

**Reprint
as at 31 January 2018**



Burial and Cremation Amendment Act 2016

Public Act 2016 No 74
Date of assent 7 November 2016
Commencement see section 2

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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.

Schedule Consequential amendments

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Burial and Cremation Amendment Act 2016.

2 Commencement

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.
- (2) Any provision that has not earlier been brought into force comes into force on the day that is 2 years after the date on which this Act receives the Royal assent.

Section 2(1): this Act brought into force, on 31 January 2018, by clause 2 of the Burial and Cremation Amendment Act 2016 Commencement Order 2017 (LI 2017/194).

3 Principal Act

This Act amends the Burial and Cremation Act 1964 (the **principal Act**).

4 Section 2 amended (Interpretation)

- (1) In section 2(1), repeal the definitions of **doctor**, **doctor's certificate**, and **give a doctor's certificate**.
- (2) In section 2(1), insert in their appropriate alphabetical order:

certificate of cause of death, in relation to a death or a body, means a certificate referred to in section 46B or 46C relating to the cause of death or, as the case may require, the cause of death of the person whose body it is

give a certificate of cause of death, in relation to a person's death, means complete and sign a certificate of cause of death and give it to the person having charge of the person's body

health practitioner has the same meaning as in section 5 of the Health Practitioners Competence Assurance Act 2003

medical practitioner means a health practitioner who—

- (a) 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) holds a current practising certificate

nurse practitioner means a health practitioner who—

- (a) is, or is deemed to be, registered with the Nursing 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 nursing and whose scope of practice permits the performance of nurse practitioner functions; and
- (b) holds a current practising certificate

5 Section 46AA replaced (Doctor’s certificate or coroner’s authorisation required before body disposed of)

Replace section 46AA with:

46AA Certificate of cause of death or coroner’s authorisation required before body disposed of

- (1) A body must not be buried, cremated, or otherwise disposed of unless the person in charge of the disposal has been given—
 - (a) a certificate of cause of death; or
 - (b) a coroner’s authorisation.
- (2) After receiving under subsection (1) a certificate of cause of death or coroner’s authorisation, the person in charge of the disposal must send a copy of that certificate or authorisation to the department that administers this Act.
- (3) This section is subject to section 46A.

6 Section 46A amended (Stillborn children)

In section 46A(1), replace “doctor” with “medical practitioner” in each place.

7 Section 46B replaced (Doctor’s certificate in relation to illness)

Replace section 46B with:

46B Certificate of cause of death in relation to illness

- (1) This section applies if a person dies after an illness.
- (2) A medical practitioner or a nurse practitioner who attended the person during the illness must, immediately after learning of the person’s death, give a certificate of cause of death for the person’s death if the practitioner—
 - (a) is satisfied that the person’s death was a natural consequence of the illness; and
 - (b) has taken reasonable steps to consult with any health practitioner known to have subsequently attended the person during the person’s illness.
- (3) Any other medical practitioner or nurse practitioner may give a certificate of cause of death for the person’s death if (and only if) the practitioner is satisfied that the person’s death was a natural consequence of the illness and—
 - (a) a medical practitioner or nurse practitioner who attended the person during the person’s illness is unavailable; or

- (b) less than 24 hours has passed since the death, and a medical practitioner or nurse practitioner who attended the person during the person's illness is unlikely to be able to give a certificate of cause of death for the person's death within 24 hours after the death; or
 - (c) at least 24 hours have passed since the person's death, and a medical practitioner or nurse practitioner who attended the person during the person's illness has not given a certificate of cause of death for the person's death.
- (4) Subsection (3)(b) and (c) does not apply if a medical practitioner or nurse practitioner who attended the person during the person's illness has refused to give a certificate of cause of death for the person's death because the practitioner was not satisfied, or was not yet satisfied, that the death was a natural consequence of the illness.
- (5) A medical practitioner or nurse practitioner must not give a certificate of cause of death under subsection (3) unless the practitioner—
- (a) has regard to the medical records relating to the person concerned of the health practitioner who last attended the person during the illness; and
 - (b) has regard to the circumstances of the person's death; and
 - (c) has examined the person's body.
- (6) A certificate of cause of death must not be given under subsection (2) or (3) if—
- (a) the death—
 - (i) must be reported to the New Zealand Police because section 13 (except subsection (1)(b)) of the Coroners Act 2006 applies; or
 - (ii) has been reported to a coroner under section 15(2) of that Act; and
 - (b) the coroner has decided to open an inquiry into the death.

