



New South Wales

Health Legislation Amendment (Miscellaneous) Bill 2024

Explanatory note

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

Overview of Bill

The object of this Bill is to make miscellaneous amendments to the following Acts—

- (a) the *Assisted Reproductive Technology Act 2007*,
- (b) the *Crimes Act 1900*,
- (c) the *Drug and Alcohol Treatment Act 2007*,
- (d) the *Health Records and Information Privacy Act 2002*,
- (e) the *Medicines, Poisons and Therapeutic Goods Act 2022*,
- (f) the *Mental Health Act 2007*,
- (g) the *Private Health Facilities Act 2007*,
- (h) the *Public Health Act 2010*,
- (i) the *Public Health (Tobacco) Act 2008*.

This Bill also repeals the *Health Services Amendment (Ambulance Services) Act 2015*.

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.

Clause 3 repeals the *Health Services Amendment (Ambulance Services) Act 2015*, which contains amendments to the *Health Services Act 1997* and the *Health Insurance Levies Act 1982* that are no longer required.

Schedule 1 Amendment of Assisted Reproductive Technology Act 2007 No 69

Schedule 1[2] amends a provision that limits the use of gametes from the same donor in assisted reproductive technology treatment (*ART treatment*) in New South Wales. The amendment authorises the Secretary of the Ministry of Health (the *Secretary*) to—

- (a) give certain information about ART treatment carried out in New South Wales to certain relevant persons in other States and Territories, and
- (b) authorise a provider of ART treatment in New South Wales to give the information to certain relevant persons in other States and Territories.

The regulations may provide for the circumstances in which the information may be shared, the kinds of information that may not be shared and the conditions under which the information may be shared. **Schedule 1[1]** makes a consequential amendment.

Schedule 2 Amendment of Crimes Act 1900 No 40

Schedule 2[1] extends existing offences relating to assaulting or hindering frontline health workers to include medical practitioners and other persons working at a medical practice. **Schedule 2[2]** makes a law revision amendment.

Schedule 3 Amendment of Drug and Alcohol Treatment Act 2007 No 7

Schedule 3[1] makes it clear that a person acting as an official visitor or the principal official visitor is entitled to remuneration determined by the Minister for Health. **Schedule 3[2]** inserts a related note that refers to the *Interpretation Act 1987*, section 47. That section provides that the power to appoint a person to an office includes the power to appoint a person to act in that office in certain circumstances.

Schedule 4 Amendment of Health Records and Information Privacy Act 2002 No 71

Schedule 4[1] and [2] provide that a State owned corporation that is not subject to the *Privacy Act 1988* of the Commonwealth is a public sector agency for the *Health Records and Information Privacy Act 2002*. As a result, a State owned corporation will be required to comply with the Health Privacy Principles and other health privacy codes of practice under that Act. **Schedule 4[5]** inserts a savings and transitional provision. **Schedule 4[3] and [4]** make minor and consequential amendments.

Schedule 5 Amendment of Medicines, Poisons and Therapeutic Goods Act 2022 No 73

Schedule 5[1] reduces the maximum penalty for a Tier 5 offence committed by a corporation from 120 penalty units to 100 penalty units. **Schedule 5[2]** reduces the maximum penalty for each day of a continuing Tier 5 offence committed by a corporation from 60 penalty units to 50 penalty units.

Schedule 5[3] inserts an amendment to the *Public Health (Tobacco) Act 2008* that is consequential on the repeal of the *Poisons and Therapeutic Goods Act 1966* by the *Medicines, Poisons and Therapeutic Goods Act 2022*.

Schedule 6 Amendment of Mental Health Act 2007 No 8

Schedule 6[2], [3] and [5] require notice of certain matters relating to a community treatment order to be given to each designated carer and the principal care provider of the person subject to the community treatment order. **Schedule 6[1]** makes a consequential amendment.

Currently, notice of a breach of a community treatment order must be handed directly to the person subject to the order or, if that is not reasonably practicable, posted to the person. **Schedule 6[4]** enables the notice to be given by email or other methods prescribed by the regulations, if the notice cannot be handed directly to the person.

Schedule 6[6] makes it clear that a person acting as an official visitor or the Principal official visitor is entitled to remuneration determined by the Minister for Health. **Schedule 6[7]** inserts a related note that refers to the *Interpretation Act 1987*, section 47. That section provides that the power to appoint a person to an office includes the power to appoint a person to act in that office in certain circumstances.

