

**Reprint  
as at 4 January 2017**



## **Tuberculosis Act 1948**

Public Act      1948 No 36  
Date of assent      12 November 1948  
Commencement      see section 1(2)

Tuberculosis Act 1948: repealed, on 4 January 2017, by section 15 of the Health (Protection) Amendment Act 2016 (2016 No 35).

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#### **Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

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

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**An Act to make better provision for the treatment, care, and assistance of persons suffering or having suffered from tuberculosis, and for preventing the spread of tuberculosis**

## 1 Short Title and commencement

- (1) This Act may be cited as the Tuberculosis Act 1948.
- (2) This Act shall come into force on 1 April 1949.

## 2 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**child** means any person under the age of 16 years

**contact**, when used with reference to tuberculosis, means any person who resides or works, or has resided or worked, in close association with any other person suffering from tuberculosis

**Director-General** means the Director-General of Health

**district nurse**—

- (a) means a district nurse employed by the chief executive of the Ministry of Health, or in an institution; and
- (b) includes a nurse inspector

**inpatient** means any person who is an inmate of any institution for the purpose of undergoing treatment in respect of tuberculosis or of preventing the spread of the infection of tuberculosis

**institution** means a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001

**medical officer of health** means a person designated as a medical officer of health under the Health Act 1956

**medical practitioner**—

- (a) means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine; and
- (b) includes a tuberculosis officer

**Minister** means the Minister of Health

**outpatient** means any person, not being an inmate of a sanatorium or other institution, who is undergoing treatment, or under medical care or supervision, in respect of tuberculous disease and is enrolled as an outpatient at a tuberculosis clinic

**premises** includes any home trade ship within the meaning of the Shipping and Seamen Act 1952

**prescribed** means prescribed by this Act or by or under regulations under this Act

**tuberculosis** means tuberculous disease, in any form, which has not yet been arrested

**tuberculosis clinic** means any tuberculosis clinic established pursuant to this Act or any place declared by the Minister to be a tuberculosis clinic for the purposes of this Act

**tuberculosis officer** means a medical practitioner employed by a district health board or by the Ministry of Health and in charge, in the course of such employment, of the examination, treatment, and supervision of persons who are suffering or suspected of suffering from tuberculosis and are inpatients in any institution (not being a sanatorium) under the control of the district health board or the Ministry or are attending, for examination or treatment, any such institution or any tuberculosis clinic; and includes any medical practitioner so employed who is for the time being acting as an assistant tuberculosis officer

**tuberculous person** means any person who is suffering from tuberculosis in an active form and who is likely to infect others.

- (2) If any question arises as to whether or not any person is a contact for the purposes of this Act, the question shall be determined in accordance with the decision of the medical officer of health. Where under this subsection any person is determined to be a contact, that person, or, if that person is a child, any parent or guardian or other person for the time being in charge of the child, may appeal in writing to the Director-General against the determination, and the Director-General's decision shall be final.
- (3) The Minister may from time to time, by notice in the *Gazette*, declare any place to be a tuberculosis clinic for the purposes of this Act.

Section 2(1) **area health board**: repealed, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 2(1) **board** or **hospital board**: repealed, on 1 April 1984, by section 98 of the Area Health Boards Act 1983 (1983 No 134).

Section 2(1) **Director-General**: amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 2(1) **district nurse**: replaced, on 1 October 2002, by section 58(1) of the Health and Disability Services (Safety) Act 2001 (2001 No 93).

Section 2(1) **hospital board**: repealed, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 2(1) **institution**: replaced, on 1 October 2002, by section 58(1) of the Health and Disability Services (Safety) Act 2001 (2001 No 93).

Section 2(1) **medical officer of health**: replaced, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 2(1) **medical practitioner**: replaced, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **premises**: amended, on 19 November 1953, pursuant to section 515(1) of the Shipping and Seamen Act 1952 (1952 No 49).

Section 2(1) **prescribed**: amended, on 21 November 1973, by section 3(1) of the Tuberculosis Amendment Act 1973 (1973 No 97).

