



New South Wales

# Health Legislation Amendment Bill 2003

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Health Services Act 1997*:
    - (i) to provide for “medical indemnity insurance” under section 85 of that Act to have the same meaning as “approved professional indemnity insurance” under the *Health Care Liability Act 2001*, and
    - (ii) to enable the Minister to appoint a person as a member of the Board of a statutory health corporation that has fewer than 50 employees, rather than holding an election for the position of Board member,
  - (b) to amend the *Mental Health Act 1990* to provide for the appointment of part-time Deputy Presidents of the Mental Health Review Tribunal,
  - (c) to amend the *New South Wales Institute of Psychiatry Act 1964* to clarify that the Institute has power to charge fees for the programmes of training it conducts, and may recover any fee due or payable to the Institute as a debt,
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- (d) to amend the *Poisons and Therapeutic Goods Act 1966* with respect to:
  - (i) the maximum penalty for unlawful possession of steroids, and
  - (ii) approvals relating to drugs of addiction, and
  - (iii) powers of investigators in regard to entry and seizure,
- (e) to amend the *Royal Society for the Welfare of Mothers and Babies' Incorporation Act 1919*:
  - (i) to replace the requirement for any by-laws or rules to be made by the Governor with a power for the Royal Society for the Welfare of Mothers and Babies (incorporated under section 3 of the Act) to make its own by-laws and rules, and
  - (ii) to omit the requirement for by-laws and rules to be laid before Parliament and be subject to disallowance by Parliament,
- (f) to amend the *Smoke-free Environment Act 2000* to exempt certain licensed premises within the environs of a casino from the operation of the Act,
- (g) to amend the *Statutory and Other Offices Remuneration Act 1975* to make a change to the remuneration arrangements for the Deputy Presidents of the Mental Health Review Tribunal consequent on the amendments to the *Mental Health Act 1990* described in paragraph (b) above.

## 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.

**Clause 3** is a formal provision giving effect to the amendments to the Acts set out in Schedules 1–7.

### **Schedule 1 Amendment of Health Services Act 1997 No 154**

Schedule 1 amends the *Health Services Act 1997* as described in paragraph (a) of the Overview above.

### **Schedule 2 Amendment of Mental Health Act 1990 No 9**

Schedule 2 amends the *Mental Health Act 1990* as described in paragraph (b) of the Overview above.

### **Schedule 3 Amendment of New South Wales Institute of Psychiatry Act 1964 No 44**

Schedule 3 amends the *New South Wales Institute of Psychiatry Act 1964* as described in paragraph (c) of the Overview above.

### **Schedule 4 Amendment of Poisons and Therapeutic Goods Act 1966 No 31**

**Schedule 4 [1]** amends section 16 of the *Poisons and Therapeutic Goods Act 1966* to increase the maximum penalty for offences relating to possession of anabolic or androgenic steroidal agents. The maximum penalty is increased from 20 penalty units or 6 months imprisonment, or both to 20 penalty units or 2 years imprisonment, or both.

**Schedule 4 [3]** amends section 28A (7) of the Act to provide that the Director-General of the Department of Health may, if the circumstances are sufficiently urgent, take immediate action to suspend, or impose or amend a condition of, an approval of a medical practitioner as a prescriber of drugs of addiction. **Schedule 4 [4]** inserts proposed section 28A (10). The proposed subsection provides that circumstances are sufficiently urgent to require immediate action if the Director-General is of the opinion that the action is necessary for the purpose of protecting the life, or the physical or mental health, of the medical practitioner or any other person.

**Schedule 4 [6]** amends section 29 (5) (a) of the Act to provide that an authority issued by the Director-General under that section must specify the maximum quantity of the drug of addiction that may be prescribed under the authority by a medical practitioner.

**Schedule 4 [5], [7] and [8]** amend section 29 of the Act to make it explicit that forms, including applications and authorities, are to be generated and provided in a form approved by the Director-General of the Department of Health, including in an electronic form.

**Schedule 4 [9]** inserts proposed section 30AA into the Act. Proposed section 30AA applies if the Director-General of the Department of Health refers an approval to the Medical Committee (established under section 30 of the Act) for review and the review is with respect to a possible contravention of the Act or regulations by the approval holder or a failure to comply with conditions imposed on the approval. The Medical Committee may require the Health Care Complaints Commission or New South Wales Medical Board to provide the Committee with information in the Commission's or Board's possession that is relevant to the review.

**Schedule 4 [10]–[13]** amend section 43 of the Act to clarify inspectors' powers of entry and seizure in relation to records:

- (a) relevant to investigating or auditing compliance with the conditions of an approval, authority or licence given or issued for the purposes of Part 4 of the Act, or
- (b) with respect to a substance listed in Appendix D to the *Poisons and Therapeutic Goods Regulation 2002*.

**Schedule 4 [2]** omits a redundant cross-reference.

### **Schedule 5 Amendment of Royal Society for the Welfare of Mothers and Babies' Incorporation Act 1919 No 52**

Schedule 5 amends the *Royal Society for the Welfare of Mothers and Babies' Incorporation Act 1919* as described in paragraph (e) of the Overview above.

### **Schedule 6 Amendment of Smoke-free Environment Act 2000 No 69**

Schedule 6 amends the *Smoke-free Environment Act 2000* as described in paragraph (f) of the Overview above.

### **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* as described in paragraph (g) of the Overview above.