

CONCURRENCE COPY

MEDICAL PRACTITIONERS (EMERGENCY MEDICAL TREATMENT) AMENDMENT BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Human Tissue Bill, 1983.

The object of this Bill is to amend the Medical Practitioners Act, 1938, so as to empower a medical practitioner to carry out emergency medical or surgical treatment upon a child without regard to the wishes of the parents or guardians of the child in circumstances where 2 or more medical practitioners agree that the child is in imminent danger of dying and that the carrying out of the treatment upon the child is necessary for the preservation of the child's life.



**MEDICAL PRACTITIONERS (EMERGENCY MEDICAL
TREATMENT) AMENDMENT BILL, 1983**

No. , 1983.

A BILL FOR

An Act to amend the Medical Practitioners Act, 1938, in relation to the provision of emergency medical treatment to children.

[MR BRERETON—8 *November*, 1983.]

Medical Practitioners (Emergency Medical Treatment) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 **Short title.**

1. This Act may be cited as the "Medical Practitioners (Emergency Medical Treatment) Amendment Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Human Tissue Act, 1983.

Amendment of Act No. 37, 1938.

15 3. The Medical Practitioners Act, 1938, is amended by inserting after section 49A the following section:—

Emergency treatment of children carried out without parental consent.

49B. (1) In this section—

"child" means a person who has not attained the age of 18 years;

20 "parent", in relation to a child, includes a guardian of the child and any other person who stands in loco parentis to the child.

(2) A registered medical practitioner may carry out medical or surgical treatment upon a child (including the administration of a blood transfusion to the child) without the consent of a parent of the child if
25 that medical practitioner and at least one other registered medical practitioner are of the opinion that—

(a) the child is in imminent danger of dying; and

Medical Practitioners (Emergency Medical Treatment) Amendment.

(b) the carrying out of the treatment upon the child is necessary for the preservation of the life of the child.

5 (3) Subsection (2) does not entitle a registered medical practitioner to carry out medical or surgical treatment upon a child unless—

(a) a parent of the child has been asked to consent to the carrying out of the treatment, but has failed to give that consent; or

10 (b) the medical practitioner is of the opinion that, in the circumstances, it is not practicable to delay the carrying out of the treatment until the consent of a parent of the child is obtained.

(4) Where medical or surgical treatment is carried out upon a child in accordance with this section, the treatment shall, for all purposes, be deemed to have been carried out with the consent of a parent of the child.

15 (5) Nothing in this section relieves a registered medical practitioner from liability in respect of the carrying out of medical or surgical treatment upon a child, being a liability to which the medical practitioner would have been subject if the treatment had been carried out with the consent of a parent of the child.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983



**MEDICAL PRACTITIONERS (EMERGENCY MEDICAL
TREATMENT) AMENDMENT ACT, 1983, No. 167**

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 167, 1983.

An Act to amend the Medical Practitioners Act, 1938, in relation to the provision of emergency medical treatment to children. [Assented to, 31st December, 1983.]

Medical Practitioners (Emergency Medical Treatment) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Medical Practitioners (Emergency Medical Treatment) Amendment Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Human Tissue Act, 1983.

Amendment of Act No. 37, 1938.

3. The Medical Practitioners Act, 1938, is amended by inserting after section 49A the following section:—

Emergency treatment of children carried out without parental consent.

49B. (1) In this section—

"child" means a person who has not attained the age of 18 years;

"parent", in relation to a child, includes a guardian of the child and any other person who stands in loco parentis to the child.

(2) A registered medical practitioner may carry out medical or surgical treatment upon a child (including the administration of a blood transfusion to the child) without the consent of a parent of the child if that medical practitioner and at least one other registered medical practitioner are of the opinion that—

(a) the child is in imminent danger of dying; and

Medical Practitioners (Emergency Medical Treatment) Amendment.

(b) the carrying out of the treatment upon the child is necessary for the preservation of the life of the child.

(3) Subsection (2) does not entitle a registered medical practitioner to carry out medical or surgical treatment upon a child unless—

(a) a parent of the child has been asked to consent to the carrying out of the treatment, but has failed to give that consent; or

(b) the medical practitioner is of the opinion that, in the circumstances, it is not practicable to delay the carrying out of the treatment until the consent of a parent of the child is obtained.

(4) Where medical or surgical treatment is carried out upon a child in accordance with this section, the treatment shall, for all purposes, be deemed to have been carried out with the consent of a parent of the child.

(5) Nothing in this section relieves a registered medical practitioner from liability in respect of the carrying out of medical or surgical treatment upon a child, being a liability to which the medical practitioner would have been subject if the treatment had been carried out with the consent of a parent of the child.

In the name and on behalf of Her Majesty I assent to this Act.

L. W. STREET,
By Deputation from
His Excellency the Governor.

Government House,
Sydney, 31st December, 1983.