Schedule 7 Amendment of Private Health Facilities Act 2007 No 9

Schedule 7[1] extends an existing condition of a private health facility licence. Currently, a private health facility licence is subject to a condition that the licensee must give the information prescribed by the regulations to the Secretary. The amendment allows the Secretary to also specify information that must be given to the Secretary under the condition.

Schedule 7[2] enables the regulations to apply, adopt or incorporate a publication as in force from time to time, as well as in force on a particular day, as is currently the case.

Schedule 8 Amendment of Public Health Act 2010 No 127

Schedule 8[1] enables the Secretary to determine requirements for the installation, maintenance and operation of regulated systems for legionella control.

Schedule 8[2] and [3] enable the Secretary to determine the occasions on which the principal of a school or child care facility must ask a parent of a child at the school or child care facility to provide the child's immunisation or vaccination certificate.

Schedule 8[4] enables the regulations to provide for the Secretary to exempt, with or without conditions, a person from a provision of the regulations about the disposal of bodies, including burials, cremations, exhumations and mortuaries.

Schedule 9 Amendment of Public Health (Tobacco) Act 2008 No 94

Schedule 9[2] allows the Secretary to appoint inspectors for the *Public Health (Tobacco) Act 2008*. Currently, authorised officers appointed under the *Public Health Act 2010* act as inspectors for the *Public Health (Tobacco) Act 2008*. **Schedule 9[1]** makes a consequential amendment. **Schedule 9[3]** inserts a transitional provision.



New South Wales

Health Legislation Amendment (Miscellaneous) Bill 2024

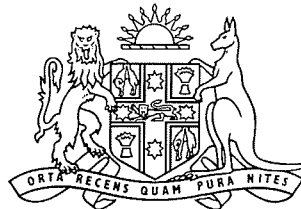
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This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council

Clerk of the Parliaments



New South Wales

Health Legislation Amendment (Miscellaneous) Bill 2024

No. _____, 2024

A Bill for

An Act to make miscellaneous amendments to various Acts relating to health and associated matters; and to repeal the *Health Services Amendment (Ambulance Services) Act 2015*.

The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with/without amendment.

Legislative Assembly

Clerk of the Legislative Assembly

Tabling copy

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Health Legislation Amendment (Miscellaneous) Act 2024</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5
3 Repeal of Health Services Amendment (Ambulance Services) Act 2015 No 22	6
The <i>Health Services Amendment (Ambulance Services) Act 2015</i> No 22 is repealed.	7

Schedule 1	Amendment of Assisted Reproductive Technology Act 2007 No 69	1
		2
[1] Section 27 Donated gametes or embryos—maximum number of families		3
Omit “information referred to in subsection (4)” from section 27(5).		4
Insert instead “relevant information”.		5
[2] Section 27(7)–(9)		6
Insert after section 27(6)—		7
(7) Subject to the regulations, the Secretary may—		8
(a) give relevant information to an interstate government agency or interstate ART provider in the circumstances prescribed by the regulations, and		9 10 11
(b) authorise an ART provider to give relevant information to an interstate government agency or interstate ART provider in the circumstances prescribed by the regulations.		12 13 14
(8) The regulations may—		15
(a) provide for the kinds of relevant information that may not be given to an interstate government agency or an interstate ART provider, and		16 17
(b) prescribe, or authorise the Secretary to impose, conditions on the giving of relevant information to an interstate government agency or interstate ART provider.		18 19 20
(9) In this section—		21
<i>interstate ART provider</i> means a person who—		22
(a) provides ART services in another State or Territory, and		23
(b) is prescribed by the regulations.		24
<i>interstate government agency</i> means a Minister or head of a government department in another State or Territory who—		25 26
(a) has similar functions to the Secretary under this Act, and		27
(b) is prescribed by the regulations.		28
<i>relevant information</i> means the information in relation to a donor specified in subsection (4).		29 30

Schedule 2 Amendment of Crimes Act 1900 No 40

[1] Section 60AA Definitions

Insert after the definition of *frontline health worker*, paragraph (a)—

- (a1) a medical practitioner or other person employed or otherwise engaged to provide services in a medical practice, or

[2] Section 60AA, definition of “frontline health worker”

Insert “or” at the end of paragraphs (b) and (e)–(g).

