

**2003**

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

**NURSE PRACTITIONERS LEGISLATION AMENDMENT BILL 2003**

**EXPLANATORY STATEMENT**

Circulated by authority of

Simon Corbell MLA  
Minister for Health

## EXPLANATORY STATEMENT

### Outline

Following the amendments to the *Nurses Act 1988*, which provided for the establishment of the nurse practitioner role as described in the report of the Steering Committee of the Nurse Practitioner Project 2002, consequential amendments are required to a number of Acts to enable nurse practitioners to perform their function. The majority of these Acts require that a definition of an authorised nurse practitioner be included in a number of existing specified Acts and that the words authorised nurse practitioner be added to a number of already existing sections of these specified Acts. These amendments are required to enable occupants of nurse practitioner positions to fulfil their expanded role subject to the final approval of their scope of practice including clinical guidelines and a recommended medication formulary.

### Revenue/Cost Implications

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

### Formal Clauses

**Clause 1 – Name of Act** – states the title of the Act, which is the *Nurse Practitioners Legislation Amendment Act 2003*.

**Clause 2 – Commencement** – states when the Act commences. All amendments are to commence on a day fixed by the Minister by written notice. This will allow coordination of the commencement of the Bill with the new Health Regulations.

**Clause 3 – Legislation amended – pt 2** – provides that this part amends the *Health Act 1993*.

**Clause 4 – New section 37B** – inserts section 37B into the *Health Act 1993*. This section allows regulations to be made under the *Health Act 1993* in respect of nurse practitioner positions and the scope of practice for nurse practitioner positions.

**Clause 5 – Legislation Amended – pt 3** – provides that this part amends the *Legislation Act 2001*.

**Clause 6 – Dictionary part 1, new definition of nurse practitioner** – provides a definition of nurse practitioner.

**Clause 7 – Legislation Amended – pt 4** – provides that this part amends the *Mental Health (Treatment and Care) Act 1994*.

**Clause 8 – New section 4A** – inserts section 4A into the *Mental Health (Treatment and Care) Act 1994*. This section provides that other legislation applies to offences under this Act. This section has been inserted to ensure that the legislation complies with the new criminal code.

**Clause 9 – Sections 119, 119A and 119B** – substitutes three new sections to include the appointment of authorised nurse practitioner as mental health officers and to redraft the section to allow the chief executive to issue identity cards and to comply with the new criminal code.

**Clause 10 – Legislation Amended – pt 5** – provides that this part amends the *Pharmacy Act 1931*.

**Clause 11 – New section 4A** – inserts section 4A into the *Pharmacy Act 1931*. This section provides that other legislation applies to offences under this Act. This section has been inserted to ensure that the legislation complies with the new criminal code.

**Clause 12 – Sections 46 and 47** – substitutes two new sections to apply the requirements in respect of issuing prescriptions and recording prescriptions to prescribers including authorised nurse practitioners.

**Clause 13 – Section 51** – substitutes a new section to extend the existing protection offered by the current provision to nurse practitioners who are practicing in the sexual health area.

**Clause 14 – Legislation Amended – pt 6** – provides that this part amends the *Poisons Act 1933*.

**Clause 15 – New section 3A** – inserts section 3A into the *Poisons Act 1933*. This section provides that other legislation applies to offences under this Act. This section has been inserted to ensure that the legislation complies with the new criminal code.

**Clause 16 – Section 16** – substitutes a new section to allow authorised nurse practitioners to prescribe biological preparations and restricted substances that are within their scope of practice.

**Clause 17 – Maximum penalty where offence is due to inadvertence Section 18(b)** – omits the words ‘issued by doctors’ in paragraph (b) to include prescriptions issued by authorised nurse practitioners and other prescribers.

**Clause 18 – Regulation-making power Section 22 (2) (i)** – substitutes a new subparagraph to allow regulations to be made in respect of the issue of prescriptions by all prescribers including authorised nurse practitioners.

**Clause 19 – Legislation Amended – pt 7** – provides that this part amends the *Poisons Regulations 1933*.

**Clause 20 – Dispensing Regulation 5 (2) (k)** – substitutes a new subparagraph to extend the operation of the regulation in respect of forged prescriptions to all prescribers including authorised nurse practitioners.

**Clause 21 – Legislation Amended – pt 8** – provides that this part amends the *Prostitution Act 1992*.

**Clause 22 – New section 3A** – inserts section 3A into the *Prostitution Act 1992*. This section provides that other legislation applies to offences under this Act. This section has been inserted to ensure that the legislation complies with the new criminal code.

**Clause 23 – Section 26** – substitutes a new section to allow authorised nurse practitioner to undertake medical examinations of prostitutes that are within their scope of practice.

**Clause 24 – Disqualifying offences – this Act Schedule 2, item 8, column 3** – substitutes the words ‘medical examination’ with the words ‘medical test and medical examination’.

**Clause 25 – Dictionary, new definition of authorised nurse practitioner** – inserts a definition of authorised nurse practitioner.

**Clause 26 – Dictionary, definition of medical examination** – omits the definition of medical examination.

**Clause 27 – Dictionary, new definitions**– inserts definitions of nurse practitioner position and scope of practice.

**Clause 28 – Legislation Amended – pt 9** – provides that this part amends the *Public Health Act 1997*.

**Clause 29 – New section 6A** – inserts section 6A into the *Public Health Act 1997*. This section provides that other legislation applies to offences under this Act. This section has been inserted to ensure that the legislation complies with the new criminal code.