Section 2(1) **tuberculosis officer**: replaced, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

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

## **Part 1**

### **Prevention and treatment of tuberculosis**

#### *Provisions as to notification*

### **3 Duty of medical practitioners to give notice of tuberculosis**

- (1) Every medical practitioner who has reason to believe that any person professionally attended by him (in this section referred to as the **patient**) is or may be suffering from tuberculosis shall forthwith give notice in the prescribed form to the medical officer of health, and shall indicate in the form—
  - (a) whether the disease is in an active form or is suspected of being in that form:
  - (b) whether the patient is in an infectious condition or is suspected of being in that condition.
- (2) If the medical practitioner is satisfied that the patient is suffering from tuberculosis in an active form and is likely to infect others, he shall forthwith—
  - (a) inform the patient and every person nursing or in immediate attendance on the patient that the patient is suffering from tuberculosis and is likely to infect others; and
  - (b) if to his knowledge there is residing in the premises in which the patient for the time being resides some other person (not being a person nursing or in immediate attendance on the patient) who is the wife, husband, civil union partner, or de facto partner of the patient, or a parent or guardian of the patient, inform that person that the patient is suffering from tuberculosis and is likely to infect others.
- (3) Every medical practitioner who by post-mortem examination or otherwise becomes aware that any deceased person was at the time of his death suffering from tuberculosis shall forthwith give notice in the prescribed form to the medical officer of health.
- (3A) *[Repealed]*
- (4) Every medical practitioner commits an offence against this Act who, without lawful excuse, fails to comply with any provision of this section.

Section 3(2)(b): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 3(3A): repealed, on 22 January 1996, by section 3(3) of the Health and Disability Services Amendment Act 1995 (1995 No 84).

#### 4 Notification of intended discharge of tuberculous person from institution

- (1) Subject to the provisions of any regulations under this Act, whenever it is intended that any tuberculous person who is an inpatient in any institution should cease to be an inpatient, the medical officer or other person for the time being in charge of the institution shall, unless that person is leaving the institution with the prior approval of the medical officer of health, give notice in writing to the medical officer of health of the intended departure of that person and of the date on which it is intended that he should leave the institution and, if practicable, of the address at which he intends to reside after so leaving. The notice shall, in every case where it is practicable so to do, be given not less than 7 days before the date on which it is intended that the person should so leave.
- (2) Where any such person leaves as aforesaid without the prior approval of the medical officer of health and before notice is given pursuant to subsection (1), or leaves after such notice is given but before the date specified in the notice, the medical officer or other person for the time being in charge of the institution shall forthwith notify the medical officer of health of the departure of that person and, if practicable, of any address at which that person may be found.
- (3) Every medical officer or other person for the time being in charge of any institution who, without lawful excuse, fails to comply with any of the provisions of this section commits an offence against this Act.

#### 5 Duty of master of ship in harbour as to tuberculosis

- (1) When any person on board a home trade ship in any harbour in New Zealand is suffering from any sickness of which the symptoms create a reasonable suspicion that it is tuberculosis, it shall be the duty of the master of the ship to notify the medical officer of health of the fact that there is on board the ship a person suspected of suffering from tuberculosis.
- (2) For the purposes of this section,—

**home trade ship** means a home trade ship within the meaning of the Shipping and Seamen Act 1952.

Section 5(1): amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 5(2) **home trade ship**: amended, on 19 December 1953, pursuant to section 515(1) of the Shipping and Seamen Act 1952 (1952 No 49).

Section 5(2) **port health officer**: repealed, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

#### 6 Registrar to notify medical officer of health of death of person affected with tuberculosis

*[Repealed]*

Section 6: repealed, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

*Duties and powers of medical officers of health*

**7 Duties and powers of medical officers of health**

- (1) It shall be the duty of every medical officer of health, forthwith after the receipt by him of any notice, given pursuant to subsection (1) of section 3, that any person is suspected of suffering from tuberculosis, to make such inquiries and do all such things as he deems necessary to ascertain whether or not the person to whom the notice relates is suffering from tuberculosis.
- (2) It shall be the duty of every medical officer of health, when he is satisfied that any person is suffering from tuberculosis, to do all such things as he deems necessary to ensure, so far as may be possible,—
  - (a) that the person obtains medical treatment, care, and supervision, whether in an institution or otherwise:
  - (b) the tracing of the source of the infection:
  - (c) the tracing of contacts of that person:
  - (d) the medical examination of all such contacts as aforesaid who may possibly be suffering from tuberculosis:
  - (e) that any person who is found, in the course of the inquiries made under this section, to be suffering from tuberculosis obtains medical treatment, care, and supervision, whether in an institution or otherwise:
  - (f) the immunisation by vaccine, in accordance with the prescribed methods, of such contacts and other persons coming to his knowledge in the course of his inquiries as may voluntarily submit themselves for immunisation against tuberculosis and may suitably be so immunised.
- (3) For the purposes of this section, and for the purpose of preventing or limiting or eradicating the infection of tuberculosis, the medical officer of health shall have the powers conferred upon him by this Act, and all such other powers as may reasonably be considered incidental thereto or as may be prescribed by regulations under this Act.

