

2004

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

HEALTH PROFESSIONALS AMENDMENT REGULATION 2004 (No 1)

SL2004-52

EXPLANATORY STATEMENT

Circulated by authority of

Simon Corbell MLA
Minister for Health

EXPLANATORY STATEMENT

Outline

The amendments proposed in this Regulation are primarily to ensure that the transitional provisions of the *Health Professionals Act 2004* are as effective as they can be in respect of their application to health professionals registered under repealed health professional registration Acts and to improve the linkages between different parts of the *Health Professionals Act 2004* to make it clear that health professional boards are required to apply to the Health Professional Tribunal if they are seeking cancellation or suspension of a health professionals registration. The remaining amendments relate to validating the processes that have already commenced in respect of the election of the Medical Board and to ensure that future elections involving health professional boards under the new legislation are as valid as they can be.

Revenue/Cost Implications

There is no additional cost involved in this Regulation as all infrastructure is in place under the existing regime.

Formal Clauses

Clause 1 – Name of Regulation – states the title of the Regulation, which is the *Health Professionals Amendment Regulation 2004 (No 1)*.

Clause 2 – Commencement – states when the Regulation commences. The Regulation commences on 18 November 2004.

Clause 3 – Legislation amended – provides that this Regulation amends the *Health Professionals Regulations 2004*.

Clause 4 – Regulations 1 and 2 – substitutes new provisions for sections 1 and 2 of the health Professionals Regulation 2004. The first renames the regulation using the singular term of regulation to make it consistent with current drafting practice. The second amends the commencement dates and specifies that Chapter 1, Chapter 2, Chapter 6 and the dictionary commence on 18 November 2004. The remaining provisions commence on a day fixed by the Minister. The amendment also provides for the automatic commencement of provisions if they have not commenced before 8 July 2005 and specifically avoids the application of section 79 of the legislation Act 2001 to this Regulation.

Clause 5 – New Regulation 11(4) – inserts a new subregulation to allow the Minister in a situation where a health professional board has been suspended not to consult with the suspended health professional board on new appointments as required by subsection 11(1).

Clause 6 – Division 2.3.1 heading, new note – inserts a new drafter's note to refer readers to Division 2.3.1A for the provisions that govern first elections or elections in situations where the health professional board is suspended.

Clause 7 – Regulation 24(7) – omits the word 'for' and substitutes the words 'in relation to' to make this subsection clearer.

Clause 8 – Regulation 25 – has been omitted and replaced by a new division 2.3.1A which makes it clear what is required to happen in respect of first elections and elections for health professional boards that have been suspended.

Clause 9 – New regulation 26(3) – inserts a new subsection that provides that a failure to comply with this section does not invalidate the election.

Clause 10 – Regulations 34 (2) (b) and (c) – substitutes new provisions for sections 34(2) (b) and (c) to accommodate the new division 2.3.1A which deals with elections of health professional boards that have been suspended.

Clause 11 – New division 2.3.1A – inserts a new division to allow the Minister in situations where a health professional board is elected for the first time or has been suspended to do all things that are necessary to be done to call an election of that health professional board. Section 52A has been inserted to cover the situation of first time elections. Section 52B has been specifically inserted to validate any deficiencies that have been identified in the recent medical board election and section 52C has been inserted to apply to elections involving health professional boards that have been suspended.

Clause 12– Part 2.3 – provides for the renumbering of divisions of the Regulation when next republished.

Clause 13 – New section 158 – inserts a new section to apply the modifications in schedule 15 to the *Health Professionals Act 2004*. The modifications in schedule 15 are specified to expire on 18 November 2006.

Clause 14 – Further amendments, mentions of president – omits the word ‘president’ wherever occurring and replaces it with the words ‘board president’.

Clause 15 – New schedule 15 – inserts a new schedule 15 into the Regulation, which provides a number of modifications to section 26 and the transitional provisions of the *Health Professionals Act 2004*.

Item 1.1 Section 137(1) – substitutes a new subsection that makes it clear that health professionals registered under repealed Acts will also be covered by the provisions of the new legislation.

Item 1.2 Section 139(1) – substitutes a new subsection that makes it clear that health professionals who were subject to a condition and were registered under a repealed Act immediately before it was repealed will also be subject to a condition under the provisions of the new legislation.

Item 1.3 New sections 150A to 150J – substitutes new sections 150A to 150J to make it abundantly clear that health professionals registered under repealed Acts will also be covered by the provisions of the new legislation. These sections also provide that any action taken by a health professional board pursuant to an existing inquiry will not be required to be done again and that health professional boards are required to apply to the health professional tribunal to cancel or suspend a health professionals registration. The remaining provisions are to ensure that the medical board election and any future health professional board elections are validated as far as they can be. These provisions also anticipate changes to be made to section 81 of the *Legislation Act 2001* dealing with the application of provisions of Acts that have not yet fully commenced.