**Clause 30 – Section 102** – substitutes two new sections to allow an authorised nurse practitioner to undertake medical examinations of prostitutes and to notify the chief health officer of any notifiable conditions that are within their scope of practice.

**Clause 31 – Authorised notification of contacts – Section 108 (4) (a)** – substitutes a new subparagraph to include a reference to authorised nurse practitioner.

**Clause 32 – Section 111** – substitutes a new section to extend to authorised nurse practitioner the same protections as doctors and responsible persons from being identified when notifying the chief health officer of patients in their care who have notifiable conditions.

**Clause 33 – Section 114** – substitutes a new section to allow the chief health officer to issue public health directions to authorised nurse practitioner as well as doctors in respect of patients in their care.

**Clause 34 – Dictionary, new definitions** – inserts a new definition of authorised nurse practitioner and nurse practitioner position.

**Clause 35 – Dictionary, definition of responsible person** – substitutes a new definition of responsible person.

**Clause 36 – Dictionary, new definition of scope of practice** – inserts a new definition of scope of practice.

**Clause 37 – Legislation Amended – pt 10** – provides that this part amends the *Public Health Regulations 2000*.

**Clause 38 – Sale of injurious drugs, articles and apparatus Regulation 51 (7) (c) and (d)** – substitutes two new subparagraphs to extend the operation of the regulation in respect of the sale of injurious drugs, articles and apparatus to authorised nurse practitioners.

**Clause 39 – Legislation Amended – pt 11** – provides that this part amends the *Road Transport (Alcohol and Drugs) Act 1977*.

**Clause 40 – Restrictions on screening tests and breath analyses Section 14 (3) (b)** – substitutes a new sub-paragraph to allow authorised nurse practitioner acting within their scope of practice along with doctors to write a certificate that states in his or her opinion that to comply with the screening or breath analyses test would be detrimental to the person's medical condition.

**Clause 41 – New section 14 (4)** – inserts a new subsection which requires the police officer to tell the authorised nurse practitioner or doctor attending the person of the police officers intention to subject the person to a screening or breath analyses test.

**Clause 42 – Medical examinations 16 (4) and (5)** – omits doctor and substitutes doctor or authorised nurse practitioner.

**Clause 43 – New section 16 (6)** – omits doctor or a police officer and substitutes doctor, authorised nurse practitioner or police officer.

**Clause 44 – Refusing blood tests etc Section 23 (2)** – substitutes a new subsection which makes refusing to undertake a medical examination or provide a blood sample an offence if requested by an authorised nurse practitioner or a doctor.

**Clause 45 – Section 23** – provides for the renumbering of subsections in Section 23 of the Act when next republished.

**Clause 46 – Driver etc intoxicated Section 24A (2)** – substitutes a new subsection which allows a person charged with an offence under the Act to request an examination by an authorised nurse practitioner or a doctor.

**Clause 47 – Certificate of evidence Section 41 (e)** – substitutes a new subsection which allows an authorised nurse practitioner alongside a doctor to provide a certificate of evidence for the purposes of any examination undertaken by the authorised nurse practitioner.

**Clause 48 – Section 41 (1)** – provides for the renumbering of the subparagraphs in Section 41(1) of the Act when next republished.

**Clause 49 – Right of arrested person to medical examination Section 47 (1)** – substitutes a new subsection which allows an arrested person to be examined by a doctor or an authorised nurse practitioner.

**Clause 50 – Dictionary, note 2** – substitutes a new note 2 in the Dictionary to include the terms ‘fail’ and ‘nurse practitioner’.

**Clause 51 – Dictionary, new definitions** – inserts new definitions of authorised nurse practitioner, medical examination, nurse practitioner position and scope of practice.

**Clause 52 – Legislation Amended – pt 12** – provides that this part amends the *Sexually Transmitted Diseases Act 1956*.

**Clause 53 – Definitions for Act Section 4, new definitions** – inserts new definitions of authorised nurse practitioner, nurse practitioner position and scope of practice.

**Clause 54 – New section 4A** – inserts section 4A into the *Sexually Transmitted Diseases Act 1956*. This section provides that other legislation applies to offences under this Act. This section has been inserted to ensure that the legislation complies with the new criminal code.

**Clause 55 – Sections 5 to 7** – substitutes six new sections to allow authorised nurse practitioners acting within their scope of practice to undertake medical examinations of persons with sexually transmitted diseases and to notify the chief health officer of any persons that have sexually transmitted diseases in the same way that doctors are required to now.

**Clause 56 – Apprehension of person failing to attend for examination Section 8 (1)** – substitutes a new section redrafted in accordance with current legislative drafting requirements.

**Clause 57 – Section 8 (5) (a)** – substitutes a new paragraph to include the words ‘authorised nurse practitioner’ alongside doctor in the subsection.

**Clause 58 – Section 8 (8)** – substitutes a new paragraph to include the words ‘authorised nurse practitioner’ alongside doctor in the subsection.

**Clause 59 – Section 8** – provides for the renumbering of subsections in Section 8 of the Act when next republished.

**Clause 60 – Legislation Amended – pt 13** – provides that this part amends the *Tuberculosis Act 1950*.

**Clause 61 – New section 3A** – inserts a new section 3A into the *Tuberculosis Act 1950*. This section provides that other legislation applies to offences under this Act. This section has been inserted to ensure that the legislation complies with the new criminal code.

**Clause 62 – Section 4** – substitutes a new section to include authorised nurse practitioners acting within their scope of practice to notify the chief health officer of persons believed to have tuberculosis.