**8 Power of entry in certain cases**

- (1) If in the opinion of the medical officer of health it is necessary or expedient, for the purpose of giving effect to any of the provisions of this Act, that any premises in which there resides, or recently resided, any person believed or suspected by him to be suffering from tuberculosis, or any contact of any such person, should be inspected and inquiries made therein, and permission to enter on the premises is refused by the occupier or any person for the time being in charge thereof, the medical officer of health, or any medical practitioner, district nurse or health protection officer under the Health Act 1956 authorised by him in that behalf, may at all reasonable times enter on the premises and inspect them and make such inquiries as he deems necessary.

- (2) If with respect to any person who is suffering from tuberculosis or any contact of any such person the medical officer of health has reason to believe or suspect that the source of the infection is in any premises in which that person or contact works, and is of opinion that for the purposes of this Act the premises should be inspected and inquiries made therein, and permission to enter on the premises is refused by the occupier or any person for the time being in charge of the premises, the medical officer of health, or any medical practitioner, district nurse or health protection officer under the Health Act 1956 authorised by him in that behalf, may enter at all reasonable times upon those premises and inspect them and make such inquiries as he deems necessary.

Section 8(1): amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 8(1): amended, on 1 January 1957, pursuant to section 140(1) of the Health Act 1956 (1956 No 65).

Section 8(1): amended, on 4 September 1950, by section 2 of the Tuberculosis Amendment Act 1950 (1950 No 19).

Section 8(2): amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 8(2): amended, on 1 January 1957, pursuant to section 140(1) of the Health Act 1956 (1956 No 65).

Section 8(2): amended, on 4 September 1950, by section 2 of the Tuberculosis Amendment Act 1950 (1950 No 19).

## **9 Power, in certain cases, to require medical examinations**

- (1) For the purposes of section 7, in any case where the medical officer of health has reason to believe that any person is or may be suffering from tuberculosis and has refused or failed to undergo any medical or other examination in respect thereof, he may from time to time, by notice in writing, require that person to undergo, within a period to be specified in the notice, such medical, X-ray, and bacteriological examinations as may be prescribed.
- (2) Any notice under subsection (1) may specify any institution or tuberculosis clinic as the place where any such examination as aforesaid is to be undergone. If in any such case—
- (a) the person to whom the notice is given informs the medical officer of health that he objects to undergoing the examination at the institution or clinic; or
  - (b) the medical officer of health is satisfied that it is impracticable for the person to attend at the institution or clinic for the examination, or that it is not in the interests of the person's health for him so to attend,—
- it shall be sufficient compliance with the notice if the person undergoes the examination, within the period specified in the notice, at the hands of any medical practitioner approved for the purpose by the medical officer of health.
- (3) Where any person who is required to undergo any such examination as aforesaid is a child the notice shall be given to a parent or guardian or some other

person for the time being in charge of the child, and it shall be the duty of the person to whom the notice is so given to do all such things as may be necessary to comply with the notice in respect of that child.

- (4) Every person commits an offence against this Act who, without lawful excuse, fails to comply with any notice given to him under this section.

**10 Power, in certain cases, to give directions as to precautions necessary to prevent spread of infection**

- (1) Whenever the medical officer of health has reason to believe that any tuberculous person refuses or has failed to take reasonable precautions to prevent the spread of the infection of tuberculosis, he may by notice in writing require that person to do such things, to be specified in the notice, as may in the opinion of the medical officer of health be necessary to ensure that such precautions as aforesaid are taken.
- (2) Where in respect of any tuberculous person who is a child the medical officer of health has reason to believe that any parent or guardian or other person for the time being in charge of the child refuses or has failed to do any thing necessary to ensure that reasonable precautions are taken to prevent the spread of the infection, he may by notice in writing require that parent, guardian, or other person to do such things, to be specified in the notice, as may in the opinion of the medical officer of health be necessary to ensure that such precautions as aforesaid are taken.
- (3) It shall be the duty of every person to whom a notice is given under this section to comply with the notice and with all other reasonable requirements in writing of the medical officer of health for the purposes of this section.
- (4) Every person commits an offence against this Act who contravenes or fails to comply in any respect with any notice given to him under this section or with any such requirement as aforesaid.

