



28 October 2011

S11.15

**Submission to the Government Administration Committee on the
Crown Entities Reform Bill no. 332**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 51 nationally organised societies and national members. It has 23 branches throughout the country attended by representatives of those societies and some 150 other societies as well as individual members. NCWNZ's function is to represent and promote the interests of New Zealand women through research, discussion and action.

This submission has been prepared by the NCWNZ Public Issues Standing Committee and the Parliamentary Watch Committee.

**Part 1 New Zealand Public Health and Disability Act 2000
Health Promotion Agency**

Clause 6 New headings and sections 57 to 59AA substituted

Health promotion is a key activity to improve the health status of New Zealanders. The creation of this agency draws together the work of existing agencies into one entity. Such an agency should strengthen the work without restricting the diversity that is needed to achieve the goal of "promoting health and encouraging healthy lifestyles" (new 58(1) (a)).

Proposed new s.58 (1) (a) "promoting health and encouraging healthy lifestyles" is the *raison d'être* for the Health Promotion Agency. It fits the WHO definition of health promotion as "a process of enabling people to increase control over, and to improve, their health"¹. The proposed s.58(1) (b) "preventing disease, illness, and injury", (c) "enabling environments that support health and healthy lifestyles" and (d) "reducing personal, social, and economic harm" are simply subsets of (a). These are the outcomes of the promotion of health and the encouragement of healthy lifestyles.

An unmentioned function is the need to facilitate the development of public policy. This function should be acknowledged in the legislation.

Not clearly articulated in the bill is how and when the HPA will be funded. For the HPA to be successful in leading and supporting activities it requires substantial resources of funding and people with adequate administrative support.

¹ World Health Organization, Health and Welfare Canada, & Canadian Public Health Association. (1986). Ottawa Charter for Health Promotion. Released at the First International Conference on Health Promotion, 17–21 November, 1986, Ottawa, Ontario, Canada.

Part 2 Mental Health Commission Act 1998

Clause 38 Amendments to Health and Disability Commissioner Act 1994

In light of the enormous increase in requirements for mental health services because of the diagnostic ability and social changes, NCWNZ believes that the Mental Health Commission should remain an independent standalone authority. With greater community awareness and knowledge of mental health, all communities are becoming aware of the steps that they may and can take to support those with mental health needs. The New Zealand community is developing a healthy response to mental health. These changes have been lead through the skills, knowledge and direct activities of the Mental Health Commission particularly their proactive use of the media and cross-community involvement throughout New Zealand. The Mental Health Commissioner is seen as proactive, the Health and Disability Commission as reactive.

The proposed change to the Health and Disability Commission Act 1994 given in clause 38(3) to amend s.14(1) by inserting new paragraph (ma) “to monitor mental health and addiction services and to advocate improvements to those services” does not adequately reflect the current functions of the Mental Health Commission, namely:

Mental Health Commission Act 1998

6. Functions of Commission

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
- 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
 - (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
 - (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—
 - (i) at intervals agreed between the Minister and the Commission; and
 - (ii) when otherwise requested by the Minister; and
 - (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
- f) to stimulate and undertake research into any matter relevant to mental illness.

Part 3 Charities Act 2005

The principles of the Charities Act when established were to assure those in the third sector (the voluntary, community or not-for-profit sector) that this was an agency independent of ministerial caprice. NCWNZ has keenly followed the progress of the 2005 Charities Act and has made several submissions through the period from 2004 as the legislation progressed, and then on documents issued by the Commission.

It is premature to move the Charities Commission into the Department of Internal Affairs without a full independent review of the Act. The current Minister for the Community and Voluntary Sector is committed to a first principles review of the Charities Act 2005 – scheduled for completion by 2015 –that will determine whether the existing legislation is fit for purpose and reflects the needs and composition of the charitable sector². The machinery is already in place for this review. The planned review would allow for an appropriate examination of all the issues. The intention for the removal of the Charities Commission would seem to be particularly parsimonious when considering the lengthy gestation period as well as an inclusive Select Committee process prior to its original enactment. It would be more relevant to bring forward the review completion date.

Existing reviews of trusts and the Incorporated Societies Act have relevance to the operation of charities and implications for the third sector so need to be completed before a review of the Charities Act is undertaken.

Clause 45 New heading and sections 8 to 12 substituted

The Charities Commission is and should remain the guardian of the health and welfare of the third sector. Its autonomy should be guaranteed. The independence of the Commission is not maintained by imbuing the powers of the existing Charities Commission Chief Executive into those of the Secretary for Internal Affairs (proposed new s.10 Functions of chief executive).

Summary

NCWNZ supports the creation of the Health Promotion Agency, which, if it is to function effectively must be provided with adequate funding.

NCWNZ does not support, based on this proposed legislation, the decision to subsume the Mental Health Commission into the Office of the Health & Disability Commission, nor does it support the move of the Charities Commission into the Department of Internal Affairs. Any movement of responsibility should await the result of the review of the Charities Act 2005.

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² Turia, T. 2010. Charities Commission Annual General Meeting. Available at [18 Oct 2011] <http://www.beehive.govt.nz/speech/charities-commission-annual-general-meeting-0>