

# PHARMACY AMENDMENT BILL 2002

## Explanatory Memorandum

### Outline

The *Pharmacy Amendment Bill 2002* provides for the delayed commencement of the *Pharmacy Amendment Act 2001*.

Late last year the former legislative Assembly passed the *Pharmacy Amendment Act 2001*. The stated purpose of the Act is to allow companies to be registered as pharmacists in the ACT. The Act is due to commence on 24 March 2002.

The validity of the Act has been questioned by the ACT Department of Justice and Community Safety. The Act seeks to determine the form and internal management of a company. However paragraph 23(1)(h) of the *ACT (Self Government) Act 1988* provides that the Assembly has no power to make a law with respect to the matters that are the subject of the laws in force in the Territory relating to companies or the acquisition of shares in bodies corporate. Legislating for the internal management of a company is beyond the power of the ACT.

Discussions are proceeding with the Commonwealth Department of Treasury in relation to 23(1)(h) of the *ACT (Self Government) Act 1988*. The Commonwealth Department of Treasury has indicated that it may examine amending the *ACT (Self Government) Act 1988* to remove the relevant prohibition.

Delay in the commencement of the legislation will allow the above issues to be fully resolved. Delayed commencement will also ensure that pharmacists do not rely on the legislation and develop inappropriate corporate structures and business arrangements.

The Pharmacy Amendment Bill 2002 achieves its objectives by delaying commencement of the *Pharmacy Act 2001* until 1 June 2002.

### Detail of clauses

**Clause 1** If passed this Bill will become the Pharmacy Amendment Bill 2002.

**Clause 2** Provides that the Bill once enacted will commence on the day after its notification day.

**Clause 3** This Bill if passed amends the *Pharmacy Amendment Act 2001*

**Clause 4** This Bill revises Section 2 of the *Pharmacy Amendment Act 2001*. In place of the provisions relating to the automatic commencement of the Act the Bill provides that the Act will commence on 1 June 2002.