

Reprint
as at 31 January 2018



Misuse of Drugs Amendment Act 2016

Public Act 2016 No 80
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.

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Misuse of Drugs 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 Misuse of Drugs Amendment Act 2016 Commencement Order 2017 (LI 2017/197).

3 Principal Act

This Act amends the Misuse of Drugs Act 1975 (the **principal Act**).

4 Section 2 amended (Interpretation)

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

registered nurse 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 registered nurse functions; and
- (b) holds a current practising certificate

- (2) In section 2(1), replace the definition of **nurse practitioner** with:

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 6 amended (Dealing with controlled drugs)

Replace section 6(1)(a) with:

- (a) import into or export from New Zealand any controlled drug; or

6 Section 8 replaced (Exemptions from sections 6 and 7)

Replace section 8 with:

8 Exemptions from sections 6 and 7

- (1) Despite sections 6 and 7,—
- (a) any medical practitioner, dentist, or veterinarian may prescribe, produce, manufacture, supply, or administer controlled drugs:
 - (b) any pharmacist or any person with the authority and under the immediate supervision of a pharmacist may produce, manufacture, or supply controlled drugs—
 - (i) listed in the pharmaceutical schedule within the meaning of the New Zealand Public Health and Disability Act 2000 for the purposes of a person eligible for a subsidy for the supply of controlled drugs; or
 - (ii) for the purposes of the hospital in which he or she is employed; or
 - (iii) pursuant to a prescription or order issued by a medical practitioner, dentist, nurse practitioner, optometrist, midwife, designated prescriber, or veterinarian:
 - (c) any person for whom a controlled drug is supplied by a medical practitioner or dentist, or prescribed by a medical practitioner or dentist and lawfully supplied, may administer that drug to himself or herself in accordance with the advice of the medical practitioner or dentist who supplied or prescribed it:
 - (d) any person having the care of a patient for whom a controlled drug is supplied by a medical practitioner or dentist, or prescribed by a medical practitioner or dentist and lawfully supplied, may administer that drug to that patient in accordance with the advice of the medical practitioner or dentist who supplied or prescribed it:
 - (e) any person having the care of an animal for which a controlled drug is supplied by a veterinarian, or prescribed by a veterinarian and lawfully supplied, may administer that drug to that animal in accordance with the advice of the veterinarian who supplied or prescribed it:
 - (f) any district health board established by or under the New Zealand Public Health and Disability Act 2000 or other corporate body, and any individual person who is the manager or person licensed to carry on a hospital or any other institution, that has the care of patients for whom controlled drugs are lawfully prescribed or supplied may possess those drugs for the purposes of the treatment of those patients:
 - (g) any person in the service of the Crown, or any Medical Officer of Health or any pharmacist approved by a Medical Officer of Health, may procure

- and possess a controlled drug for the purposes of and in connection with his or her official duties:
- (h) any carrier may possess a controlled drug in the course of carriage to such extent as is necessary or incidental to the carrier's business:
 - (i) any person who is permitted by or under this Act to import, export, supply, or administer a controlled drug may procure that drug from a person lawfully entitled to supply it and may possess that drug in the manner and for the purposes expressed or implied in that authority:
 - (j) any person who is licensed or otherwise permitted under this Act to cultivate a prohibited plant may possess any controlled drug derived from that plant in the manner and for the purposes expressed or implied in that authority:
 - (k) any person who is permitted by or under this Act to possess a controlled drug may procure that drug from a person lawfully entitled to supply it, and may supply or use that drug in the manner and for the purposes expressed or implied in that authority:
 - (l) a person may, while entering or leaving New Zealand, possess a controlled drug required for treating the medical condition of the person or any other person in his or her care or control, if the quantity of drug is no greater than that required for treating the medical condition for 1 month, and the drug was—
 - (i) lawfully supplied to the person by a medical practitioner, nurse practitioner, optometrist, midwife, designated prescriber, or dentist in New Zealand; or
 - (ii) prescribed by a medical practitioner, nurse practitioner, optometrist, midwife, designated prescriber, or dentist, and lawfully supplied to the person in New Zealand; or
 - (iii) lawfully supplied to the person overseas and supplied for the purpose of treating a medical condition:
 - (m) a designated prescriber, nurse practitioner, optometrist, or midwife who is authorised by regulations made under this Act to prescribe controlled drugs of any specified class or description may prescribe, supply, or administer such drugs:
 - (n) a person who is authorised to issue a standing order may include in a standing order authority to supply and administer controlled drugs of any specified class or description, and a person who is authorised under a standing order to supply and administer any controlled drugs may supply and administer those drugs in accordance with that standing order.
- (2) However, subsection (1) is subject to any prohibitions, limitations, restrictions, or conditions imposed by any regulations made under this Act.
- (3) Nothing in subsection (1) or (2) overrides—

- (a) sections 22 to 25; or
 - (b) any prohibitions, limitations, restrictions, or conditions imposed under any of those sections.
- (4) Despite section 6(1)(a), any person may import, export, supply, administer, or possess any controlled drug specified or described in Part 6 of Schedule 3.
- (5) However, subsection (4) is subject to any prohibitions, limitations, restrictions, or conditions imposed by any regulations made under this Act.
- (6) Nothing in subsection (4) or (5) overrides—
- (a) section 22; or
 - (b) any prohibitions, limitations, restrictions, or conditions imposed under that section; or
 - (c) any other enactment.
- (7) In this section,—
- (a) a reference to a person of any of the following descriptions is a reference to that person acting in the course of his or her practice or employment:
 - (i) medical practitioner:
 - (ii) dentist:
 - (iii) veterinarian:
 - (iv) pharmacist:
 - (v) midwife:
 - (vi) nurse practitioner:
 - (vii) optometrist:
 - (viii) designated prescriber:
 - (ix) person authorised under a standing order authority; and
 - (b) a reference to the supply of controlled drugs includes an offer to supply a controlled drug.