*Functions of Hospital Boards*

*[Repealed]*

Heading: repealed, on 1 July 1993, pursuant to section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

**11 Provision by Hospital Boards for purposes of this Act**

*[Repealed]*

Section 11: repealed, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

**12 Duty of Board to make bylaws as to certain matters, if required**

*[Repealed]*

Section 12: repealed, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

**13 Duty of Board to inform tuberculous patients of precautions necessary to prevent spread of infection**

*[Repealed]*

Section 13: repealed, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

**14 Duty of Board to furnish prescribed information**

*[Repealed]*

Section 14: repealed, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

*General*

**15 Additional powers of Minister**

For the purposes of this Act, the Minister may, in addition to exercising any other powers conferred upon him by this or any other Act,—

- (a) make such provision as he thinks proper for the dissemination of information with respect to the nature, effects, and proper treatment of tuberculosis, and with respect to the precautions which should be taken to prevent the spread of infection:
- (b) establish and maintain any clinic and provide thereat such equipment and services, including X-ray and bacteriological laboratory equipment and services, as may be necessary for the diagnosis or treatment of tuberculosis and for the immunisation against tuberculosis of such persons or classes of persons as may voluntarily submit themselves for immunisation and may suitably be immunised:
- (c) encourage the establishment of associations for the purpose of preventing the spread of tuberculosis, and of securing the care, supervision, aftercare, and assistance of persons who are suffering or have suffered from tuberculosis, and authorise the grant of subsidies, on such conditions as he thinks fit, to any such association out of moneys appropriated by Parliament for the purpose.

**16 Provision for isolation, in certain cases, of persons likely to spread infection**

- (1) Where the medical officer of health is satisfied that any person suffering from tuberculosis (in this section referred to as the **patient**) is in an infectious condition, and—
  - (a) that in the patient's own interest he should be properly attended and treated; and
  - (b) that the patient's circumstances are such that proper precautions to prevent the spread of the infection cannot be taken, or that such precautions are not being taken; and

- (c) that substantial risk of infection is or will be thereby caused to others,—  
the medical officer of health may apply to a District Court Judge, who may order the patient to be removed to an institution or some other suitable place where he can be properly attended and treated and to be detained there for such period, not exceeding 3 months, as the District Court Judge thinks fit; or, if the patient is an inpatient in an institution and proposes, contrary to the advice of the medical officer of health or of a medical officer of the institution or of a medical practitioner, to leave the institution, order him to be detained in the institution or in some other institution or suitable place for such period, not exceeding 3 months, as the District Court Judge thinks fit.
- (2) At any time while any patient is detained pursuant to any order for the time being in force under this section, the medical officer of health, on being satisfied that the conditions which led to the patient's detention being ordered will again exist if he is not detained for a further period, may apply to a District Court Judge, who may order the detention of the patient for a further period, not exceeding 3 months in the case of each succeeding order.
  - (3) Where an application for an order is made under this section the medical officer of health shall give to the patient, or to some person having the care of the patient, not less than 3 clear days' notice in writing of the time and place at which the application will be heard.
  - (4) At any time after the expiration of 6 weeks from the date of any order for the time being in force under this section, the patient, or any person acting on behalf of and with the consent of the patient, may apply to a District Court Judge for the rescission of the order, and the District Court Judge may, if he thinks fit, rescind the order. Where any application is made under this subsection the person making the application shall give to the medical officer of health not less than 3 clear days' notice in writing of the time and place at which the application will be heard.
  - (5) Where any application is made under this section the District Court Judge shall require the patient to be examined by 2 medical practitioners appointed by him for the purpose.
  - (6) Subject to the provisions of this section, and to the decision of the Judge on any appeal under the next succeeding section, every order under this section shall be final and binding on all parties.
  - (7) An order under this section may be addressed to the medical officer of health or such other person as the District Court Judge thinks expedient, and the person to whom the order is addressed may do all acts necessary for giving effect to the order.
  - (8) The medical officer or other person in charge of any institution or other place to which any patient is ordered to be removed as aforesaid shall, on the presentation of the order, receive the patient and arrange for his medical treatment, and shall do such other acts as may be necessary for giving effect to the order.

