

First print



New South Wales

Health Professionals (Special Events Exemption) Bill 1997

Explanatory note

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

Overview of Bill

The object of this Bill is to provide exemptions from the registration requirements of certain health legislation for health professionals who accompany overseas visitors participating in or training for declared sporting, cultural and other events. The exemptions may be subject to conditions and only operate in relation to the provision of health care services to the overseas visitors who engage the services of the health care professionals concerned and other visitors if certain arrangements are observed.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 states that notes used in the proposed Act are explanatory only and do not form part of the proposed Act.

Part 2 Special events exemption for visiting health professionals

Clause 5 enables the Minister, by order published in the Gazette, to declare a sporting, cultural or other event to be a special event for the purposes of the proposed Act and to specify a period for which the declaration will operate.

Clause 6 provides that a person is a visitor for the purposes of the proposed Act if the person is a resident of another country and is in the State to participate in, train for or acclimatise for a declared special event or is a member of a group the majority of which comprises such persons and is in the State for those purposes, even though not a resident of another country.

Clause 7 provides that a person is a visiting health professional for the purposes of the proposed Act if the person is a resident of another country and is engaged to provide health care services to a visitor. Notice of the person's intention to provide health care services must be given.

Clause 8 authorises a visiting health professional to provide the health care services that he or she was engaged to provide. The authorisation operates only during the exemption period declared for the relevant special event and if the visiting health professional is complying with the Act, the regulations and any conditions placed on the authorisation.

Clause 9 enables conditions to be placed on the provision of health care services by visiting health professionals.

Clause 10 provides that a visiting health professional may issue a written prescription for a substance classified as a restricted substance or drug of addiction under the *Poisons and Therapeutic Goods Act 1966* only if authorised to do so by an order under clause 5. The Minister may by such an

order authorise the issuing of written prescriptions for such substances by certain visiting health professionals or by all visiting health professionals and may authorise a person or class of persons to fill such a prescription. The clause also enables the Minister to authorise certain suppliers to supply substances by wholesale to certain visiting health professionals.

Clause 11 provides that visiting health professionals do not commit an offence under the following Health Registration Acts or under the *Poisons and Therapeutic Goods Act 1966* or the *Drug Misuse and Trafficking Act 1985* by providing health care services in accordance with the proposed Act:

Chiropractors and Osteopaths Act 1991
Dental Technicians Registration Act 1975
Dentists Act 1989
Medical Practice Act 1992
Nurses Act 1991
Optical Dispensers Act 1963
Optometrists Act 1930
Pharmacy Act 1964
Physiotherapists Registration Act 1945
Podiatrists Act 1989
Psychologists Act 1989

The clause provides that a visitor does not commit an offence under the *Poisons and Therapeutic Goods Act 1966* or the *Drug Misuse and Trafficking Act 1985* by doing any thing or possessing any substance as a result of receiving health care services from a visiting health professional.

The clause enables authorised persons to fill prescriptions issued in accordance with the proposed Act or to supply substances by wholesale in accordance with the proposed Act without committing offences under the *Poisons and Therapeutic Goods Act 1966* or the *Drug Misuse and Trafficking Act 1985*.

The clause enables regulations to be made prescribing other offences from which such persons will be exempt in relation to the provision of health services in accordance with the proposed Act.

Part 3 Miscellaneous

Clause 12 prevents the making of a complaint or the taking of disciplinary action against a visiting health professional under the *Health Care Complaints Act 1993* or a Health Registration Act. This provision will not prevent the taking of proceedings against a visiting health professional for the commission of an offence against those Acts.

Explanatory note

Clause 13 enables the Minister, by order published in the Gazette, to declare that the proposed Act or specified provisions of the proposed Act do not apply to certain persons or classes of persons.

Clause 14 makes it clear that a person who is already registered under a Health Registration Act is not limited by the proposed Act in the practice of his or her profession.

Clause 15 enables regulations to be made for the purposes of the proposed Act. The regulations may create offences punishable by a penalty of up to 10 penalty units (currently \$1,000).

Clause 16 provides for the taking of proceedings for an offence against the regulations.

Clause 17 requires the Minister to review the proposed Act after a period of 5 years.



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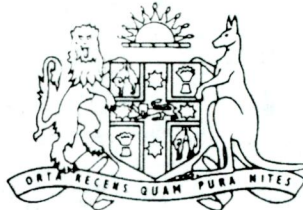
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New South Wales

Health Professionals (Special Events Exemption) Bill 1997

No. , 1997

A Bill for

An Act to allow visiting health professionals to provide health care services in the State in connection with special events without becoming registered under State law; and for other purposes.