7 Section 24 replaced (Treatment of people dependent on controlled drugs)

Replace section 24 with:

24 Offence to prescribe, administer, or supply controlled drug in certain cases

- (1) A health practitioner commits an offence if, in the course of, or for the purpose of, treating a person for drug dependency, the health practitioner—
- (a) prescribes, administers, or supplies a controlled drug for or to the person; and
 - (b) does so although having reason to believe that the person is dependent on that or any other controlled drug.
- (2) Subsection (1) does not apply to—

- (a) the treatment of a patient, within the meaning of the Alcoholism and Drug Addiction Act 1966, while the patient is in an institution, within the meaning of that Act:
 - (b) the emergency treatment of a patient in a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001 for a period not exceeding 3 days:
 - (c) the treatment of any restricted person.
- (3) Subsection (1) is subject to section 24A.
- (4) In this section,—
- health practitioner** has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003
- restricted person** has the same meaning as in section 25(1).
- 24A Medical practitioners, nurse practitioners, designated prescriber nurses, and designated prescriber pharmacists may prescribe controlled drugs to people dependent on controlled drugs**
- (1) Section 24(1) does not apply to a medical practitioner who—
- (a) is specified under subsection (7)(a) (**a specified medical practitioner**); or
 - (b) is—
 - (i) working in a place specified under subsection (7)(b) (**a specified place**); and
 - (ii) authorised, in writing by a specified medical practitioner working in the specified place, to prescribe controlled drugs; or
 - (c) is—
 - (i) employed as a medical officer in a hospital care institution specified under subsection (7)(b)(i); and
 - (ii) authorised, in writing by the person in charge of that institution, who is acting under the general or specific directions of a Medical Officer of Health, to prescribe controlled drugs.
- (2) Section 24(1) does not apply to a nurse practitioner, designated prescriber nurse, or designated prescriber pharmacist who is—
- (a) working in a specified place; and
 - (b) authorised, in writing by a specified medical practitioner working in the specified place, to prescribe controlled drugs.
- (3) Section 24(1) does not apply to a medical practitioner, nurse practitioner, designated prescriber nurse, or designated prescriber pharmacist who is acting in accordance with a written permission that is given—

- (a) by a medical practitioner to whom subsection (1)(a), (b), or (c) applies; and
 - (b) for a specified period not exceeding 3 months.
- (4) A permission given under subsection (3) may from time to time be renewed for a further specified period not exceeding 3 months by—
- (a) the medical practitioner who gave it; or
 - (b) any other medical practitioner to whom subsection (1)(a), (b), or (c) applies.
- (5) A period specified under subsection (3)(b) or (4) may be longer than 3 months if the Medical Officer of Health agrees.
- (6) A permission given under subsection (3) or renewed under subsection (4)—
- (a) may at any time be withdrawn by the medical practitioner who gave or renewed it, by written notice to the person to whom it was given; and
 - (b) is deemed to have been withdrawn when the medical practitioner who gave or renewed it is no longer a medical practitioner to whom subsection (1)(a), (b), or (c) applies.
- (7) The Minister may from time to time, by notice in the *Gazette*,—
- (a) specify by name any medical practitioner as a medical practitioner who may, subject to any general or special conditions imposed by the Minister on the recommendation of the Director-General of Health, prescribe, administer, or supply controlled drugs for the purpose of this section:
 - (b) specify by name or description as a place at which controlled drugs may be prescribed, administered, or supplied for the purposes of this section—
 - (i) any hospital care institution; or
 - (ii) any clinic, or other place in which a medical practitioner specified under paragraph (a) works.
- (8) When, for the purposes of subsection (2)(b), a specified medical practitioner authorises a nurse practitioner, designated prescriber nurse, or designated prescriber pharmacist to prescribe controlled drugs, the specified medical practitioner must comply with any applicable guidelines issued by the Director-General of Health.
- (9) The Minister may, from time to time, by notice in the *Gazette*, revoke or amend a notice under subsection (7).
- (10) In this section,—
- designated prescriber nurse** means a registered nurse who—
- (a) is a designated prescriber; and
 - (b) is acting within his or her scope of practice
- designated prescriber pharmacist** means a pharmacist who—

- (a) is a designated prescriber; and
- (b) is acting within his or her scope of practice

hospital care institution has the same meaning as in section 58(4) of the Health and Disability Services (Safety) Act 2001.

Consequential amendments

8 Amendments to Misuse of Drugs Regulations 1977

- (1) This section amends the Misuse of Drugs Regulations 1977.
- (2) In regulation 12A(1), replace “section 8(2A)(a)” with “section 8(1)(m)”.
- (3) In regulation 29(2), replace “medical practitioner” with “medical practitioner, nurse practitioner, or designated prescriber nurse”.

Reprints notes

1 *General*

This is a reprint of the Misuse of Drugs 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*

Misuse of Drugs Amendment Act 2016 Commencement Order 2017 (LI 2017/197)