- (8A) Subject to the provisions of subsection (9), while any order under this section for the detention of a patient in any institution or other place continues in force, the medical officer or other person in charge of the institution or place shall detain the patient or cause him to be detained in that institution or place, by force if necessary.
- (9) At any time while any patient is detained in any institution or other place pursuant to an order for the time being in force under this section, a District Court Judge may, if he thinks fit, on the application of the medical officer of health or of the medical officer or other person in charge of the institution or place, order the patient to be removed to another institution or suitable place and to be detained there while the first-mentioned order continues in force. The provisions of subsections (3) to (8A) and subsections (10) to (12A) shall, so far as applicable and with the necessary modifications, apply with respect to every application and every order made under this subsection.
- (10) No person who is removed to or detained in any institution or other place pursuant to an order under this section shall, while the order continues in force, leave or attempt to leave the institution or place.
- (11) Every person commits an offence against this Act who—
- (a) wilfully disobeys an order under this section:
  - (b) obstructs or delays or in any way interferes with the prompt execution of an order under this section:
  - (c) contravenes or fails to comply in any respect with any of the provisions of this section.
- (12) Every person who knowingly assists any other person in committing or attempting to commit an offence under this section shall be deemed to have committed an offence against this Act.
- (12A) If any person who is removed to or detained in any institution or other place pursuant to an order under this section leaves the institution or place while the order continues in force, then (without prejudice to any proceedings that may be taken against him or any other person in respect of an offence under this section) that person may be arrested by an officer of the Ministry of Health or by any member of the staff of that institution or place or by any constable without warrant and delivered forthwith, by force if necessary, to the same or another suitable institution or place. If in any such case the patient is delivered to any institution or place other than that to which the order relates, the person by whom he was arrested shall, as soon as may be practicable, cause him to be removed to the institution or place to which the order relates. Until he is so removed the institution or place to which he was so delivered shall be deemed for the purposes of this section to be an institution or place to which the order relates, and the provisions of this section shall apply accordingly.
- (13) *Amendment(s) incorporated in the Act(s).*

Compare: 1941 No 26 s 31; Public Health Act 1936 s 172 (UK)

Section 16(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 16(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 16(4): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 16(5): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 16(5): amended, on 4 September 1950, by section 3(4) of the Tuberculosis Amendment Act 1950 (1950 No 19).

Section 16(7): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 16(8A): inserted, on 4 September 1950, by section 3(1) of the Tuberculosis Amendment Act 1950 (1950 No 19).

Section 16(9): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 16(9): amended, on 4 September 1950, by section 3(3) of the Tuberculosis Amendment Act 1950 (1950 No 19).

Section 16(12A): inserted, on 4 September 1950, by section 3(2) of the Tuberculosis Amendment Act 1950 (1950 No 19).

Section 16(12A): amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

## **17 Appeal against order or decision under section 16**

- (1) Any person in respect of whom any order is made under section 16, or in respect of whom an application for the rescission of an order is made under subsection (4) of that section, may, within 7 days after the making of the order or, as the case may be, the decision of the District Court Judge refusing the application, or within such further time as the District Court Judge may in his discretion allow, appeal to a Judge of the High Court, in chambers, against the order or decision.
- (2) On the hearing of the appeal the Judge may confirm, modify, or reverse the order or decision of the District Court Judge, and the Judge's decision shall be final and binding on all parties.
- (3) Subject to the provisions of this section, the procedure on the appeal shall be such as is prescribed by regulations under this Act, and, in so far as those regulations do not extend, shall be in accordance with the rules relating to appeals to the High Court against final determinations of District Courts in their civil jurisdiction.

Section 17(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 17(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 17(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 17(3): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 17(3): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

## **18 Provision of accommodation for purposes of section 16**

*[Repealed]*

Section 18: repealed, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

## **19 Tuberculosis not to be deemed an infectious or notifiable disease under the Health Act 1956**

- (1) Tuberculosis shall not be deemed to be an infectious or notifiable disease within the meaning of the Health Act 1956.
- (2) Notwithstanding anything contained in subsection (1), the provisions of sections 82, 83, 86, and 87 of the Health Act 1956 shall continue to apply in all respects as if tuberculosis were an infectious disease under that Act.
- (3) *Amendment(s) incorporated in the Act(s).*
- (4) The Notifiable Diseases Order 1940 is hereby revoked.

Section 19 heading: amended, on 1 January 1957, pursuant to section 140(1) of the Health Act 1956 (1956 No 65).

Section 19(1): amended, on 1 January 1957, pursuant to section 140(1) of the Health Act 1956 (1956 No 65).

