

Health Legislation Amendment Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

(a) to amend the *Health Administration Act 1982* so that the provisions requiring the appointment of a root cause analysis team in certain circumstances apply to the Ambulance Service of New South Wales,

(b) to amend the *Human Tissue Act 1983* to clarify that a reference to a parent includes a reference to the Minister for Community Services if the Minister has sole parental responsibility for the child and to make further provision with regard to:

(i) the removal of tissue from children in certain circumstances, and

(ii) conditions relating to the medical practitioners who may certify death prior to the removal of tissue from a deceased person's body, and

(iii) the persons (in addition to medical practitioners) who may remove musculoskeletal tissue from a deceased person for certain purposes, and
(iv) the use of small samples of tissue for quality assurance and related purposes,

(c) to amend the *Podiatrists Act 2003* to allow regulations to be made in relation to infection control standards to be followed by podiatrists,

(d) to amend the *Poisons and Therapeutic Goods Act 1966* and the *Poisons and Therapeutic Goods Regulation 2002* to limit the types of drugs of addiction that may be prescribed for continuous therapeutic use only with the authority of the Director-General of the Department of Health,

(e) to amend the *Poisons and Therapeutic Goods Act 1966* to allow the Director-General of the Department of Health a discretion in respect of whether certain information (in relation to the maximum quantity of a drug and the time period during which it may be prescribed or supplied) is contained in an authority to prescribe or supply drugs,

(f) to amend the *Public Health Act 1991* to provide that a registered nurse may carry out surgical debridement of hypertrophic tissue of the foot using a sharp instrument in certain circumstances.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation with a specified exception.

Clause 3 is a formal provision that gives effect to the amendments to the Acts and regulation set out in Schedules 1–6.

Schedule 1 Amendment of Health Administration

Act 1982 No 135

Schedule 1 amends the *Health Administration Act 1982*, so that the provisions of that Act requiring the appointment of a root cause analysis team in certain circumstances apply to the Ambulance Service of New South Wales.

Schedule 2 Amendment of Human Tissue Act 1983

No 164

Schedule 2 [1] amends the *Human Tissue Act 1983* to clarify that a reference to a parent includes a reference to the Minister administering the *Children and Young Persons (Care and Protection) Act 1998* if the Minister has sole parental responsibility (unless otherwise indicated). **Schedule 2 [2] and [9]** contain consequential amendments.

Schedule 2 [3] inserts proposed section 11A into the *Human Tissue Act 1983* to make provision for the removal of regenerative tissue from the body of a child who is not capable of understanding the nature and effect of such removal and the intended effect of its proposed transplantation in certain circumstances where the risk to the child is minimal and the sibling of the child is likely to die or suffer serious and irreversible damage to his or her health unless the tissue is used in his or her treatment. **Schedule 2 [2], [4] and [6]–[8]** contain consequential amendments.

Schedule 2 [5] and [12] make statute law revision amendments.

Schedule 2 [10] amends the *Human Tissue Act 1983* to provide that the medical practitioners who may certify death prior to the removal of tissue from a deceased person's body must not be involved in the removal of tissue from the deceased person's body for the purposes of its transplantation or be responsible for the primary care of the intended recipient of the tissue.

Schedule 2 [11] amends the *Human Tissue Act 1983* to allow authorised persons, in addition to medical practitioners, to remove musculoskeletal tissue from a deceased person for the purpose of the transplantation of that tissue.

Schedule 2 [13] amends the *Human Tissue Act 1983* to provide that the Act does not prevent the use of small samples of tissue, that are lawfully removed, for carrying out analyses or tests that are part of a program to ensure, or improve, the quality of services carried out at a hospital, a forensic institution, a laboratory, an educational or research institution or by a supplier of blood or blood products, or that are necessary for the delivery of services carried out at or by these bodies or for the accreditation under any Act of these bodies.

Schedule 3 Amendment of Podiatrists Act 2003

No 69

Schedule 3 amends the *Podiatrists Act 2003* to allow regulations to be made in relation to infection control standards to be followed by podiatrists.

Schedule 4 Amendment of Poisons and Therapeutic

Goods Act 1966 No 31

Schedule 4 [1] substitutes section 28 of the *Poisons and Therapeutic Goods Act 1966* to specify the types of drugs of addiction that may be prescribed for continuous therapeutic use only with the authority of the Director-General of the Department of Health.

Schedule 4 [2] amends the *Poisons and Therapeutic Goods Act 1966* to allow the Director-General of the Department of Health a discretion in respect of whether an authority to prescribe or supply drugs specifies the maximum quantity of the drug that may be prescribed or supplied or the period for which any drugs may be prescribed or supplied (it is currently mandatory for these details to be included in any such authorisation).

Schedule 5 Amendment of Poisons and Therapeutic

Goods Regulation 2002

Schedule 5 amends the *Poisons and Therapeutic Goods Regulation 2002* to specify the types of drugs of addiction that may be prescribed for continuous therapeutic use only with the authority of the Director-General of the Department of Health.

Schedule 6 Amendment of Public Health Act 1991

No 10

Schedule 6 [1] amends the *Public Health Act 1991* to provide that a registered nurse may carry out surgical debridement of hypertrophic tissue of the foot using a sharp instrument if the debridement is carried out to the extent necessary to provide immediate relief from pain or discomfort (the Act does not currently allow this but provides a defence to prosecution in such circumstances). **Schedule 6 [2]** makes a consequential amendment.