



New South Wales

Health Legislation (Miscellaneous) Amendment Bill (No 2) 2022

Explanatory note

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

Overview of Bill

This Bill makes miscellaneous amendments to the following Acts relating to health and associated matters—

- (a) *Health Care Complaints Act 1993*,
- (b) *Health Practitioner Regulation (Adoption of National Law) Act 2009*,
- (c) *Human Tissue Act 1983*,
- (d) *Mental Health Act 2007*,
- (e) *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*,
- (f) *Public Health Act 2010*,
- (g) *Statutory and Other Offices Remuneration Act 1975*.

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.

Schedule 1 Amendment of Health Care Complaints Act 1993 No 105

Schedule 1[1] redefines *disciplinary body* in the *Health Care Complaints Act 1993* to have the same meaning as *responsible tribunal* has in the *Health Practitioner Regulation National Law (NSW)*.

Schedule 1[2] corrects a cross-reference as a result of the relocation of provisions by the *Health Legislation (Miscellaneous Amendments) Act 2020*.

Schedule 1[3] provides for—

- (a) the remuneration of the Commissioner of the Health Care Complaints Commission to be determined in accordance with the *Statutory and Other Offices Remuneration Act 1975*, rather than by a contract of employment, and
- (b) the Commissioner's entitlement to allowances to be determined by the Minister.

Schedule 1[5] provides that the Commissioner's existing contract of employment continues in force until the Commissioner's remuneration is determined in accordance with the *Statutory and Other Offices Remuneration Act 1975*. **Schedule 1[4]** makes a consequential amendment.

Schedule 2 Amendment of Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86

Schedule 2[1] provides that the period for making certain appeals against decisions under the *Health Practitioner Regulation National Law (NSW)* commences when written notice of the decision is given to the person making the appeal. **Schedule 2[2]** provides that the amendment made by Schedule 2[1] does not apply to a decision of which notice was given before the commencement of the amendment.

Schedule 2[3] provides for a Professional Standards Committee or the Civil and Administrative Tribunal to receive and admit on production, as evidence in proceedings, a thing seized under the authority of a search warrant if, in the Committee or Tribunal's opinion, the thing seized is relevant to the proceedings. **Schedule 2[4]** makes a consequential amendment.

Schedule 3 Amendment of Human Tissue Act 1983 No 164

Schedule 3[1] provides that, for the *Human Tissue Act 1983*, the *principal care officer* for a child in the care of the State is the Secretary of the Department of Communities and Justice, rather than the principal officer of a designated agency that has supervisory responsibility for the child under the *Children and Young Persons (Care and Protection) Act 1998*. **Schedule 3[3]** and **[4]** make consequential amendments.

Schedule 3[2] provides that the Secretary may delegate to another person the Secretary's functions as principal care officer.

Schedule 3[5] provides that the amendment made by Schedule 3[1] does not affect an existing consent or authority, given by a principal care officer, to remove tissue from a deceased child's body.

Schedule 4 Amendment of Mental Health Act 2007 No 8

Schedule 4[2] inserts a note into the *Mental Health Act 2007*, section 18 to emphasise the connection between that section, which sets out when a person may be detained in a mental health facility, and section 81, which lists who may take the person to the facility. **Schedule 4[1]** makes a consequential amendment.

Schedule 4[3] removes the requirement for the Mental Health Review Tribunal, when ordering a person to be detained in a mental health facility, to specify the facility in which the person is to be detained.

Schedule 5 Amendment of Mental Health and Cognitive Impairment Forensic Provisions Act 2020 No 12

Schedule 5[1] provides that the objects of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*, Part 5, which relates to forensic patients and correctional patients, extend to provisions of the Act authorising the extension of the status of a person as a forensic patient.

Schedule 5[2] provides that, if a person was found unfit to be tried for an offence and is later found fit to be tried for the offence, the person ceases to be a forensic patient only if the Director of Public Prosecutions advises the court whether the Director will take further proceedings in relation to the offence.

Schedule 6 Amendment of Public Health Act 2010 No 127

Schedule 6[3] provides that every authorised officer who is not a police officer is to be provided with an identification card. **Schedule 6[1], [2] and [4]** make consequential amendments.

Schedule 7 Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No 4)

Schedule 7 amends the *Statutory and Other Offices Remuneration Act 1975* consequent on the amendment made by Schedule 1[3] to provide for the determination of the salary and allowances of the Commissioner of the Health Care Complaints Commission in accordance with the Act.