

**Health (National Cervical Screening Programme)
Amendment Bill**

Government Bill

As reported from the committee of the whole House

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Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

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Hon Dr Ayesha Verrall

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Health (National Cervical Screening Programme) Amendment Act **2018**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Health Act 1956 (the **principal Act**). 5

4 Section 112A amended (Purpose)

- (1) In section 112A(b)(ii), after “that programme”, insert “; and”.
- (2) After section 112A(b)(ii), insert:
 - (iii) enabling access to information by specified classes of persons for the purpose of providing cervical screening, assessment, and treatment services and by researchers. 10

5 Section 112B amended (Interpretation)

- (1AAA) In section 112B, definition of **diagnostic test**, after “cervix”, insert “or vagina”.
- (1) In section 112B, definition of **NCSP register**, after “section 112C”, insert “, and includes any part of the register that is replaced”. 15
 - (2) In section 112B, insert in their appropriate alphabetical order:

cervical screening service means any service provided for the purpose of providing cervical screening, assessment, and treatment services in relation to a particular woman as part of the NCSP 20

NCSP information means—

 - (a) register information; and
 - (b) information held by the NCSP as a result of an evaluation conducted in accordance with this Part

register information means information held on the NCSP register 25
 - (3) In section 112B, replace the definition of **screening test** with:

screening test means a test, such as a high-risk HPV test or a cervical or vaginal cytology test, designed to identify women who may have, or are at higher risk of developing, cervical cancer or a precursor to cervical cancer
 - (4) In section 112B, definition of **specimen**, after “cervical”, insert “and vaginal”. 30

6 Section 112J replaced (Certain information held by NCSP must not be disclosed)

Replace section 112J with:

112J Restriction on access to, and use, retention, and disclosure of, NCSP information

- (1) No person may access, use, retain, or disclose NCSP information if that information identifies a woman, except as provided by this section.
- (2) The following persons may access register information by directly accessing the NCSP register: 5
- (a) a health practitioner engaged by or on behalf of a woman to provide cervical screening services to that woman, for the purpose of providing cervical screening services in relation to that woman:
 - (b) a health practitioner engaged to provide cervical screening services in relation to the woman by or on behalf of a health practitioner referred to in **paragraph (a)**, for the purpose of providing cervical screening services in relation to that woman: 10
 - (c) administrative support staff engaged by a health practitioner referred to in **paragraph (a) or (b)** who access the information at the direction of the health practitioner, for the purpose of providing cervical screening services in relation to that woman: 15
 - (d) district health board NCSP team staff performing the functions of NCSP register administrators and any other person or class of persons authorised for that purpose by the NCSP manager, for the purpose of supporting the operation of the NCSP: 20
 - (e) a person engaged by the Ministry of Health or a district health board, and any other person or class of persons authorised for that purpose by the NCSP manager, for the purpose of providing support services to women experiencing barriers to accessing cervical screening services: 25
 - (f) a person authorised by the NCSP manager, for the purpose of providing information to any person authorised to receive it under **subsection (3) or (4)**.
- (3) Register information may be disclosed by a person referred to in **subsection (2)(f)**, to— 30
- (a) a person authorised to access the NCSP register under **subsection (2)**, for the authorised purpose; or
 - (b) a person engaged by the Ministry of Health or a district health board, and any other person or class of persons authorised for that purpose by the NCSP manager, for the purpose of enabling results from a screening test or a diagnostic test to be followed up; or 35
 - (c) a person engaged by the Ministry of Health or a district health board, and any other person or class of persons authorised for that purpose by the NCSP manager, for the purpose of enabling notices related to the NCSP to be sent to women who are enrolled in the NCSP, including reminder notices to women who are due for another screening test. 40