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**Schedule 3 Amendment of Drug and Alcohol Treatment Act
2007 No 7**

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[1] Schedule 3 Provisions relating to principal official visitor and official visitors

Insert “, including an acting official visitor,” after “An official visitor” in clause 3.

[2] Schedule 3, clause 3, note

Insert at the end of the clause—

Note— Under the *Interpretation Act 1987*, section 47, the power to appoint a person to an office includes the power to appoint a person to act in that office in certain circumstances.

Schedule 4	Amendment of Health Records and Information Privacy Act 2002 No 71	1
		2
[1] Section 4 Definitions		3
	Insert after section 4(1), definition of <i>public sector agency</i> , paragraph (b)—	4
	(c) a State owned corporation that is not subject to the <i>Privacy Act 1988</i> of the Commonwealth,	5
		6
[2] Section 4(1), definition of “public sector agency”		7
	Omit “but does not include a State owned corporation.”.	8
[3] Schedule 2 Savings and transitional provisions		9
	Insert before clause 1—	10
Part 1	General	11
[4] Schedule 2, clause 1(1)		12
	Insert at the end of the subclause—	13
	another Act that amends this Act	14
[5] Schedule 2		15
	Insert at the end of the schedule, with appropriate part and clause numbering—	16
Part	Provisions consequent on enactment of Health Legislation Amendment (Miscellaneous) Act 2024	17
		18
	Application of Act to State owned corporations	19
	(1) This clause applies to a State owned corporation that is not subject to the <i>Privacy Act 1988</i> of the Commonwealth (a <i>relevant SOC</i>).	20
		21
	(2) Section 19 applies to a relevant SOC as if a reference in that section to the commencement of Schedule 1 were a reference to the commencement of the relevant amendments.	22
		23
		24
	(3) Section 21 applies to a relevant SOC as if a reference in that section to the commencement of that section were a reference to the commencement of the relevant amendments.	25
		26
		27
	(4) In this clause—	28
	<i>relevant amendments</i> means the amendments to section 4 made by the <i>Health Legislation Amendment (Miscellaneous) Act 2024</i> .	29
		30

Schedule 5	Amendment of Medicines, Poisons and Therapeutic Goods Act 2022 No 73	1
		2
[1]	Section 117 Maximum penalty for Tier 1, 2, 3, 4 and 5 offences	3
	Omit “120 penalty units” from the matter relating to Tier 5 in the table.	4
	Insert instead “100 penalty units”.	5
[2]	Section 117, table, matter relating to Tier 5	6
	Omit “60 penalty units”. Insert instead “50 penalty units”.	7
[3]	Schedule 5 Amendment of other legislation	8
	Insert before Schedule 5.27[1]—	9
[1A]	Sections 7A(8)(a), 21A(8)(a) and 40(6)(a)	10
	Omit “inspector under the <i>Poisons and Therapeutic Goods Act 1966</i> ” wherever occurring.	11 12
	Insert instead “authorised officer under the <i>Medicines, Poisons and Therapeutic Goods Act 2022</i> ”.	13 14