Clause 1 Health Professionals (Special Events Exemption) Bill 1997

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Health Professionals (Special Events Exemption) Act 1997*.

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2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Definitions

In this Act:

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drug of addiction means any substance specified in Schedule Eight of the Poisons List.

exemption period, in relation to a special event, means the period or periods specified in an order under section 5 that applies to the event.

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health care services means:

(a) services ordinarily provided by medical practitioners, nurses, dentists, dental technicians, dental prosthetists, pharmacists, podiatrists, chiropractors, osteopaths, optometrists, physiotherapists, psychologists and optical dispensers, or

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(b) any other service prescribed by the regulations.

Health Registration Act means any of the following Acts:

Chiropractors and Osteopaths Act 1991

Dental Technicians Registration Act 1975

Dentists Act 1989

Medical Practice Act 1992

Nurses Act 1991

Optical Dispensers Act 1963

Optometrists Act 1930

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Pharmacy Act 1964

Physiotherapists Registration Act 1945

Podiatrists Act 1989

Psychologists Act 1989

Poisons List means the list proclaimed under section 8 of the *Poisons and Therapeutic Goods Act 1966* as in force for the time being. 5

registration includes licensing and enrolment.

relevant special event, in relation to a visiting health professional, means the special event in respect of which notice is given by the health professional under section 7 (c). 10

restricted substance means any substance specified in Schedule Four of the Poisons List.

special event means an event, or class of events, that is declared to be a special event by order under section 5. 15

supply has the same meaning as in the *Poisons and Therapeutic Goods Act 1966*.

visiting health professional is defined in section 7.

visitor is defined in section 6.

4 Notes 20

Notes included in this Act are explanatory notes and do not form part of this Act.

Part 2 Special events exemption for visiting health professionals

5 Special events

- (1) The Minister may, by order published in the Gazette, declare an event or class of events specified in the order to be a special event for the purposes of this Act. 5
- (2) Such an order may be made in relation to any sporting, cultural or other event that is to take place or is taking place in the State and that, in the opinion of the Minister, will attract a significant number of participants from other countries. 10
- (3) The order is to specify a period or periods in which an exemption under this Act has effect in respect of a special event.
- (4) The exemption period for a special event may include any period or periods before or after the special event takes place.
- (5) The order is to specify a procedure for the purposes of section 7 (c) by which notice is to be given of a person's intention to provide health care services in the State to a visitor. 15
- (6) An order under this section may, in its operation in relation to any matter dealt with in the order, apply generally or be limited in its application by reference to specified exceptions or factors. 20
- (7) An order under this section may be revoked or varied by a further order or orders under this section.

6 Definition of "visitor"

A person is a *visitor* for the purposes of this Act if:

- (a) the person is a resident of another country who is in the State for the purpose of officially participating in a special event, or preparing, training, practising, rehearsing or acclimatising for a special event, or 25
- (b) the person is a resident of Australia who is in the State for such a purpose and is a member of a group the majority of which is comprised of persons referred to in paragraph (a) who are in the State for the same purpose. 30

7 Definition of "visiting health professional"

A person is a *visiting health professional* for the purposes of this Act if:

- (a) the person is an individual who is a resident of another country, and 5
- (b) the person is appointed, employed, contracted or otherwise engaged to provide health care services to a visitor, and
- (c) notice is given of the person's intention to provide health care services in the State to a visitor in accordance with the procedure specified in the order under section 5 declaring the special event. 10

8 Provision of health care services by visiting health professionals

- (1) A visiting health professional, for the purposes of this Act, is authorised to provide health care services to visitors for whom the health professional has been appointed, employed, contracted or otherwise engaged to provide those services as referred to in section 7. 15
- (2) This section operates in relation to a visiting health professional only: 20
 - (a) during the exemption period for the relevant special event, and
 - (b) while the health professional is complying with the provisions of this Act, the regulations and any relevant conditions imposed in accordance with this Act. 25

9 Conditions on practice by visiting health professionals

- (1) An order under section 5 may impose conditions on the provision of health care services by a visiting health professional.
- (2) Any such condition may apply generally or may apply to a particular special event or a particular class of persons. 30
- (3) The regulations may also make provision for or with respect to conditions to be imposed on the provision of health care services by a visiting health professional.