Section 19(2): amended, on 24 October 1957, by section 2 of the Tuberculosis Amendment Act 1957 (1957 No 75).

## **Part 2**

### **Assistance of persons suffering from tuberculosis**

#### **20 Vocational guidance**

For the purpose of advising persons undergoing treatment or otherwise under medical care or supervision by reason of their suffering or having suffered from tuberculosis and desiring to undertake employment, or work on their own account, of a kind suited to their physical condition, age, experience, and general qualifications, the Minister may make such arrangements as may be necessary with the Minister of Education and the State Services Commission for the services of vocational guidance officers of the Ministry of Education to be made available at any sanatorium, tuberculosis clinic, or other institution. In the exercise of his functions under this section every vocational guidance officer shall be under the general supervision of the tuberculosis officer of the institution or, if there is no such tuberculosis officer, of the medical officer for the time being in charge of the institution.

Section 20: amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 20: amended, on 1 October 1989, pursuant to section 144(2) of the Education Act 1989 (1989 No 80).

Section 20: amended, on 1 January 1963, pursuant to section 3(10) of the State Services Act 1962 (1962 No 132).

## **21 Vocational training and industrial rehabilitation courses**

For the purpose of enabling persons undergoing treatment or otherwise under medical care or supervision by reason of their suffering or having suffered from tuberculosis to undertake employment, or work on their own account, of a kind suited to their physical condition, age, experience, and general qualifications, the Minister may make arrangements with any government department or any body of persons for the establishment and maintenance of vocational training or industrial rehabilitation centres, and for the provision, under adequate medical supervision, of vocational training or industrial rehabilitation courses for such persons as aforesaid at such places as he thinks fit, whether at sanatoria, tuberculosis clinics, or other institutions or elsewhere.

Section 21: amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

## **22 Provision of special accommodation for tuberculous persons**

- (1) The Minister may make such provision as he thinks fit—
  - (a) for the supply or loan, for the use of tuberculous persons, of specially constructed shelters or portable huts, and for the repair of such shelters or huts:
  - (b) for the making of repairs or structural alterations or additions to dwellings in which tuberculous persons reside:
  - (c) for the supply of articles of furniture for the use of tuberculous persons.
- (2) The Minister may make arrangements with any government department or any body of persons for the making of such provision as aforesaid.

## **23 Right to compensation of certain workers contracting tuberculosis**

- (1) Where any person contracts tuberculosis while employed in any institution on nursing duties or on such other duties or classes of duties as may be prescribed, and the incapacity or death of that person results from that disease, then, notwithstanding anything contained in section 19 of the Workers' Compensation Act 1956, compensation shall be payable under that Act in respect of the incapacity or death of that person in all respects as if the disease were a personal injury by accident arising out of and in the course of that employment, and the provisions of that Act, including the said section 19 (except subsections (1) to (3) thereof), shall, so far as applicable and with the necessary modifications, apply accordingly.
- (1A) Subject to section 5 and subsection (6) of section 67 of the Accident Compensation Act 1972, but notwithstanding any other provision of the said section 67 or anything in subsection (1) of this section, if—

- (a) any person contracts tuberculosis while employed as provided in subsection (1); and
- (b) the incapacity or death of that person results from that disease; and
- (c) the employment during which the disease was contracted includes any period on or after the date fixed by Order in Council under that Act for the commencement of section 67 of that Act—

cover shall exist, rehabilitation assistance shall be given, and compensation shall be payable, under that Act, in respect of the incapacity or death of that person in all respects as if the disease were a personal injury by accident arising out of and in the course of that employment, and compensation shall not be payable under the Workers' Compensation Act 1956, and the provisions of the Accident Compensation Act 1972 (except subsections (1) to (4) of the said section 67) shall, so far as applicable and with the necessary modifications, apply accordingly.

- (2) Where any person to whom this section applies is found to be suffering from tuberculosis at any time while he is employed as aforesaid or at any time within 2 years after having ceased to be so employed, that person shall, until the contrary is proved, be presumed for the purposes of this section to have contracted tuberculosis while so employed.
- (3) For the purposes of this section, any vocational guidance officer of the Ministry of Education acting as such, pursuant to section 20, at any sanatorium, tuberculosis clinic, or other institution and any schoolteacher engaged in teaching at any hospital class at any institution shall be deemed to be employed in the institution on duties to which subsection (1) applies.
- (4) Without limiting or affecting in any way the application of the foregoing provisions of this section, it is hereby declared that this section shall extend and apply with respect to any person who, while employed as aforesaid, has contracted tuberculosis before the date of the commencement of this Act and—
  - (a) is on that date still incapacitated as a result of that disease; or
  - (b) becomes incapacitated or dies after that date as a result of that disease:
 

