



New South Wales

Health Care Complaints Amendment (Special Commission of Inquiry) Bill 2004

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 Care Complaints Act 1993* to facilitate investigations and prosecutions arising from the Walker Special Commission of Inquiry concerning Campbelltown and Camden Hospitals (*the Special Commission*).

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 the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Health Care Complaints Act 1993* (*the Principal Act*) set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts proposed section 105 into the Principal Act, which gives effect to proposed Schedule 5 to the Principal Act.

Schedule 1 [2] inserts proposed Schedule 5 into the Principal Act, which contains the following provisions:

Clause 1 sets out definitions used in the proposed Schedule. In particular, it defines *HCCC* to mean the Health Care Complaints Commission constituted under the Principal Act. It also defines *the referred complaints* to mean the complaints and other matters relating to Campbelltown and Camden Hospitals specified in the commission establishing the Special Commission of Inquiry issued by the Governor on 11 December 2003.

Clause 2 provides that the HCCC is required to conduct investigations recommended by the Special Commission in relation to health practitioners. If a recommendation for such an investigation is made, the matter is taken to be a complaint made under the Principal Act and obligations required to be complied with before an investigation is instituted are dispensed with.

Clause 3 provides that the HCCC is, if the Special Commission so recommends, required to refer a specified matter in relation to a health practitioner to a registration authority for assessment by a professional or impairment assessment body. If a recommendation for such a referral is made, obligations required to be complied with before a matter is so referred are dispensed with.

Clause 4 authorises the Special Commission to provide the HCCC, a health registration authority or a professional or impairment assessment body with documents or other information obtained by the Special Commission in the course of its inquiries.

Clause 5 provides that the HCCC, any registration authority, any professional or impairment assessment body or any disciplinary body may take into account any matter contained in a report of the Special Commission (or other information used by the Special Commission) in any investigation or other action taken in respect of a health practitioner under the Principal Act or a health registration Act.

Clause 6 protects investigations and disciplinary and other action arising from the recommendations of the Special Commission from certain legal challenges.

Explanatory note

Clause 7 provides that anything done by the HCCC, before the commencement of the proposed Schedule, with respect to the investigation of a matter in anticipation of a recommendation of the Special Commission is taken to have been done after that commencement if the recommendation is contained in a report of the Special Commission. The clause also ensures that the HCCC can continue to deal with matters that the Special Commission considers, but for which it does not make recommendations for further action.