



New South Wales

# Health Professionals (Special Events Exemption) Act 1997 No 90

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New South Wales

## **Health Professionals (Special Events Exemption) Act 1997 No 90**

Act No 90, 1997

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An Act to allow visiting health professionals to provide health care services in the State in connection with special events without becoming registered under State law; and for other purposes. [Assented to 4 November 1997]

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The Legislature of New South Wales enacts:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Health Professionals (Special Events Exemption) Act 1997*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

In this Act:

***drug of addiction*** means any substance specified in Schedule Eight of the Poisons List.

***exemption period***, in relation to a special event, means the period or periods specified in an order under section 5 that applies to the event.

***health care services*** means:

- (a) services ordinarily provided by medical practitioners, nurses, dentists, dental technicians, dental prosthetists, pharmacists, podiatrists, chiropractors, osteopaths, optometrists, physiotherapists, psychologists and optical dispensers, or
- (b) any other service prescribed by the regulations.

***Health Registration Act*** means any of the following Acts:

*Chiropractors and Osteopaths Act 1991*  
*Dental Technicians Registration Act 1975*  
*Dentists Act 1989*  
*Medical Practice Act 1992*  
*Nurses Act 1991*  
*Optical Dispensers Act 1963*  
*Optometrists Act 1930*

*Pharmacy Act 1964*

*Physiotherapists Registration Act 1945*

*Podiatrists Act 1989*

*Psychologists Act 1989*

**Poisons List** means the list proclaimed under section 8 of the *Poisons and Therapeutic Goods Act 1966* as in force for the time being.

**registration** includes licensing and enrolment.

**relevant special event**, in relation to a visiting health professional, means the special event in respect of which notice is given by the health professional under section 7 (c).

**restricted substance** means any substance specified in Schedule Four of the Poisons List.

**special event** means an event, or class of events, that is declared to be a special event by order under section 5.

**supply** has the same meaning as in the *Poisons and Therapeutic Goods Act 1966*.

**visiting health professional** is defined in section 7.

**visitor** is defined in section 6.

#### 4 Notes

Notes included in this Act are explanatory notes and do not form part of this Act.

## **Part 2 Special events exemption for visiting health professionals**

### **5 Special events**

- (1) The Minister may, by order published in the Gazette, declare an event or class of events specified in the order to be a special event for the purposes of this Act.
- (2) Such an order may be made in relation to any sporting, cultural or other event that is to take place or is taking place in the State and that, in the opinion of the Minister, will attract a significant number of participants from other countries.
- (3) The order is to specify a period or periods in which an exemption under this Act has effect in respect of a special event.
- (4) The exemption period for a special event may include any period or periods before or after the special event takes place.
- (5) The order is to specify a procedure for the purposes of section 7 (c) by which notice is to be given of a person's intention to provide health care services in the State to a visitor.
- (6) An order under this section may, in its operation in relation to any matter dealt with in the order, apply generally or be limited in its application by reference to specified exceptions or factors.
- (7) An order under this section may be revoked or varied by a further order or orders under this section.

### **6 Definition of "visitor"**

A person is a *visitor* for the purposes of this Act if:

- (a) the person is a resident of another country who is in the State for the purpose of officially participating in a special event, or preparing, training, practising, rehearsing or acclimatising for a special event, or
- (b) the person is a resident of Australia who is in the State for such a purpose and is a member of a group the majority of which is comprised of persons referred to in paragraph (a) who are in the State for the same purpose.

## **7 Definition of “visiting health professional”**

A person is a *visiting health professional* for the purposes of this Act if:

- (a) the person is an individual who is a resident of another country, and
- (b) the person is appointed, employed, contracted or otherwise engaged to provide health care services to a visitor, and
- (c) notice is given of the person’s intention to provide health care services in the State to a visitor in accordance with the procedure specified in the order under section 5 declaring the special event.

## **8 Provision of health care services by visiting health professionals**

- (1) A visiting health professional, for the purposes of this Act, is authorised to provide health care services to visitors for whom the health professional has been appointed, employed, contracted or otherwise engaged to provide those services as referred to in section 7.
- (2) This section operates in relation to a visiting health professional only:
  - (a) during the exemption period for the relevant special event, and
  - (b) while the health professional is complying with the provisions of this Act, the regulations and any relevant conditions imposed in accordance with this Act.

## **9 Conditions on practice by visiting health professionals**

- (1) An order under section 5 may impose conditions on the provision of health care services by a visiting health professional.
- (2) Any such condition may apply generally or may apply to a particular special event or a particular class of persons.
- (3) The regulations may also make provision for or with respect to conditions to be imposed on the provision of health care services by a visiting health professional.

