “Looking Forward—Strategic Directions for the Mental Health Services” published by the Ministry in June 1994; and
  - (ii) the document entitled “Moving Forward—The National Mental Health Plan for More and Better Services” published by the Ministry in July 1997; and
- (b) includes every variation of, or addition to, those strategic directions approved by the Minister and published under section 3(1)(b)

**provider** means a provider of services that affect people with mental illness

**stakeholder** includes—

- (a) the Ministry; and
- (b) district health boards; and
- (c) mental health service funders; and
- (d) providers; and
- (e) people with mental illnesses, and their families and caregivers; and
- (f) groups representing the interests of people with mental illness and their families and caregivers

**year** means a period of 12 months commencing on 1 July and ending with 30 June.

(2) *[Repealed]*

Section 2(1) **district health board**: inserted, on 1 January 2001, by section 111(1) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

Section 2(1) **Health Funding Authority**: repealed, on 1 January 2001, by section 111(1) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

Section 2(1) **stakeholder**: inserted, on 30 August 2007, by section 5(1) of the Mental Health Commission Amendment Act 2007 (2007 No 30).

Section 2(2): repealed, on 30 August 2007, by section 5(2) of the Mental Health Commission Amendment Act 2007 (2007 No 30).

### 3 Amendments to national mental health strategy

- (1) The Minister may from time to time—
  - (a) approve a variation of the national mental health strategy or an addition to it; and

- (b) give permission for the publication by the Ministry of a document that describes the variation or addition.
- (2) On the publication of a document under subsection (1)(b), the variation or addition described is included in the national mental health strategy.

#### **4 Act to bind the Crown**

This Act binds the Crown.

### *Establishment and functions of Mental Health Commission*

#### **5 Establishment of Commission**

- (1) There is established a Commission to be called the Mental Health Commission.
- (2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.

Section 5(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 5(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **6 Functions of Commission**

The functions of the Commission are—

- (a) to act as an advocate for the interests of people with mental illness and their families generally (rather than for individuals or groups), while taking into account the interests of other stakeholders; and
- (b) to promote and facilitate collaboration and communication about mental health issues among—
  - (i) stakeholders and representatives in the mental health, government, academic, and community sectors; and
  - (ii) members of the general public; and
- (c) to work, independently and with others,—
  - (i) to promote better understanding of mental illness by the community; and

- (ii) to reduce the stigma associated with mental illness and prejudice shown towards people with mental illness and their families and caregivers; and
- (iii) to eliminate inappropriate discrimination on the ground of mental illness against people with mental illness and their families and caregivers; and
- (d) to monitor, and to report to and advise the Minister on, any matter relating to the implementation of the national mental health strategy—
  - (i) at intervals agreed between the Minister and the Commission; and
  - (ii) when otherwise requested by the Minister; and
  - (iii) from time to time, as the Commission thinks fit; and
- (e) to stimulate and support policy-makers and the funders and providers of mental health services in developing integrated, effective, and efficient methods or systems of providing care that meet the needs of their communities; and
- (f) to stimulate and undertake research into any matter relevant to mental illness.

Section 6: substituted, on 30 August 2007, by section 6 of the Mental Health Commission Amendment Act 2007 (2007 No 30).

### *Other matters relating to Mental Health Commission*

#### **7 Annual report**

*[Repealed]*

Section 7: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **8 Powers of Commission**

*[Repealed]*

Section 8: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**9 Membership of Commission**

- (1) The Commission consists of 3 members.
- (2) Members of the Commission are the board for the purposes of the Crown Entities Act 2004.

Section 9(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 9(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**10 Term of office of member of Commission to cease when Act expires, or earlier**

When this Act expires, the term of office of every member of the Commission who has not ceased to hold office before that time expires.

Section 10: substituted, on 30 August 2007, by section 7 of the Mental Health Commission Amendment Act 2007 (2007 No 30).

**11 Further provisions applying in respect of Commission**

The provisions set out in Schedule 1 apply in respect of the Commission.

**12 Advisory committee**

The Minister may, at the request of the Commission, appoint under section 11 of the New Zealand Public Health and Disability Act 2000 an advisory committee to provide advice to the Commission in relation to the functions of the Commission set out in section 6.

Section 12: amended, on 1 January 2001, by section 111(1) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

*Miscellaneous provisions***13 Expiry and repeal of Act**

- (1) This Act expires on the close of 30 June 2012.
- (2) *[Repealed]*
- (3) At the expiry of this Act—
  - (a) the Commission ceases to exist; and
  - (b) all assets and liabilities of the Commission become assets and liabilities of the Crown; and

- (c) employment contracts between the Commission and any person are terminated and no compensation is payable except as provided in the relevant employment contract.
- (4) This Act is repealed at the time at which it expires.  
Section 13(1): replaced, on 1 July 2012, by section 4 of the Mental Health Commission Amendment Act 2012 (2012 No 42).  
Section 13(2): repealed, on 30 August 2007, by section 8(2) of the Mental Health Commission Amendment Act 2007 (2007 No 30).