provided that no compensation shall in any case be payable in respect of any period of incapacity before the commencement of this Act, and any payment, allowance, or benefit which that person has received from the employer in respect of that period shall be taken into account in assessing the aggregate amount of compensation payable in respect of that person under this subsection.
- (5) Notwithstanding anything contained in subsection (5) of section 19 of the Workers' Compensation Act 1956, where the incapacity of any person to whom this section applies has commenced before the date of the commencement of this Act, then, for the purposes of sections 52 and 53 of the Workers' Compensation Act 1956 (which relate to the giving of notice and the limitation of actions), that incapacity shall be deemed to have commenced on that date.

(6) *[Repealed]*

(7) *[Repealed]*

Section 23(1): amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 23(1): amended, on 1 April 1957, pursuant to section 138(1) of the Workers' Compensation Act 1956 (1956 No 62).

Section 23(1A): inserted, on 21 November 1973, by section 2 of the Tuberculosis Amendment Act 1973 (1973 No 97).

Section 23(2): amended, on 2 October 1958, by section 2 of the Tuberculosis Amendment Act 1958 (1958 No 98).

Section 23(3): replaced, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 23(3): amended, on 1 July 1993, pursuant to section 144(2) of the Education Act 1989 (1989 No 80).

Section 23(5): amended, on 1 April 1957, pursuant to section 138(1) of the Workers' Compensation Act 1956 (1956 No 62).

Section 23(6): repealed, on 1 April 1958, by section 158(1) of the Hospitals Act 1957 (1957 No 40).

Section 23(7): repealed, on 1 April 1958, by section 158(1) of the Hospitals Act 1957 (1957 No 40).

### **Part 3**

#### **Miscellaneous**

#### **24 Protection from civil or criminal liability of persons acting under authority of this Act**

- (1) A person who does any act in pursuance or intended pursuance of any of the provisions of this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he has acted in bad faith or without reasonable care.
- (2) No proceedings, civil or criminal, shall be brought against any person in any court in respect of any such act except by leave of a Judge of the High Court, and such leave shall not be granted unless the Judge is satisfied that there is substantial ground for the contention that the person against whom it is sought to bring the proceedings has acted in bad faith or without reasonable care.
- (3) Notice of any application under the last preceding subsection shall be given to the person against whom it is sought to bring the proceedings, and that person shall be entitled to be heard against the application.
- (4) Leave to bring such proceedings shall not be granted unless application for such leave is made within 6 months after the act complained of, or, in the case of a continuance of injury or damage, within 6 months after the ceasing of the injury or damage.
- (5) In granting leave to bring any proceedings as aforesaid, the Judge may limit the time within which such leave may be exercised.

Section 24(2): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

## **25 Obstruction of officers and authorised persons**

Every person commits an offence against this Act who in any way resists, obstructs, or deceives any other person in the exercise of any powers conferred upon that other person by or pursuant to this Act.

## **26 General penalty for offences**

Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable to a fine not exceeding \$40 and (if the offence is a continuing one) to a further fine not exceeding \$4 for every day during which the offence continues.

## **27 Offences punishable summarily**

*[Repealed]*

Section 27: repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **28 Service of notices**

- (1) Except as otherwise expressly provided in any regulations under this Act, any notice required or authorised under this Act to be given to any person may be delivered to him either personally or by sending it to his last known place of abode or business by messenger or by ordinary post or by registered letter.
- (2) Any notice that is so sent by registered letter shall be deemed to have been delivered at the time when the registered letter would in the ordinary course of post be delivered.
- (3) Notwithstanding anything in the foregoing provisions of this section, a District Court Judge may in any case make an order directing the manner in which any notice is to be delivered, or dispensing with the delivery thereof, or varying the time within which any notice is required by this Act to be given.

Section 28(3): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

## **29 Moneys to be appropriated by Parliament for purposes of this Act**

All moneys payable and expenses incurred by the Minister or any government department under this Act or in the administration thereof shall be payable out of moneys appropriated by Parliament for the purpose.