**10 Issue of prescriptions and supply of certain substances**

- (1) A visiting health professional may issue a written prescription for a restricted substance or drug of addiction only if authorised to do so by an order under section 5.
- (2) The Minister may, by an order under section 5:
  - (a) authorise a visiting health professional, all visiting health professionals or a class of visiting health professionals to issue written prescriptions for a restricted substance or drug of addiction in the course of providing health care services in accordance with this Act, and
  - (b) authorise any person or class of persons to supply a restricted substance or drug of addiction on such a prescription, and
  - (c) authorise a visiting health professional, all visiting health professionals or a class of visiting health professionals to be supplied with any substance by wholesale, and
  - (d) authorise any person or class of persons to supply any substance by wholesale to any visiting health professional, authorised as referred to in paragraph (c), but only if the person or class of persons is licensed or otherwise authorised under the *Poisons and Therapeutic Goods Act 1966* to supply the substance by wholesale to a medical practitioner.
- (3) The Minister is not to make an order containing any authorisation referred to in subsection (2) unless the Minister is satisfied that adequate arrangements are in place to ensure that the substances concerned will only be prescribed for and supplied to persons to whom visiting health professionals are authorised to provide health care services under this Act.
- (4) An order under section 5 may impose conditions on any authorisation referred to in this section that is conferred by the order.
- (5) Any such condition may apply generally or may apply to a particular special event or a particular class of persons.



## 11 Exemptions relating to offences

- (1) A visiting health professional does not commit an offence under a Health Registration Act, the *Poisons and Therapeutic Goods Act 1966* or the *Drug Misuse and Trafficking Act 1985*, or any regulations under those Acts, for:
  - (a) providing health care services authorised by this Act, or
  - (b) possessing or supplying any substance in the course of providing those authorised health care services, or
  - (c) prescribing any substance in accordance with this Act, or
  - (d) holding himself or herself out as being able to provide those authorised health care services, or
  - (e) using any name, initials, description, word, symbol, addition or title that he or she ordinarily uses.
- (2) A visitor does not commit an offence under the *Poisons and Therapeutic Goods Act 1966* or the *Drug Misuse and Trafficking Act 1985*, or any regulations under those Acts, for doing any thing, or possessing any substance, as a result of being provided with health care services in accordance with this Act.
- (3) A person does not commit an offence under the *Poisons and Therapeutic Goods Act 1966* or the *Drug Misuse and Trafficking Act 1985*, or any regulations under those Acts, for:
  - (a) supplying a restricted substance or drug of addiction in accordance with a written prescription issued by a visiting health professional if:
    - (i) the health professional is authorised in accordance with this Act to issue the prescription, and
    - (ii) the person is authorised in accordance with this Act to supply the substance on such a prescription, or
  - (b) supplying any substance by wholesale to a visiting health professional if:
    - (i) the person is authorised in accordance with this Act to supply the substance by wholesale, and
    - (ii) the visiting health professional is authorised in accordance with this Act to be supplied with the substance by wholesale, and

- (iii) the person is complying with any conditions to which the person's authorisation under the *Poisons and Therapeutic Goods Act 1966* is subject.
- (4) The regulations may prescribe other offences to which subsection (1), (2) or (3) applies.

**Note.** A visiting health professional who provides health care services otherwise than in accordance with this Act loses the exemption given by section 11 in relation to the commission of offences under the Health Registration Acts.

## **Part 3      Miscellaneous**

### **12    Complaints about visiting health professionals**

- (1)    A complaint may not be made about a visiting health professional under the *Health Care Complaints Act 1993* or a Health Registration Act and no disciplinary action may be taken against a visiting health professional under any of those Acts. However, this section does not prevent the bringing of proceedings for an offence under any of those Acts.
- (2)    This section does not apply to complaints about a person who is registered under a Health Registration Act.

**Note.** See note to section 11.

### **13    Application of Act to particular persons**

- (1)    The Minister may, by order published in the Gazette, declare that this Act, or a specified provision of this Act, does not apply to or in respect of a specified person or class of persons.
- (2)    Such an order has effect according to its terms.

### **14    Act does not limit the practice of registered health professionals**

This Act does not prejudice or affect the lawful occupation, trade or business of any person who is registered under a Health Registration Act.

### **15    Regulations**

- (1)    The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2)    A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

## **16 Proceedings for offences**

Proceedings for an offence against the regulations are to be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.

## **17 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

[Minister's second reading speech made in—  
Legislative Assembly on 28 May 1997  
Legislative Council on 21 October 1997]