

DRAFT FOR CONSULTATION



Privacy Commissioner
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Health Information Privacy Code 2020 Amendment No 2

This amendment to a code of practice is made under section 37 of the Privacy Act 2020 by the Privacy Commissioner.

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Amendment to the Health Information Privacy Code 2020

1 Title

This is the Health Information Privacy Code 2020 Amendment No 2.

2 Commencement

This amendment comes into force on 1 May 2026.

3 Interpretation

In this amendment,—

Code means the Health Information Privacy Code 2020

Schedule refers to a Schedule of the Code.

4 Heading inserted

Insert "Part 1: Preliminary provisions" as a heading before clause 1 of the Code.

5 Clause 3 (Interpretation) amended

In clause 3(1) of the Code, **disability support services**, paragraph (b), delete "of such people".

6 Clause 5 (Health information privacy rules) rule 2 amended

In clause 5 of the Code, health information privacy rule 2, subrule (2)(a), replace "rule 3(1)" with "rule 3A(1)".

7 Clause 5 (Health information privacy rules) rule 3 amended

In clause 5 of the Code, health information privacy rule 3, after "individual", insert "concerned" in the heading above subrule (1).

8 Clause 5 (Health information privacy rules) rule 3A inserted

In clause 5 of the Code, after health information privacy rule 3, insert health information privacy rule 3A:

Rule 3A

Collection of health information other than from individual concerned

(1) If a health agency collects health information about an individual other than from the individual concerned or from the individual's representative, the health agency must take any steps that are, in the circumstances, reasonable to ensure that the individual concerned, or their representative, is aware of—

- (a) the fact that the information is being collected; and
- (b) the purpose for which the information has been collected; and
- (c) the intended recipients of the information; and
- (d) the name and address of—
 - (i) the health agency that has collected the information; and

- (ii) the health agency that is holding the information; and
- (e) if the collection of the health information is authorised or required by or under the law, the particular law by or under which the collection of the information is authorised or required; and
- (f) the rights of access to, and correction of, health information provided by rules 6 and 7.

(2) The steps referred to in subrule (1) must be taken as soon as is reasonably practicable after the health information has been collected (unless taken sooner).

(3) A health agency is not required to take the steps referred to in subrule (1) in relation to the collection of personal information if the individual concerned, or the individual's representative, has previously been made aware by any means of all of the matters specified in subrule (1) in relation to the health agency's collection of the information.

(4) It is not necessary for a health agency to comply with subrule (1) if the health agency believes, on reasonable grounds,—

- (a) that compliance would prejudice the interests of the individual concerned; or
- (b) that compliance would prejudice the purposes of the collection; or
- (c) that compliance is not reasonably practicable in the circumstances of the particular case; or
- (d) that non-compliance is necessary to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
- (e) that compliance would cause a serious threat to—
 - (i) public health or safety; or
 - (ii) the health or safety of another individual; or

Example relating to rule 3A(4)(e)(i)

A health agency (C) has collected from another agency personal information about an individual who has a contagious disease. C needs to take immediate action to contain the spread of the disease. C would not have to comply with subrule (1) if C believes on reasonable grounds that the delay caused by compliance would cause a serious threat to public health or safety.

- (f) that the health information is publicly available information; or
- (g) that the health information was collected for the purpose of assembling a family or genetic history of an individual from that individual; or
- (h) that the health information—
 - (i) will not be used in a form in which the individual concerned is identified; or
 - (ii) will be used for statistical purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; or

- (iii) will be used for research purposes (for which approval by an ethics committee, if required, has been given) and will not be published in a form that could reasonably be expected to identify the individual concerned.
- (5) Rule 3A does not apply to health information collected before 1 May 2026.

9 Clause 5 (Health information privacy rules) rule 12 amended

In clause 5 of the Code, health information privacy rule 12—

- (a) subrule (1)(e), after "country", insert "and the disclosure is not precluded by any limitation or qualification prescribed in respect of that country under section 214(3) of the Act":
- (b) subrule 12(3), **prescribed country**, delete "that are made without any qualification or limitation relating to a class of person that includes B, or to a type of information that includes health information".

10 Clause 5 (Health information privacy rules) rule 13 amended

In clause 5 of the Code, health information privacy rule 13, in subrule 13(4)(b) replace "Common Provider Number" with "Common Person Number".

11 Schedule 1 (Specified Health Agencies) amended

In Schedule 1—

- (a) paragraph 2, after "Council" insert "of New Zealand":
- (b) paragraph 3, replace "Institute of Environmental Science and Research Limited" with "New Zealand Institute for Public Health and Forensic Science Limited":
- (c) paragraph 5, replace "New Zealand" with "NZ".

12 Schedule 2 (Agencies Approved to Assign NHI Number) amended

In Schedule 2—

- (a) paragraph 11, delete "of New Zealand":
- (b) revoke paragraph 13:
- (c) paragraph 14, replace "Ministry for Disabled People" with "Ministry of Social Development Disability Support Services".

I, MICHAEL LINDO CHARLES WEBSTER, Privacy Commissioner, having given notice in accordance with section 33(3) of the Privacy Act 2020 of my intention to issue an amendment to a code of practice, now issue under section 37 of the Privacy Act 2020, this amendment to the Health Information Privacy Code 2020.

Made at Wellington on 16 March 2026.

The SEAL of the Privacy Commissioner was)
affixed to this amendment to the)
Health Information Privacy Code 2020)
by the Privacy Commissioner)

Michael Lindo Charles Webster
Privacy Commissioner

Explanatory note

This note is not part of the code of practice amendment but is intended to indicate its general effect.

This amendment amends the Health Information Privacy Code 2020 following the introduction of information privacy principle 3A into the Privacy Act 2020 by the Privacy Amendment Act 2025. It provides for individuals, or their representatives, to be notified that their health information has been indirectly collected.

Additional minor or technical amendments are also made.

This is the second amendment to the Health Information Privacy Code 2020.

This is secondary legislation issued under the authority of the Legislation Act 2019 .	
Title	Health Information Privacy Code 2020 Amendment No 2
Principal or amendment	Amendment
Consolidated version	No
Empowering Act and provisions	Privacy Act 2020, section 37
Replacement empowering Act and provisions	Not applicable
Maker name	Privacy Commissioner
Administering agency	Office of the Privacy Commissioner
Date made	16 March 2026
Publication date	19 March 2026
Notification date	19 March 2026
Commencement date	1 May 2026
End date (when applicable)	Not applicable
Consolidation as at date	Not applicable
Related instruments	Health Information Privacy Code 2020 insert website address for consolidated act