

**Reprint
as at 31 January 2018**



**Mental Health (Compulsory Assessment and Treatment)
Amendment Act 2016**

Public Act 2016 No 79
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.

14	Section 76 amended (Clinical reviews of persons subject to compulsory treatment orders)	5
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16	Section 91 amended (Director and Deputy Director of Mental Health)	5
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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Mental Health (Compulsory Assessment and Treatment) 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 Mental Health (Compulsory Assessment and Treatment) Amendment Act 2016 Commencement Order 2017 (LI 2017/196).

3 Principal Act

This Act amends the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the **principal Act**).

4 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in their appropriate alphabetical order:

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

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

primary health care provider means a health practitioner who manages and provides primary and ongoing health care to a patient

- (2) In section 2(1), definition of **nurse**, delete “general”.

5 Section 2A amended (Meaning of proposed patient)

In section 2A(b), replace “medical practitioner” with “health practitioner”.

6 Section 7A amended (Medical practitioner or responsible clinician to consult)

- (1) In the heading to section 7A, replace “**Medical practitioner**” with “**Practitioner**”.

- (2) In section 7A(1)(a), replace “medical practitioner” with “health practitioner”.

7 Section 8B amended (Medical practitioner’s certificate to accompany application for assessment)

- (1) Replace the heading to section 8B with “**Certificate to accompany application for assessment**”.

- (2) In section 8B, replace “medical practitioner” with “health practitioner” in each place.

- (3) After section 8B(5), insert:

- (6) In this section,—

health practitioner means—

- (a) a medical practitioner; or
- (b) a nurse practitioner; or
- (c) a registered nurse practising in mental health

registered nurse practising in mental health 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 includes the assessment of a person’s mental capacity; and
- (b) holds a current practising certificate.

8 Section 9 amended (Assessment examination to be arranged and conducted)

- (1) Replace section 9(1) with:

- (1) When the Director of Area Mental Health Services or a duly authorised officer receives notice of an application made under section 8A from the health practitioner who issued the certificate accompanying that application, the Director of

- Area Mental Health Services must make the necessary arrangements for the proposed patient to immediately undergo an assessment examination.
- (1A) Notice of an application made under section 8A may be given by any means, including by telephone.
- (2) Replace section 9(3) and (4) with:
- (3) An assessment examination must be conducted by a health practitioner who is—
- (a) a psychiatrist approved by the Director of Area Mental Health Services for the purposes of the assessment examination, or of assessment examinations generally; or
 - (b) if no such psychiatrist is reasonably available, a medical practitioner or nurse practitioner (not being a medical practitioner or nurse practitioner who issued the certificate under section 8B(4)(b)) who, in the opinion of the Director of Mental Health, is suitably qualified to conduct the assessment examination or assessment examinations generally.
- (4) The Director of Mental Health may delegate his or her function under subsection (3)(b) to the Director of Area Mental Health Services.

9 Section 10 amended (Certificate of preliminary assessment)

- (1) In section 10(1), replace “medical practitioner shall” with “health practitioner must”.
- (2) In section 10(2), replace “medical practitioner shall” with “health practitioner must”.
- (3) In section 10(2)(d) and (3), replace “medical practitioner” with “health practitioner”.
- (4) In section 10(4),—
 - (a) replace “medical practitioner considers” with “health practitioner considers”; and
 - (b) replace “medical practitioner shall” with “health practitioner must”.
- (5) In section 10(4)(a)(v), replace “medical practitioner” with “primary health care provider”.

10 Section 11 amended (Further assessment and treatment for 5 days)

In section 11(1) and (2), replace “medical practitioner” with “health practitioner” in each place.

11 Section 12 amended (Certificate of further assessment)

In section 12(5)(e), replace “medical practitioner” with “primary health care provider”.

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- 12 Section 14A amended (Documents relating to application for compulsory treatment order)**
In section 14A(2)(d), replace “medical practitioner” with “primary health care provider”.
- 13 Section 29 amended (Community treatment orders)**
In section 29(6)(c), replace “medical practitioner” with “primary health care provider”.
- 14 Section 76 amended (Clinical reviews of persons subject to compulsory treatment orders)**
In section 76(7)(b)(iv), replace “medical practitioner” with “primary health care provider”.
- 15 Section 79 amended (Tribunal reviews of persons subject to compulsory treatment orders)**
In section 79(10)(g), replace “medical practitioner” with “primary health care provider”.
- 16 Section 91 amended (Director and Deputy Director of Mental Health)**
In section 91(4), after “Act”, insert “(other than the function in section 9(3)(b))”.
- 17 Section 96 amended (Visitations by district inspectors and official visitors)**
- (1) In section 96(4), replace “medical practitioner” with “health practitioner”.
 - (2) In section 96(5), replace “medical practitioner” with “health practitioner” in each place.

Reprints notes

1 *General*

This is a reprint of the Mental Health (Compulsory Assessment and Treatment) 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*

Mental Health (Compulsory Assessment and Treatment) Amendment Act 2016 Commencement Order 2017 (LI 2017/196)