



New South Wales

Health Legislation Amendment Bill 2014

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Health Practitioner Regulation (Adoption of National Law) Act 2009* so as to modify the *Health Practitioner Regulation National Law (NSW)* to enable the Civil and Administrative Tribunal to make prohibition orders against former registered health practitioners, and
- (b) to amend the *Health Services Act 1997* to restore the substantive effect of certain provisions relating to the transfer of members of staff within the Health Service under the *Public Sector Employment and Management Act 2002* immediately before its repeal, and
- (c) to amend the *Private Health Facilities Act 2007* to remove the adequacy of current health services in an area as a ground for the refusal of a licence for a private health facility in that area, and
- (d) to amend the *Public Health Act 2010* to make it an offence for a subcontractor of a person who has been engaged to install, operate or maintain a regulated system for the control of legionella to fail to ensure that certain installation, operation or maintenance requirements are complied with.

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 its date of assent.

Schedule 1 Amendment of Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86

Schedule 1 enables the Civil and Administrative Tribunal to make a prohibition order against a former registered health practitioner under section 149C of the *Health Practitioner Regulation National Law (NSW)* if the Tribunal would have made an order suspending or cancelling the practitioner's registration if he or she had been registered. A *prohibition order* is an order that prohibits a person from providing specified health services or imposes conditions on the provision of specified health services by a person.

Schedule 2 Amendment of Health Services Act 1997 No 154

Schedule 2 [1] restores the substantive effect of provisions relating to the transfer of members of staff within the Health Service that applied under the general government sector staff transfer provisions (sections 86A and 87) of the *Public Sector Employment and Management Act 2002* immediately before its repeal by the *Government Sector Employment Act 2013*. The *Government Sector Employment Act 2013* continued provisions relating to the transfer of staff between the services of the Crown, but left transfers within a service of the Crown (other than the Public Service) to be regulated by the separate provisions that apply to those other services. The *Health Services Act 1997* does not currently contain specific provisions (other than in the case of redundancy) relating to transfers between public health organisations. **Schedule 2 [2]** makes a consequential amendment.

Schedule 3 Amendment of Private Health Facilities Act 2007 No 9

Schedule 3 [1] removes a current ground for the refusal of a licence for a private health facility where the approval of the application will result in more than an adequate number of health services becoming available in a particular clinical or geographic area and will undermine the provision of viable, comprehensive and coordinated health services.

Schedule 3 [2] enables the Governor to make regulations of a savings or transitional nature consequent on amendments made to the Act by another Act (including the proposed Act).

Schedule 4 Amendment of Public Health Act 2010 No 127

Schedule 4 makes it an offence for a subcontractor of a person who is engaged by the occupier of any premises to install, operate or maintain a regulated system for the control of legionella not to ensure that installation, operation or maintenance requirements prescribed by regulations are complied with. The maximum penalty for an offence will be:

- (a) in the case of an individual—100 penalty units for a first offence or 200 penalty units, or imprisonment for 12 months, or both, for a second or subsequent offence, or
- (b) in the case of a corporation—500 penalty units for a first offence or 1,000 penalty units for a second or subsequent offence.