8 Section 46C replaced (Doctor's certificate in relation to accidents to elderly persons)

Replace section 46C with:

46C Certificate of cause of death in relation to accidents to persons aged 70 years or more

- (1) This section applies if a person of or over the age of 70 years dies (the **deceased**) and, in the opinion of a medical practitioner or nurse practitioner,—
- (a) the death was caused by injuries, or injuries contributed substantially to it; and
 - (b) the injuries were caused by an accident; and
 - (c) the injuries, the accident, or both arose principally by virtue of infirmities that were attributes of the deceased's age; and

- (d) the accident was not suspicious or unusual; and
 - (e) the accident was not caused by an act or omission of any other person; and
 - (f) except to the extent that the death involved injury by accident, it was not violent, unnatural, or in some way a death in respect of which the Coroners Act 2006 requires an inquiry to be conducted.
- (2) A medical practitioner or nurse practitioner may give a certificate of cause of death for the deceased.
- (3) Subsection (2) applies even though the death may have been reported to the New Zealand Police under section 14 of the Coroners Act 2006.
- (4) However, if the medical practitioner or nurse practitioner is aware that the death has been reported to a coroner under section 15(2) of the Coroners Act 2006, the practitioner must not give a certificate of cause of death under subsection (2) without first obtaining the agreement of the designated coroner.

9 Section 46F amended (Transfer of charge of body)

In section 46F(1)(a), (3), and (4), replace “doctor’s certificate” with “certificate of cause of death”.

10 Section 54AA amended (Offences concerning doctor’s certificate or certificate relating to stillbirth)

In the heading to section 54AA, replace “**doctor’s certificate**” with “**certificate of cause of death**”.

11 Consequential amendments

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

Schedule

Consequential amendments

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Part 1

Amendments to Acts

Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)

In section 2, repeal the definition of **doctor's certificate**.

Coroners Act 2006 (2006 No 38)

Replace the heading above section 13(1)(b) with:

For which no certificate of cause of death given

Replace section 13(1)(b) with:

- (b) every death in respect of which there has not been given a certificate of cause of death (as defined in section 2(1) of the Burial and Cremation Act 1964):

Friendly Societies and Credit Unions Act 1982 (1982 No 118)

In section 45(1)(ab), replace “doctor’s certificate” with “certificate of cause of death (as defined in section 2(1) of the Burial and Cremation Act 1964)”.

Social Workers Registration Act 2003 (2003 No 17)

In section 128(3), replace “doctor’s certificate” with “certificate of cause of death (as defined in section 2(1) of the Burial and Cremation Act 1964)”.

Part 2

Amendments to other enactments

Births, Deaths, Marriages, and Relationships Registration (Prescribed Information) Regulations 1995 (SR 1995/183)

In regulation 5B(c)(iv), replace “doctor’s certificate” with “certificate of cause of death”.

Replace regulation 7(1)(a)(xiv) with:

- (xiv) the name of the health practitioner who gave the certificate of cause of death and, if applicable, the date on which the person was last attended by that health practitioner:

Cremation Regulations 1973 (SR 1973/154)

In regulation 7(1)(a), replace “doctor’s certificate” with “certificate of cause of death”.

Cremation Regulations 1973 (SR 1973/154)—*continued*

In Schedule 1, form B, replace “doctor’s certificate” with “certificate of cause of death” in each place.

Reprints notes

1 *General*

This is a reprint of the Burial and Cremation Amendment Act 2016 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*

Burial and Cremation Amendment Act 2016 Commencement Order 2017 (LI 2017/194)