

Mental Health Commission Amendment Bill

Government Bill

As reported from the Health Committee

Commentary

Recommendation

The Health Committee has examined the Mental Health Commission Amendment Bill and recommends that it be passed with the amendment shown.

Introduction

The purpose of this bill is to amend the Mental Health Commission Act 1988 to extend the term of the Commission until 2015 and to change its role.

We received 22 submissions, 16 from organisations and groups and six from individuals. Submissions from family members of people with mental illness generally expressed opposition to the bill, or suggested significant amendments to it. All the other submissions supported the intent of the bill, although some suggested amendments. A majority of them supported the extension of the Commission's term. Most of us support the proposed extension of the Commission's term until 2015. New Zealand National's view is that the principal Act should expire on a date that is three years after the date on which this bill receives the Royal assent. New Zealand National's view is that at that stage Parliament should reassess the role and performance of the Commission before granting a further extension. We recommend one change to the bill.

Eliminating inappropriate discrimination

Clause 6(c)(iii) requires the Commission to work to eliminate “inappropriate” discrimination against people with mental illness. We consider that the word “inappropriate” is an important qualification as the Commission will not oppose positive discrimination that helps people with mental illness.

While the word “against” may be understood to limit the discrimination in question to negative discrimination, instances of appropriate negative discrimination are possible. For example, a sex offender whose offending is related to a diagnosed mental health condition might appropriately be prevented from working with children; or some people with mental illness might appropriately be prevented from acquiring a firearms license. Therefore retaining the word “inappropriate” allows positive discrimination and recognises the appropriateness of negative discrimination in some circumstances.

Reporting and monitoring

Clause 6(d) sets out when the Commission should report to the Minister of Health on the implementation of the national mental health strategy. It states that the Commission may report at intervals agreed with the Minister or at the Minister’s request. Some submitters perceived this as undermining the independence of the Commission. We do not believe this is the intent of the clause. We recommend that the Commission be permitted to report to the Minister, on its own initiative, at other times.

The ministry assured us that clause 6(d) as introduced strengthens and broadens the Commission’s monitoring function, rather than diluting and narrowing it as believed by several submitters.

Research

With respect to the implementation of clause 6(f) we believe that any matter relevant to mental illness includes consideration of mental health services and inter-sectoral issues.

Addiction—function and expertise issues

It was suggested that the Commission’s role in the area of addiction should be emphasised throughout the bill and the Act, and that the Commission should obtain expert advice on addiction issues. The ministry advised us that monitoring addiction issues is already implicit in the Commission’s work; addiction is a recognised aspect

of mental illness which is acknowledged in the mental health strategy, and the Commission is monitoring *Te Tahuhu—Improving Mental Health 2005—2015: The Second New Zealand Mental Health and Addiction Plan*. The Commission can also discuss relevant work with the Minister. Thus, to the extent that addiction is a mental health issue, the Commission can involve itself in matters concerning addiction without legislative change. We recommend, however, that an addiction advisory group be established to provide expert advice to the Commission.

Māori Party view

The Māori Party is concerned that the bill constrains the Commission's monitoring role, which needed to be strengthened in line with the principal Act including the monitoring of district health boards and the Ministry of Health.

Appendix

Committee process

The Mental Health Commission Amendment Bill was referred to the committee on 12.12.06. The closing date for submissions was 30.03.07. We received and considered 22 submissions from interested groups and individuals. We heard 14 submissions.

We received advice from the Ministry of Health and Parliamentary Counsel.

Committee membership

Sue Kedgley (Chairperson)

Maryan Street (Deputy Chairperson)

Dr Jackie Blue

Dr Jonathan Coleman

Jo Goodhew

Ann Hartley

Sue Moroney

Hon Tony Ryall

Lesley Soper

Barbara Stewart

Tariana Turia

Mental Health Commission Amendment

Key to symbols used in reprinted bill

As reported from a select committee

New (unanimous)

Subject to this Act,

Text inserted unanimously

Hon Pete Hodgson

Mental Health Commission Amendment Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Mental Health Commission Amendment Act **2006**.
- 2 Commencement**
This Act comes into force on 30 August 2007. 5
- 3 Principal Act amended**
This Act amends the Mental Health Commission Act 1998.

Part 1 Amendments to principal Act

- 4 Title**
The Title is repealed.
- 5 Interpretation** 5
(1) Section 2(1) is amended by inserting the following definition after the definition of **provider**:
“**stakeholder** includes—
“(a) the Ministry; and
“(b) district health boards; and 10
“(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” 15
- (2) Section 2(2) is repealed.
- 6 New section 6 substituted**
Section 6 is repealed and the following section substituted:
- “6 Functions of Commission** 20
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 25
“(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 30
“(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 35

“(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— 5

“(i) at intervals agreed between the Minister and the Commission; and

“(ii) when otherwise requested by the Minister; and 10

New (unanimous)

“(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 15

“(f) to stimulate and undertake research into any matter relevant to mental illness.”

7 New section 10 substituted 20
Section 10 is repealed and the following section substituted:

“10 Term of office of member of Commission to cease when Act expires, or earlier 25
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.”

8 Expiry and repeal of Act

(1) Section 13(1) is amended by omitting “2007” and substituting “2015”. 25

(2) Section 13(2) is repealed. 30

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. 5
- (2) After the commencement of this Act, a person to whom this section applies holds office as if he or she had been appointed for a term of 6 months on that commencement.
- (3) Except as provided in this section and **section 10**, the Crown Entities Act 2004 applies to all members of the Commission. 10
- (4) 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. 15
- (2) No person to whom **section 9** applies is entitled to compensation for loss of office other than as provided under this section. 20

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.

Legislative history

5 December 2006
12 December 2006

Introduction (Bill 100-1)
First reading and referral to Health Committee