#### **14 Amendments to other enactments**

The enactments specified in Schedule 2 are amended in the manner indicated in that schedule.

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**Schedule 1**

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**Provisions applying in respect of Mental Health Commission****1 Delegation of functions or powers by Commission***[Repealed]*

Schedule 1 clause 1: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**2 Members not personally liable***[Repealed]*

Schedule 1 clause 2: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**3 Extraordinary vacancies***[Repealed]*

Schedule 1 clause 3: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**4 Meetings***[Repealed]*

Schedule 1 clause 4: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**5 Remuneration and travelling allowances***[Repealed]*

Schedule 1 clause 5: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**6 Employees***[Repealed]*

Schedule 1 clause 6: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**7 Personnel policy***[Repealed]*

Schedule 1 clause 7: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**8 Choice of procedure**

*[Repealed]*

Schedule 1 clause 8: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**9 Application of certain Acts to members and employees**

*[Repealed]*

Schedule 1 clause 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**10 Superannuation or retiring allowances**

- (1) For the purposes of providing superannuation or retiring allowances for any member of the Commission, the Chairperson of the Commission may, out of the funds of the Commission, make payments to or subsidise any superannuation scheme that is registered under the Superannuation Schemes Act 1989.
- (2) Despite anything in this Act, any person who, immediately before being appointed as a member or, as the case may be, becoming an employee of the Commission, is a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 is deemed to be, for the purposes of the Government Superannuation Fund Act 1956, employed in the Government service so long as that person continues to be a member of the Commission or, as the case may be, to be an employee of the Commission; and that Act applies to that person in all respects as if that person's service as a member or, as the case may be, as an employee, were Government service.
- (3) Subject to the Government Superannuation Fund Act 1956, nothing in subclause (2) entitles any such person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.
- (4) For the purpose of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2), to a person who is a member or, as the case may be, an employee of the Commission and (in any such case) is a contributor to the Government Superannuation Fund, the term **controlling au-**

**thority**, in relation to any such person, means the Chairperson of the Commission.

Schedule 1 clause 10(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**11 Funds of Commission**

*[Repealed]*

Schedule 1 clause 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**12 Auditor-General to be auditor of accounts and financial statements**

*[Repealed]*

Schedule 1 clause 12: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**13 Commission to be Crown entity**

*[Repealed]*

Schedule 1 clause 13: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

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**Schedule 2**

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**Enactments amended**

**Official Information Act 1982 (1982 No 156) (RS Vol 21 p 579)**

*Amendment(s) incorporated in the Act(s).*

**Public Finance Act 1989 (1989 No 44) (RS Vol 33, p 419)**

*Amendment(s) incorporated in the Act(s).*

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## **Mental Health Commission Amendment Act 2007**

Public Act 2007 No 30  
Date of assent 17 August 2007  
Commencement see section 2

### **1 Title**

This Act is the Mental Health Commission Amendment Act 2007.

### **2 Commencement**

This Act comes into force on 30 August 2007.

## **Part 2 Transitional provisions**

### **9 Office of members of Commission**

- (1) This section applies to a person who, immediately before the commencement of this Act, held office as a member of the Commission.
- (2) After the commencement of this Act, a person to whom this section applies holds office for the shorter of the following periods:
  - (a) 6 months from that commencement;
  - (b) a term determined by the Minister.
- (3) Despite subsection (2), a person may be reappointed after the expiry of the term of office determined in accordance with that subsection.
- (4) Except as provided in this section and section 10, the Crown Entities Act 2004 applies to all members of the Commission.
- (5) This section overrides section 10 of the principal Act.

### **10 Superannuation, retiring allowances, and compensation for loss of office**

- (1) Despite section 9 of this Act, clause 10 of Schedule 1 of the principal Act continues to have the effect, if any, in relation to

a person to whom section 9 applies, as if that section had not been enacted.

- (2) No person to whom section 9 applies is entitled to compensation for loss of office other than as provided under this section.

**11 Reports under repealed section 6(1)(a)**

Reports that, but for the repeal of the former section 6 of the principal Act, would have been required to be presented in the year in which this Act comes into force need not be presented.

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**Notes****1 General**

This is a reprint of the Mental Health Commission Act 1998. The reprint incorporates all the amendments to the Act as at 1 July 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

**4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989***

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

## **5 *List of amendments incorporated in this reprint (most recent first)***

Mental Health Commission Amendment Act 2012 (2012 No 42)

Mental Health Commission Amendment Act 2007 (2007 No 30)

Crown Entities Act 2004 (2004 No 115): section 200

New Zealand Public Health and Disability Act 2000 (2000 No 91): sections 109, 111(1)