

2004

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

**HEALTH PROFESSIONALS BILL 2003
GOVERNMENT AMENDMENTS**

EXPLANATORY STATEMENT

Circulated by authority of

Simon Corbell MLA
Minister for Health

EXPLANATORY STATEMENT

Outline

The amendment to subclause 15 of the *Health Professions Bill 2003* is required to ensure that the public is afforded the same protections in respect of the delivery of services and the same degree of professional standards that are required in respect of the delivery of other services provided by registered health professionals. Some minor drafting changes are required to clauses 58, 59 and 115 to refer to the self incrimination and client legal privilege provisions at sections 170 and 171 of the *Legislation Act 2001* and to clause 54 to refer to the statutory rules of evidence contained in the *Evidence Act 1995* (Cth). On the basis of recommendations made by the Scrutiny of Bills Committee an amendment has been made to clause 130 to provide for the issuing of guidelines specifying how the exemption power in clause 130 should be exercised. These guidelines will be a disallowable instrument. In addition, amendments are required to the regulation making powers in this *Health Professions Bill 2003* which provide the process and machinery provisions that support the operation of the *Health Professions Bill 2003*. The regulation making powers are a necessary component of the legislative framework and ensure that the principal Act is not overwhelmed by instructional detail. The amendments to the regulation making power will allow for penalties to be provided, accommodate the possibility that under the transitional provisions amendments or modifications would need to be made to other Acts other than the *Health Professions Act* and to allow for procedural requirements to be prescribed under the *Electoral Act* and to make provision for the exercise of the jurisdiction of the Supreme Court in respect of elections conducted under the Act.

Revenue/Cost Implications

There is no additional cost involved in these amendments to the Bill as all infrastructure is in place under the existing regime.

Amendments to be moved by the Minister for Health

Amendment 1

Proposed new subclause 15 (1) inserts a number for the existing subclause to allow for a further subclause to be added.

Amendment 2

Proposed new subclause 15 (2) proposed amendment to insert a new subclause to include as part of the definition of health service the provision of a service provided by a health professional in the professional's capacity as a registered health professional.

Amendment 3

Proposed new clause 24 (3) inserts a new subclause to provide for a regulation making power to provide for the exercise of the jurisdiction of the Supreme Court in respect of elections conducted under this Act including when a decision of the Supreme Court is final and conclusive how the validity of an election may be challenged.

Amendment 4

Clause 54, note substitutes a new note to include a reference to the common law and statutory rules of evidence that applies in the Territory.

Amendment 5

Clause 58 (2), new note inserts a new note to make reference to the self incrimination and client legal privilege provisions at sections 170 and 171 of the *Legislation Act 2001*.

Amendment 6

Clause 59 (1), new note inserts a new note to make reference to the self incrimination and client legal privilege provisions at sections 170 and 171 of the *Legislation Act 2001*.

Amendment 7

Clause 115, inserts a new note to make reference to the self incrimination and client legal privilege provisions at sections 170 and 171 of the *Legislation Act 2001*.

Amendment 8

Clause 130 (2) substitutes new subclauses to provide that any exemption made under subclause (1) must be made in accordance with the guidelines made by the Minister under subclause (3) and that the guidelines are a disallowable instrument.

Amendment 9

Proposed new clause 134 (2A) inserts a new subclause to provide for a regulation making power to enable the imposition of penalties of not more than 30 penalty units for offences against the regulations.

Amendment 10

Clause 151 proposed amendment to insert after the words 'this Act' the words 'or the *Health Professionals Legislation Amendment Act 2004*' to allow regulations for savings or transitional matters to be made for not only the *Health Professionals Bill 2003* but also for the legislation referred to in the *Health Professionals Legislation Amendment Bill 2004*.

Amendment 11

Clause 152 proposed amendment to insert after the words 'this part' the words '(including in its operation in relation to another Territory law)' to allow modifications in respect of savings or transitional matters to be made for not only the *Health Professionals Bill 2003* but also in respect of the operation of other Territory laws.