



New South Wales

Health Services Amendment (Ambulance Fees) Bill 2014

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Health Services Act 1997* (*the Act*) to establish a scheme for the charging and recovery of ambulance fees.

Under the new scheme:

- (a) an ambulance fee can be charged to any person who is provided with ambulance services (including the parent or guardian of a child provided with ambulance services), unless the person is exempt, and
- (b) an ambulance fee will be charged by way of a fee invoice served on the person liable to pay the fee, and
- (c) if the fee is not paid, a debt notice (which functions similarly to a reminder notice) will be served on the person liable for payment of the fee, and
- (d) if the fee is still not paid, the Secretary of the Ministry of Health (the *Health Secretary*) can then refer the matter to the Commissioner of Fines Administration (the *Commissioner*) for fee recovery action, and
- (e) the Commissioner will be able to take fee recovery action similar to the civil enforcement action available to the Commissioner for fines under the *Fines Act 1996*.

At present, the *Health Services Act 1997* permits the Health Secretary to charge fees for the provision of ambulance services but does not provide any scheme for how those fees are charged or recovered in the event of non-payment.

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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of Health Services Act 1997 No 154

Schedule 1 [4] inserts proposed Parts 3–7 into Chapter 5A of the Act. These Parts set out the new scheme for the charging of ambulance fees.

Proposed Part 3 of Chapter 5A empowers the Health Secretary to charge fees (*ambulance fees*) for the provision of ambulance services by or on behalf of the Health Secretary.

The Health Secretary may charge an ambulance fee to any person who has been provided with ambulance services, other than a child. If ambulance services are provided to a child, the Health Secretary may charge an ambulance fee for those services to any parent or guardian of the child.

Fees are to be charged in accordance with a scale of fees approved by the Minister. This is also the case at present.

An exemption from ambulance fees applies to health benefits fund contributors and concession card holders. Further exemptions may be provided for by the regulations and by payment rules issued by the Health Secretary. The payment rules may also make provision for waiver and reduction of fees, extension of time to pay and payment by instalment.

Proposed Part 4 of Chapter 5A provides for the method by which ambulance fees are to be charged.

The Health Secretary charges an ambulance fee by issuing an invoice (*a fee invoice*) for the ambulance fee and serving the fee invoice on the person liable for payment of the fee.

If the fee is not paid within 7 days of the due date specified in the fee invoice, the Health Secretary may issue a notice (*a debt notice*) for the outstanding amount. The debt notice is required to inform the recipient that, if the fee is not paid, fee recovery action may be taken by the Commissioner and that, if fee recovery action is taken, the person liable for the fee may also be liable for fee recovery costs.

Both the fee invoice and the debt notice are required to include information about fee reviews (this is dealt with by proposed Part 6).

The due date for payment specified in a fee invoice or debt notice must be at least 21 days after it is served on the person.

Proposed Part 5 of Chapter 5A provides that an ambulance fee specified in a debt notice served on a person is recoverable by the Health Secretary as a debt in a court of competent jurisdiction. The provisions permit the Health Secretary, instead of taking court proceedings to recover an ambulance fee, to refer the ambulance fee to the Commissioner for fee recovery action. The referral may be made only if the ambulance fee is not paid within 7 days of the due date for payment specified in the debt notice. The Health Secretary may, at any time, revoke the referral of an ambulance fee to the Commissioner or request the Commissioner to suspend fee recovery action.

The provisions permit the Health Secretary to disclose certain information to the Commissioner in connection with that fee recovery action.

Fee recovery action is dealt with by proposed Schedule 9.

Proposed Part 6 of Chapter 5A allows any person who is charged an ambulance fee to apply to the Health Secretary for a review of the decision to charge the fee. The Health Secretary is required to conduct a review if the application is duly made. While an on-time application for review is before the Health Secretary, fee recovery action is to be suspended. After conducting a

review, the Health Secretary may revoke the decision to charge an ambulance fee, waive payment of the ambulance fee or confirm the decision to charge an ambulance fee with or without changing the payment arrangements for the fee.

Proposed Part 7 of Chapter 5A provides for the writing off of unpaid fees and the service and form of notices under the new scheme.

Schedule 1 [6] inserts proposed Schedule 9 into the Act. This Schedule sets out the new scheme for the recovery of ambulance fees. The scheme is modelled on parts of the *Fines Act 1996*, in particular, the civil enforcement mechanisms for fines under that Act.

Proposed Schedule 9 permits the Commissioner to make a fee recovery order in respect of any ambulance fee referred to the Commissioner by the Health Secretary. Notice of a fee recovery order must be served on the person liable for payment of the ambulance fee (the *debtor*). If the ambulance fee is not paid in accordance with the fee recovery order, the Commissioner may take fee recovery action.

The following fee recovery action may be taken by the Commissioner:

- (a) the Commissioner may make a property seizure order in relation to any property of the debtor,
- (b) the Commissioner may make a garnishee order in relation to wages, salary or other amounts payable to the debtor,
- (c) the Commissioner may have the ambulance fee registered as a charge on land owned by the debtor.

Certain ancillary powers may be exercised in connection with those fee recovery actions, including powers to examine the debtor and to enter land.

If fee recovery action is taken, the Commissioner may charge, and recover from the debtor, fee recovery costs in addition to the ambulance fee payable by the debtor.

The proposed Schedule also gives the Commissioner discretion to suspend or cancel fee recovery action, to withdraw a fee recovery order and reverse fee recovery action and to grant further time to pay. Specific provision is made for hardship. The Hardship Review Board will have similar functions with respect to ambulance fees as it has with respect to fines under the *Fines Act 1996*.

The Commissioner may enter into arrangements with the Health Secretary for the payment of ambulance fees recovered under the new scheme, and may retain a fee for services provided under the scheme.

The new provisions ensure that personal information obtained by the Commissioner or staff under the scheme is disclosed and used only in connection with the fee recovery scheme. It is not permitted to use the information for fines enforcement or taxation purposes.

Other administrative arrangements under the scheme are similar to the administrative arrangements in relation to fines under the *Fines Act 1996*, and certain provisions of that Act apply (with modifications) to the scheme.

Schedule 1 [3] is a consequential amendment.

Schedule 1 [1] defines expressions used in the new provisions and re-enacts existing definitions.

Schedule 1 [2] repeals a provision that is re-enacted in the new scheme.

Schedule 1 [5] provides for transitional matters. Among other things, the provisions enable the Health Secretary to issue a debt notice for a fee that was charged before the commencement of the scheme. Accordingly, if the ambulance fee is not paid in accordance with the debt notice, the fee can be referred to the Commissioner and fee recovery action can be taken under the new scheme.

Schedule 2 Amendment of other Acts

Schedule 2.1 amends the *Fines Act 1996* to permit the name "State Debt Recovery" to be used in connection with fee recovery action under the new scheme.

Schedule 2.2 amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to permit search warrants to be issued in connection with fee recovery action under the new scheme.