

S. Ward

Statement of Public Interest
Legislative Council: Standing Order 143

Clerk of the Parliaments

19/9/2022

Health Legislation Amendment (Miscellaneous) Bill 2023

Statement 1: Need: Why is the policy needed based on factual evidence and stakeholder input?

The Health Legislation Amendment (Miscellaneous) Bill 2023 (Bill) makes a range of minor amendments to various Acts within the Health portfolio. The Bill is part of the Ministry of Health's legislation program that ensures legislation remains current and up-to-date. The Bill has been prepared in consultation with key stakeholders.

Statement 2: Objectives: What is the policy's objective couched in terms of the public interest?

The objective of the Bill is to make minor changes to various Health Acts to ensure that legislation is kept current and up-to-date. The specific objectives are set out below.

The objective of the amendments to the Health Administration Act 1982 is to ensure the Health Secretary has the ability to direct a public health system organisation to conduct a serious adverse event review (SAER) where the Secretary considers that an incident has occurred that is sufficiently serious to warrant review. Currently a SAER is only required if the public health organisation considers that the incident is one that meets the criteria for a SAER (being a reportable incident or an incident that may be the result of systems issues).

Due to the importance of serious incidents being rigorously and comprehensively reviewed, a SAER should be required if the Secretary considers that the incident meets the criteria. The policy objective of the amendment is driven by public interest, as there is a strong public interest in ensuring the safety and quality of healthcare in NSW. The Bill further embeds NSW Health's commitment to continuous improvement, learning and sharing findings with families and clinical teams, and transparency, accountability and confidence of the public in the health system.

The objectives of the amendments to the Health Practitioner Regulation (Adoption of National Law) Act 2009 are to fix minor technical errors to ensure that the Health Practitioner Regulation National Law (NSW) can operate effectively in NSW to regulate registered health practitioners.

The amendments to the Human Tissue Act 1983 are to clarify that a deceased donor's next of kin, which will include the family and spouse of the donor, can consent to the public disclosure of details about the donor.

The objective of the amendments to the Mental Health Act 2007 are to ensure that an individual detained in a mental health facility is aware of their right to be

provided with appropriate street clothes and grooming items before appearing before the Mental Health Review Tribunal so that the person has the opportunity to present their best self before the Tribunal.

The objectives of the amendments to the Poisons and Therapeutic Goods Act 1966 are to establish a simplified regime to allow for seized goods to be destroyed. Currently, illegal medicines and poisons can be seized under the Act but in order for the goods to be destroyed a magistrate's order is required. In line with the yet to be commenced Medicines, Poisons and Therapeutic Goods Act 2022 (which on commencement will replace the Poisons and Therapeutic Goods Act), a simplified process to destroy seized goods is proposed. This will streamline the process for destruction and help improve public health and safety by allowing seized goods to be destroyed.

The objectives of the amendments to the Public Health Act 2010 are to update outdated terminology and align procedural requirements for making the code of conduct with the standards requirements for making regulations. This will ensure that the Act remains current and up to date.

The objectives of the Public Health (Tobacco) Act are to better protect public health and safety by clarifying and updating tobacco inspector's powers to improve the ability to undertake compliance activities.

Statement 3: Options: What alternative policies and mechanisms were considered in advance of the bill?

The changes in the Bill can only be achieved through legislative amendment.

Statement 4: Analysis: What were the pros/cons and benefits/costs of each option considered?

If minor amendments to Health Acts are not made, then the legislation will not remain accurate and current. The consolidation of the amendments in the one Bill is the most effective and efficient way to ensure NSW Parliament can consider the amendments.

Statement 5: Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

All of the provisions of the Bill will commence on assent. NSW Health will generally be responsible for administering the changes.

Statement 6: Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The following key stakeholders were consulted during the development of the proposals: The Medical Services Committee, the Australian Medical Association (NSW Branch), the NSW Nurses and Midwives Association, the NSW Organ and Tissue Donation Service, Legal Aid NSW and the Department of Communities and Justice.