

ACT LEGISLATIVE ASSEMBLY

Explanatory Memorandum

**Health Professionals (Special Events
Exemption) Bill 2000**

**Circulated by the authority of
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Outline

The Health Professional (Special Events Exemption) Bill (the Bill) provides authorisation for visiting overseas health professionals to provide health care services to visitors in the ACT, in connection with special events, without being registered under any ACT law relating to the registration of health professionals.

The Bill provides that the Minister for Health and Community Care has authority to declare an event or class of events to be a special event.

Once a declaration of a special event has been made, visiting overseas health professionals associated with the event are to be, in most circumstances, exempted from the application of the ACT health professional registration Acts.

The Bill also provides that authorised visiting overseas health professionals, will be able to write a pharmaceutical prescription and in so doing be exempted from prosecution for any offence under ACT poisons and drugs of dependence legislation.

For the purposes of enabling ready interpretation and application of the Bill the following terms are clarified within the body of the Bill

- Special event
- Visitor
- Visiting health professional
- Provision of health care services.

Similar legislation is in place in other Australian jurisdictions. The purpose of such legislation is to enable major international events, such as the Olympic games, to be hosted without unnecessary restriction on the practice of visiting overseas health professionals who normally accompany and provide health services to the visiting teams or groups.

Financial implications

There are no financial implications arising from this Bill.

Details of clauses

Clauses 1 and 2 set out the name of the Bill once enacted and the commencement arrangements.

Clause 3 – Definitional provisions

Clause 3 is a definitional provision which explain what is meant by the terms “Drug Regulation Act”, “exemption period”, “health care services”, “Health Registration Act”, “notification procedure”, “registered”, “restricted substance”, “special event”, “special event notice”, “supply”, “visiting health professional”, “visitor” for the purposes of the Bill.

Clause 4 is a technical provision related to the operation of Notes within an Act.

Clauses 5,6,7 and 8 – Expanded definitions and concepts established within the Bill

Clause 5 – Special Event

Subclause 5(1) to (5) explains that a Special Event has the following features:

- the Minister for Health and Community Care declares a special event by the publication of a notice in the Gazette;
- a special event is an event that attracts a significant number of overseas persons to the ACT to participant in or prepare, train, practice, rehearse or acclimatise for an event. The event itself may be held in the ACT or in another jurisdiction;
- a notice declaring a special event will set out the time period or periods during which the exemption has effect;
- the exemption period may include time spent preparing for an event and any time required after the event to conclude participation;
- the notice published in the Gazette is to include advice on how notice is to be given of a visiting health professionals intention to provide health services to a visitor who is participating in the special event. The notice may for example indicate how health boards and/or the general public will be advised that visiting health professionals will be providing services in the Territory;
- as a notice under this Act is legislative in character it is appropriate that it be treated as a disallowable instrument.

Clause 6 – Visitor

Clause 6 details that the term visitor refers to either of two groups of people:

- a. a person who is a resident of another country who is in the ACT to participate in, or prepare, train, practise, rehearse or acclimatise for a special event, or
- b. a person who may be a resident of Australia but who is both here for the purposes described in (a) and is a member of a group of whom the majority are residents of other countries.

Clause 7 – Visiting health professional

Clause 7 establishes the requirements for a person to be regarded as a visiting health professional. These are that:

- the person is a resident of another country,
- appropriate notice has been provided according to the notification procedure at subclause 5(4) of the persons intention to provide health services to a visitor in relation to a special event. and
- the person has been engaged to provide a health care service to the visitor,

Clause 8- Provision of health care services by visiting health professionals

Subclause 8(1) to (3) are the key subclauses within the Act in terms of the required policy outcome.

Subclause 8(1) provides that a visiting health professional is authorised to provide health services to visitors.

Subclause 8(2) limits that health services may only be provided to a visitor during the exemption period. In addition it establishes that an exemption ceases to apply if the health professional does not comply with any condition imposed under the Act.

Subclause 8(3) clarifies that a visiting health professional may not possess or supply substances that could not be supplied by an appropriately authorised person under a Drug Regulation Act.

Clause 9 – Conditions may be placed on practice by visiting health professionals

Subclause 9(1) provides clear direction that a regulation may be developed under the Act to establish conditions on the provision of health services by visiting health professionals.

Subclause 9(2) provides that a special event notice made under subclause 5 (1) may impose additional conditions on the provision of health services by a visiting health professional. This provision provides a mechanism that allows, for example, event specific conduct requirements to be formally declared as part of the exemption.