- (4) NCSP information may be accessed and disclosed by a person authorised for that purpose by the NCSP manager, if the disclosure is—
- (a) to a screening programme evaluator under section 112X(2)(a); or
 - (b) to a review committee, in accordance with a request from that committee under section 112Q(1); or
 - (c) for the purpose of research, in accordance with regulations made under section 112ZF(1)(a); or
 - (d) for the purpose of enabling the compilation and publication of statistics that do not enable the identification of the women to whom those statistics relate, unless the disclosure is prohibited by any regulations made under section 112ZF(1)(b).
- (5) Any person who accesses or receives information in accordance with **subsection (2), (3), or (4)** may use and retain the information for the purpose of that subsection and any directly related purpose.
- 112JA Further provisions relating to NCSP information**
- (1) Nothing in **section 112J** prevents any person from accessing, using, retaining, or disclosing NCSP information about a particular woman with the consent of that woman or her personal representative.
 - (2) Nothing in **section 112J** prevents any person from accessing, using, retaining, or disclosing NCSP information in accordance with this Part (*see, for example, sections 112Q, 112X, 112Y, and 112ZE*).
 - (3) Access to the NCSP register is subject to any conditions and procedures that the NCSP manager thinks necessary to impose or establish for the purpose of ensuring privacy and security of the material or information.
 - (4) No person may amend the information stored on the NCSP register unless authorised for that purpose by the NCSP manager.
- 6A ~~Section 112ZE amended (Screening programme employees may retain, access, use, and disclose information to perform functions)~~**
After section 112ZE(1), insert:
- (1A) ~~Despite subsection (1), that subsection does not override the Health (Cervical Screening (Kaitiaki)) Regulations 1995.~~
- 6A Section 112ZE amended (Screening programme employees may retain, access, use, and disclose information to perform functions)**
After section 112ZE(2), insert:
- (3) Despite subsection (1), an employee of the NCSP must obtain any necessary approval under the regulations before—

- (a) disclosing any identifiable protected information to a person who is not an employee of the NCSP performing functions as an employee of the NCSP; or
- (b) using non-identifiable protected information for the purpose of disclosing it to a person who is not an employee of the NCSP performing functions as an employee of the NCSP. 5
- (4) The actions that an employee of the NCSP may take without obtaining prior approval under the regulations include (without limitation)—
- (a) accessing or using protected information on or from the NCSP register for the purposes of performing, and to the extent necessary to perform, their functions as an employee of the NCSP if that access or use does not involve the publication of protected information (for example, routine internal data analyses, data modelling, and data quality checking); 10
- (b) administering automatic electronic uploads, updates, or back-ups with or between NCSP information management systems; 15
- (c) administering updates of information to—
- (i) any electronic application in existence at the commencement of this subsection that is operated by the NCSP; or
- (ii) any electronic application approved by the National Kaitiaki Group; 20
- (d) using, disclosing, or publishing non-identifiable protected information that is—
- (i) publicly available; or
- (ii) provided through any electronic application referred to in **paragraph (c)**. 25
- (5) In **subsections (3) and (4)**,—
- identifiable protected information** means information that—
- (a) is on or from the NCSP register; and
- (b) enables the identification of the individual or individuals to whom the information relates; and 30
- (c) identifies the individual or individuals as being Māori
- National Kaitiaki Group** means the group established under regulation 6 of the regulations
- non-identifiable protected information** means information that—
- (a) is on or from the NCSP register; and 35
- (b) identifies the individual or individuals to whom the information relates as being Māori; but
- (c) does not enable the identification of the individual or individuals

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- regulations** means the Health (Cervical Screening (Kaitiaki)) Regulations 1995.
- (6) **Subsection (3)** is subject to section 22H (which authorises the disclosure of anonymous health information).
- 7 Section 112ZF amended (Regulations)** 5
In section 112ZF(1)(b), replace “section 112J(1)(h)” with “**section 112J(4)(d)**”.
- 8 Section 112ZP amended (Offences)**
Replace section 112ZP(1) with:
- (1) Every person commits an offence against this Act who, without reasonable excuse,— 10
- (a) fails to comply with the requirements of section 112Y(3)(e) or (4)(b) or 112Z; or
- (b) accesses, uses, retains, or discloses any NCSP information or evaluation material in contravention of section **112J(1)** or 112Y(1); or 15
- (c) amends any information stored on the NCSP register, without authority from the NCSP manager under **section 112JA(4)**.
- 9 Health (Cervical Screening (Kaitiaki)) Regulations 1995 amended**
- (1) This section amends the Health (Cervical Screening (Kaitiaki)) Regulations 1995. 20
- (1A) In regulation 2(1), definition of **Register**, after “for this purpose”, insert “, and includes any part of the Register that is replaced”.
- (2) In regulation 3(1), replace “section 74A(5)(f)” with “**section 112J(4)(d)**”.
- (3) In regulation 11(a), replace “section 74A(5)(f)” with “**section 112J(4)(d)**”.

Legislative history

| | |
|-------------------|--|
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| 20 March 2018 | First reading and referral to Health Committee |
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