Schedule 6	Amendment of Mental Health Act 2007 No 8	1
[1] Section 52 Notice of applications		2
	Insert “to the affected person” after “given” in section 52(3).	3
[2] Section 52(5)		4
	Insert after section 52(4)—	5
	(5) As soon as practicable after becoming aware of the application, the director of community treatment of the declared mental health facility at which the treatment plan is proposed to be implemented must take all reasonably practicable steps to give written notice of the application to—	6
	(a) each designated carer of the affected person, and	7
	(b) the principal care provider of the affected person, if the principal care provider is not a designated carer.	8
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[3] Section 58 Breach of community treatment order		13
	Insert at the end of section 58(2)(b)—	14
	, and	15
	(c) take all reasonably practicable steps to notify the following persons of the action taken under paragraphs (a) and (b)—	16
	(i) each designated carer of the affected person,	17
	(ii) the principal care provider of the affected person, if the principal care provider is not a designated carer.	18
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		20
[4] Section 58(5)(b)		21
	Omit “posted to the last known address of the person”.	22
	Insert instead “given to the person in a way specified in section 192(1)(a)(ii), (iv) or (v)”.	23
[5] Section 58(6)		24
	Insert after section 58(5)—	25
	(6) The director must take all reasonably practicable steps to give a copy of a breach notice and a breach order to—	26
	(a) each designated carer of the affected person, and	27
	(b) the principal care provider of the affected person, if the principal care provider is not a designated carer.	28
		29
		30
[6] Schedule 4 Provisions relating to Principal official visitor and official visitors		31
	Insert “, including an acting official visitor,” after “An official visitor” in clause 3.	32
[7] Schedule 4, clause 3, note		33
	Insert at the end of the clause—	34
	Note— Under the <i>Interpretation Act 1987</i> , section 47, the power to appoint a person to an office includes the power to appoint a person to act in that office in certain circumstances.	35
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Schedule 7	Amendment of Private Health Facilities Act 2007	1
	No 9	2
[1]	Section 12 Conditions of licence	3
	Omit “in the time and manner specified by the Secretary, such information as may be prescribed” from section 12(2)(f).	4
		5
	Insert instead “, in the time and way specified by the Secretary, information prescribed by the regulations or specified by the Secretary”.	6
		7
[2]	Section 65 Regulations	8
	Insert after section 65(3)—	9
	(4) The regulations may apply, adopt or incorporate a publication as in force from time to time.	10
		11

Schedule 8	Amendment of Public Health Act 2010 No 127	1
[1] Section 26 Definitions		2
	Insert “, or determined by the Secretary,” after “regulations” wherever occurring in section 26, definitions of <i>prescribed installation requirements</i> , <i>prescribed maintenance requirements</i> and <i>prescribed operating requirements</i> .	3 4 5
[2] Section 86 Responsibilities of principals of schools with respect to immunisation		6
	Omit “on such other occasions as may be prescribed by the regulations” from section 86(1).	7
	Insert instead “on other occasions prescribed by the regulations or determined by the Secretary”.	8 9
[3] Section 87 Responsibilities of principals of child care facilities with respect to immunisation		10 11
	Omit “on such occasions as may be prescribed by the regulations” from section 87(4).	12
	Insert instead “on the occasions prescribed by the regulations or determined by the Secretary”.	13 14
[4] Section 134 Regulations		15
	Insert after section 134(2)—	16
	(2A) The regulations may provide for the Secretary to exempt, with or without conditions, a person or class of persons from a provision of the regulations about a matter specified in subsection (2)(n)–(v).	17 18 19

Schedule 9	Amendment of Public Health (Tobacco) Act 2008 No 94	1 2
[1] Section 4 Definitions		3
	Omit section 4(1), definition of <i>inspector</i> . Insert in alphabetical order—	4
	<i>certificate of authority</i> , for an inspector, means the certificate of authority issued to the inspector under section 43A(3).	5 6
	<i>inspector</i> means an inspector appointed under section 43A.	7
[2] Section 43A		8
	Insert before section 44—	9
43A Appointment and functions of inspectors		10
(1)	The Secretary may appoint the following persons as an inspector—	11
(a)	a member of staff of the Ministry of Health,	12
(b)	a member of the NSW Health Service, within the meaning of the <i>Health Services Act 1997</i> ,	13 14
(c)	a person of a class prescribed by the regulations.	15
(2)	Subject to the instrument of appointment, an inspector has the functions conferred or imposed on the inspector by or under this Act or another Act.	16 17
(3)	The Secretary must ensure each inspector who is not a police officer is issued with a certificate of authority.	18 19
(4)	The certificate of authority must—	20
(a)	be in the form approved by the Secretary, and	21
(b)	contain a recent photograph of the inspector.	22
[3] Schedule 1 Savings, transitional and other provisions		23
	Insert at the end of the schedule, with appropriate part and clause numbering—	24
Part	Provisions consequent on enactment of Health Legislation Amendment (Miscellaneous) Act 2024	25 26
	Existing inspectors	27
(1)	A person who, immediately before the commencement date, was an inspector under this Act is taken, on the commencement date, to have been appointed as an inspector under section 43A.	28 29 30
(2)	This clause applies to an inspector who is an authorised officer within the meaning of the <i>Public Health Act 2010</i> only if the authorised officer was appointed in relation to functions exercisable under this Act.	31 32 33
(3)	In this clause—	34

commencement date means the date on which section 43A, as inserted by the
Health Legislation Amendment (Miscellaneous) Act 2024, commences.

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