10 Issue of prescriptions and supply of certain substances

- (1) A visiting health professional may issue a written prescription for a restricted substance or drug of addiction only if authorised to do so by an order under section 5.
- (2) The Minister may, by an order under section 5: 5
- (a) authorise a visiting health professional, all visiting health professionals or a class of visiting health professionals to issue written prescriptions for a restricted substance or drug of addiction in the course of providing health care services in accordance with this Act, and 10
 - (b) authorise any person or class of persons to supply a restricted substance or drug of addiction on such a prescription, and
 - (c) authorise a visiting health professional, all visiting health professionals or a class of visiting health professionals to be supplied with any substance by wholesale, and 15
 - (d) authorise any person or class of persons to supply any substance by wholesale to any visiting health professional, authorised as referred to in paragraph (c), but only if the person or class of persons is licensed or otherwise authorised under the *Poisons and Therapeutic Goods Act 1966* to supply the substance by wholesale to a medical practitioner. 20
- (3) The Minister is not to make an order containing any authorisation referred to in subsection (2) unless the Minister is satisfied that adequate arrangements are in place to ensure that the substances concerned will only be prescribed for and supplied to persons to whom visiting health professionals are authorised to provide health care services under this Act. 25
- (4) An order under section 5 may impose conditions on any authorisation referred to in this section that is conferred by the order. 30
- (5) Any such condition may apply generally or may apply to a particular special event or a particular class of persons.

11 Exemptions relating to offences

- (1) A visiting health professional does not commit an offence under a Health Registration Act, the *Poisons and Therapeutic Goods Act 1966* or the *Drug Misuse and Trafficking Act 1985*, or any regulations under those Acts, for: 5
- (a) providing health care services authorised by this Act, or
 - (b) possessing or supplying any substance in the course of providing those authorised health care services, or
 - (c) prescribing any substance in accordance with this Act, or
 - (d) holding himself or herself out as being able to provide those authorised health care services, or 10
 - (e) using any name, initials, description, word, symbol, addition or title that he or she ordinarily uses.
- (2) A visitor does not commit an offence under the *Poisons and Therapeutic Goods Act 1966* or the *Drug Misuse and Trafficking Act 1985*, or any regulations under those Acts, for doing any thing, or possessing any substance, as a result of being provided with health care services in accordance with this Act. 15
- (3) A person does not commit an offence under the *Poisons and Therapeutic Goods Act 1966* or the *Drug Misuse and Trafficking Act 1985*, or any regulations under those Acts, for: 20
- (a) supplying a restricted substance or drug of addiction in accordance with a written prescription issued by a visiting health professional if:
 - (i) the health professional is authorised in accordance with this Act to issue the prescription, and 25
 - (ii) the person is authorised in accordance with this Act to supply the substance on such a prescription, or
 - (b) supplying any substance by wholesale to a visiting health professional if: 30
 - (i) the person is authorised in accordance with this Act to supply the substance by wholesale, and
 - (ii) the visiting health professional is authorised in accordance with this Act to be supplied with the substance by wholesale, and 35

Clause 11 Health Professionals (Special Events Exemption) Bill 1997

Part 2 Special events exemption for visiting health professionals

(iii) the person is complying with any conditions to which the person's authorisation under the *Poisons and Therapeutic Goods Act 1966* is subject.

(4) The regulations may prescribe other offences to which subsection (1), (2) or (3) applies.

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Note. A visiting health professional who provides health care services otherwise than in accordance with this Act loses the exemption given by section 11 in relation to the commission of offences under the Health Registration Acts.

Part 3 Miscellaneous

12 Complaints about visiting health professionals

- (1) A complaint may not be made about a visiting health professional under the *Health Care Complaints Act 1993* or a Health Registration Act and no disciplinary action may be taken against a visiting health professional under any of those Acts. However, this section does not prevent the bringing of proceedings for an offence under any of those Acts. 5
- (2) This section does not apply to complaints about a person who is registered under a Health Registration Act. 10

Note. See note to section 11.

13 Application of Act to particular persons

- (1) The Minister may, by order published in the Gazette, declare that this Act, or a specified provision of this Act, does not apply to or in respect of a specified person or class of persons. 15
- (2) Such an order has effect according to its terms.

14 Act does not limit the practice of registered health professionals

This Act does not prejudice or affect the lawful occupation, trade or business of any person who is registered under a Health Registration Act. 20

15 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. 25
- (2) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

16 Proceedings for offences

Proceedings for an offence against the regulations are to be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.

17 Review of Act

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- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

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