## **30 Regulations**

- (1) The Governor-General from time to time, by Order in Council, may make regulations for any purpose for which regulations are contemplated by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

- (2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:
- (a) regulating the establishment, management, equipment, maintenance, and inspection of institutions and tuberculosis clinics for the purposes of this Act:
  - (b) regulating and prescribing the appointment, qualifications, and duties of tuberculosis officers:
  - (c) regulating the classification of persons suffering from tuberculosis:
  - (d) regulating the treatment, control, and supervision of persons suffering from tuberculosis in any institution or attending any institution or tuberculosis clinic:
  - (e) prescribing standards to be complied with in clinical, bacteriological, and other examinations and investigations necessary to determine whether any person is suffering from tuberculosis, and whether any person who has been suffering from tuberculosis is no longer a tuberculous person:
  - (f) regulating the immunisation, by vaccine, of persons against tuberculosis, and prescribing methods to be used and standards to be complied with therein:
  - (g) prescribing procedure on appeals against orders or decisions of District Court Judges under section 17:
  - (h) prescribing the information and particulars to be furnished to medical officers of health by medical practitioners for the purposes of this Act:
  - (i) prescribing precautions necessary to prevent the spread of the infection of tuberculosis to be taken by persons suffering from tuberculosis, and by persons attending or having the care or charge of any such person:
  - (j) prescribing the duties and powers of medical officers of health for the purposes of this Act; and prescribing the medical, X-ray, and bacteriological examinations that may be required under section 9:
  - (k) regulating the notification with respect to tuberculosis pursuant to this Act by medical practitioners and other persons, prescribing the forms of notices to be used therefor, and prescribing the fees payable to medical practitioners in respect of such notification:
  - (l) prescribing forms of any other notices, orders, and other instruments that may be required for the purposes of this Act or enabling such forms to be prescribed:
  - (m) prescribing conditions subject to which vocational training or industrial rehabilitation courses may be made available to persons under this Act, and generally regulating the provision of those courses:

- (n) providing for the payment, in whole or in part, of reasonable travelling expenses incurred by persons required to travel within New Zealand for the purpose of undergoing medical or X-ray examinations or treatment in respect of tuberculosis, or for the purpose of attending vocational training or industrial rehabilitation courses under this Act; and prescribing the cases and the manner in which and the extent to which such payment may be made:
- (o) prescribing duties or classes of duties in respect of which the provisions of section 23 shall apply:
- (p) prescribing fines for the breach of any regulation made under this Act, not exceeding \$40 in any case and, where the breach is a continuing one, not exceeding \$4 for every day or part of a day during which the breach continues.

(3) *[Repealed]*

Section 30(2)(g): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 30(2)(h): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 30(2)(h): amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 30(2)(l): amended, on 21 November 1973, by section 3(2) of the Tuberculosis Amendment Act 1973 (1973 No 97).

Section 30(3): repealed, on 19 December 1989, by section 11 of the Regulations (Disallowance) Act 1989 (1989 No 143).

## **Reprints notes**

### **1 *General***

This is a reprint of the Tuberculosis Act 1948 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2 *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3 *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4 *Amendments incorporated in this reprint***

Health (Protection) Amendment Act 2016 (2016 No 35): section 15

Criminal Procedure Act 2011 (2011 No 81): section 413

Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 47

Relationships (Statutory References) Act 2005 (2005 No 3): section 7

Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)

Health and Disability Services (Safety) Act 2001 (2001 No 93): section 58(1)

New Zealand Public Health and Disability Act 2000 (2000 No 91): section 111(1)

Health and Disability Services Amendment Act 1995 (1995 No 84): section 3(3)

Health Sector (Transfers) Act 1993 (1993 No 23): section 32

Regulations (Disallowance) Act 1989 (1989 No 143): section 11

Education Act 1989 (1989 No 80): section 144(2)

Area Health Boards Act 1983 (1983 No 134): section 98

District Courts Amendment Act 1979 (1979 No 125): section 18(2)

Judicature Amendment Act 1979 (1979 No 124): section 12

Tuberculosis Amendment Act 1973 (1973 No 97)

State Services Act 1962 (1962 No 132): section 3(10)

Tuberculosis Amendment Act 1958 (1958 No 98)

Tuberculosis Amendment Act 1957 (1957 No 75)

Hospitals Act 1957 (1957 No 40): section 158(1)

Health Act 1956 (1956 No 65): section 140(1)

Workers' Compensation Act 1956 (1956 No 62): section 138(1)

Shipping and Seamen Act 1952 (1952 No 49): section 515(1)

Tuberculosis Amendment Act 1950 (1950 No 19)