

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

**HEALTH PRACTITIONER REGULATION NATIONAL LAW (ACT)
(TRANSITIONAL PROVISIONS) REGULATION 2010 (NO 2)**

EXPLANATORY STATEMENT

**Circulated by the authority of
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Minister for Health**

Health Practitioner Regulation National Law (ACT) (Transitional Provisions) Regulation 2010 (No 2)

Overview

The Health Practitioner Regulation National Law (ACT) (Transitional Provisions) Regulation 2010 (No 2) utilises the power in the *Health Practitioner Regulation National Law (ACT) 2010* (the Act) to make modifications to the Act. This power is being used to correct an oversight with the amendments to the *Health Act 1993* that were in the Act as made by the Legislative Assembly. The oversight related to ensuring that the ownership of pharmacies were only by registered pharmacists or a complying pharmacy corporation.

Notes on clauses

Clause 1 Name of regulation

This clause provides that the regulation is to be known as the Health Practitioner Regulation National Law (ACT) (Transitional Provisions) Regulation 2010 (No 2).

Clause 2 Commencement

This clause provides that the regulation commences the day after its notification on the Legislation Register.

Clause 3 Modification of Act, pt 3-Act, s 13(2)

This clause provides for the modification of the Act. The Act is to be modified by the insertion of section 12A, division 3.1. It is to be noted that under section 12 of the Act, a number of pieces of legislation were authorised for amendment. Among these was the *Health Act 1993*.

Modification of the Act is authorised by section 13, which provides that a regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act. Transitional powers are inserted into legislation where there is some complexity arising from a reforming bill. A clause of this nature ensures that any matters that may have been inadvertently omitted or inadequately dealt with when developing a bill can be addressed.

Among the amendments to the Health Act were provisions about pharmacists and pharmacy premises. The explanatory statement for the amendments stated the purpose of the amendments inserting part 9 into the Health Act was "to ensure that the status quo regarding pharmacy premises is maintained". The intended position was that a pharmacist have direct, personal control of the operation of a community pharmacist for the protection of the community. It has since been identified that this position was not given full effect. Consequently, the power in the Act is being used to modify the Health Act to give effect to the intended position.

The modification is contained in schedule 1 to the regulation. It inserts section 129A, ownership of pharmacy business. It provides that it is an offence for a person who is not a pharmacist or a complying pharmacy corporation to own a pharmacy business. A pharmacy business means a business providing pharmacy services at a community pharmacy. "Own" is also defined to include having a legal or beneficial interest in the pharmacy business. The provision does not have retrospective effect and will expire on 1 July 2012.

Clause 4

This clause provides that the regulation expires on 1 July 2012, consistent with the expiry of the transitional provisions provided for by part 3 of the Act. Expiry clauses are included to ensure that transitional provisions are not retained on the statute book for any longer than necessary.