Clause 10 – How prescriptions for restricted substances and drugs of dependence may be issued and filled

Subclauses 10(1) to (7) concern the issue and safe management of prescriptions for pharmaceutical products that are restricted substances or drugs of dependence.

Subclause 10(1) makes it clear that it is intended that a visiting health professional may issue a prescription if authorised to do so by a notice made under **subclause 5(1)**

Subclause 10(2) establishes that a visiting health professional may not issue a prescription that could not be issued by an appropriately authorised person under a Drug Regulation Act. This restriction is an additional and related one to those at **Subclause 8(3)** that restrict “supply” and “possession” of substances.

Subclause 10(3) enables the Minister in a special event notice referred to at **subclause 5(1)** to:

- give authorisation to a visiting health professional or class of visiting health professionals (eg doctors) to issue prescriptions for restricted substances and drugs of dependence as part of providing a health care service; and
- authorise a supplier or class of suppliers, for example pharmacists, to supply a restricted substance or drug of dependence. Without this provision a pharmacist would not have authority to fill a prescription written by a visiting health professional.

Subclause 10(4) provides that the Minister can specify in a special event notice the qualification requirements that a visiting health professional must possess before being regarded as suitable to issue prescriptions. The Minister may for example specify doctors with particular qualifications or as a further example include dentists in a list of persons who may prescribe.

Subclause 10(5) further acknowledges that there are public safety issues involved in the authorisation of persons to prescribe restricted substances and drugs of dependence. Accordingly the provision requires that the Minister not provide an authorisation under **subclause 10(1)** unless he or she is satisfied that adequate arrangements have been made;

- to ensure that restricted substances and drugs of dependence will only be prescribed for and supplied to persons who they are authorised to treat under the Act.

Subclause 10 (6) provides that a special event notice under **subclause 5(1)** may impose conditions on any authorisation provided under this section.

Subclause 10(7) clarifies that a supplier of restricted substances and drugs of dependence means one who has been appropriately authorised under a Drug Regulation Act.

Clause 11 - How visiting health professionals are exempted from the application of certain laws

Subclause 11 (1) to (4) While the preceding clauses authorise visiting health professionals to provide health services to visitors in the ACT there is a need to clarify the circumstances where an appropriately authorised person does not commit offences against ACT law.

Subclause 11(1) establishes that a visiting health professional does not commit offences against a health professional registration Act, a Drug Regulation Act (the *Poisons Act 1933*, the *Poisons and Drugs Act 1978*, and the *Drugs of Dependence Act 1989*) or the *Skin Penetration Act 1994* in circumstances where they:

- provide health services authorised by the Act;
- possess or supply substances in the course of providing an authorised health care service;
- prescribe substances authorised by the Act;
- identify themselves as being able to provide authorised health services;
- uses their name, initials, description, word, symbol, addition or title to describe their professional qualifications.

Subclause 11(2) establishes that a visitor as defined under the Act does not commit an offence under a Drug Related Act for doing anything or possessing any substances as a result of receiving a health service in accordance with this Act.

Subclause 11 (3) sets out that persons who supply restricted substance in accordance with a written prescription issued by a visiting health professional does not commit an offence against a Drug Regulation Act where:

- the visiting health professional is properly authorised to issue the prescription; and
- the person is authorised in accordance with the Act to supply the substance on such a prescription.

Subclause 11 (4) specifies that it is intended that a regulation may be developed to identify other offences to which exemptions under this section will apply.

Clause 12 How complaints about visiting health professionals will be treated.

Subclause 12(1) provides policy clarification that it is not intended that complaint and disciplinary provisions that exist under the *Community and Health Services Complaints Act 1993* or a Health Registration Acts will apply to health services provided to visitors in accordance with this Act.

Subclause 12(2) establishes that where a visiting health professional provides a health service that is not in accordance with this Act then the provisions at **subclause 12(2)** cease to apply. In such circumstances a visiting health professional forfeits the exemption from actions in relation to the *Community and Health Services Complaints Act 1993* and the Health Registration Acts.

Subclause 12(3) clarifies that the provisions of this section do not apply to a health professional who is registered in the ACT.

Clause 13 Regulation making power

Subclause 13(1) provides a general regulation making power.

Subclause 13(2) clarifies that a regulation made under this Act may create offences and that these offences may be punishable by a maximum of no more than 10 penalty units.