



New South Wales

Health Legislation Amendment Act 1999 No 76

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New South Wales

Health Legislation Amendment Act 1999 No 76

Act No 76, 1999

An Act to repeal the *Pathology Laboratories Accreditation Act 1981*; to make miscellaneous amendments to various Acts relating to health and associated matters; and for other purposes. [Assented to 3 December 1999]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Health Legislation Amendment Act 1999*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of various Acts

Each Act specified in Schedule 1–10 is amended as set out in those Schedules.

4 Repeal of Pathology Laboratories Accreditation Act 1981

The *Pathology Laboratories Accreditation Act 1981* is repealed.

Schedule 1 Amendment of Public Health Act 1991 No 10

(Section 3)

[1] Part 5, heading

Omit the heading to Part 5. Insert instead:

Part 5 General health matters

[2] Section 51

Insert after the heading to Part 5:

51 Skin penetration procedures—power of environmental health officers to enter and inspect premises

- (1) An environmental health officer who believes on reasonable grounds that premises are used for the carrying on of skin penetration procedures may enter the premises and do any one or more of the following on those premises:
- (a) inspect the premises,
 - (b) make inquiries of any person found on the premises,
 - (c) examine, inspect or test any apparatus, equipment or works,
 - (d) take and remove samples of any substance or other thing,
 - (e) require the samples referred to in paragraph (d) to be taken and given to the environmental health officer or another person or to the Director-General,
 - (f) take such photographs, films and audio, video and other recordings as the environmental health officer considers necessary,
 - (g) require records to be produced for inspection,
 - (h) examine, inspect and copy any records,

- (i) make such other examinations, inquiries and tests as the environmental health officer considers necessary.
- (2) Section 72 (Powers of entry) applies in relation to the exercise of powers conferred by this section.
- (3) In this section:
skin penetration procedure means any of the following procedures:
 - (a) acupuncture,
 - (b) tattooing,
 - (c) ear piercing,
 - (d) hair removal,
 - (e) any other procedure (whether medical or not) that involves skin penetration,
 - (f) any other procedure prescribed by the regulations,but does not include:
 - (g) a procedure carried out in the practice of medicine or dentistry by:
 - (i) a medical practitioner registered under the *Medical Practice Act 1992*, or
 - (ii) a dentist registered under the *Dentists Act 1989*, or
 - (iii) a person acting under the direction or supervision of such a medical practitioner or dentist, or
 - (h) any other procedure prescribed by the regulations.

[3] Part 6, heading

Omit the heading to Part 6. Insert instead:

Part 6 Tobacco and other smoking products

[4] Section 53 Definitions

Insert in alphabetical order:

non-tobacco smoking product means any product (other than a tobacco product) that is intended to be smoked, and includes any product known or described as herbal cigarettes.

[5] Section 59 Sale of tobacco and non-tobacco smoking products to minors

Insert after section 59 (1):

(1A) A person who sells a non-tobacco smoking product to a person who is under the age of 18 years is guilty of an offence.

Maximum penalty: 50 penalty units.

[6] Section 59 (2)

Omit “subsection (1)”. Insert instead “this section”.

[7] Section 59 (2) (a) and (b)

Insert “or non-tobacco smoking product” after “tobacco product” wherever occurring.

[8] Section 59 (4)

Insert “or non-tobacco smoking products” after “tobacco products” wherever occurring.

[9] Section 59 (5)

Insert after section 59 (4):

(5) Section 61R does not apply to an offence under subsection (1A).

Schedule 2 Amendment of Poisons and Therapeutic Goods Act 1966 No 31

(Section 3)

[1] Section 4 Definitions

Omit paragraph (b) from the definition of *Commonwealth administrative laws* in section 4 (1).

[2] Section 27 Definitions

Omit the definition of *addict*.

[3] Section 27

Insert at the end of the section:

drug dependent person means a person who has acquired, as a result of repeated administration of:

- (a) a drug of addiction, or
- (b) a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*,

an overpowering desire for the continued administration of such a drug.

[4] Section 28 Prohibition on prescribing drugs of addiction in certain cases

Omit “an addict” from section 28 (b).

Insert instead “a drug dependent person”.

[5] Section 29 Director-General may authorise prescription or supply of drugs of addiction

Omit section 29 (2). Insert instead:

- (2) Any such application may be referred by the Director-General to the Medical Committee.

[6] Section 33E Application of Commonwealth administrative laws to applied provisions

Insert after section 33E (3):

- (4) Any provision of a Commonwealth administrative law applying because of this section that purports to confer jurisdiction on a federal court is taken not to have that effect.

[7] Section 33K Jurisdiction of courts

Omit the section.

Schedule 3 Amendment of Dental Technicians Registration Act 1975 No 40

(Section 3)

Section 34AA

Insert after section 34:

34AA Board may waive fees

The board may, for any reason the board considers sufficient, exempt a person from the requirement to pay a fee, or waive or wholly or partly refund a fee, that would otherwise be payable or has been paid in accordance with this Act or the regulations.

Schedule 4 Amendment of Nurses Act 1991 No 9

(Section 3)

Section 75A

Insert after section 75:

75A Board may waive fees

The Board may, for any reason the Board considers sufficient, exempt a person from the requirement to pay a fee, or waive or wholly or partly refund a fee, that would otherwise be payable or has been paid in accordance with this Act or the regulations.

Schedule 5 Amendment of Optometrists Act 1930 No 20

(Section 3)

Section 33A

Insert after section 33:

33A Board may waive fees

The board may, for any reason the board considers sufficient, exempt a person from the requirement to pay a fee, or waive or wholly or partly refund a fee, that would otherwise be payable or has been paid in accordance with this Act or the regulations.

Schedule 6 Amendment of Physiotherapists Registration Act 1945 No 9

(Section 3)

Section 32AA

Insert after section 32:

32AA Board may waive fees

The Board may, for any reason the Board considers sufficient, exempt a person from the requirement to pay a fee, or waive or wholly or partly refund a fee, that would otherwise be payable or has been paid in accordance with this Act or the regulations.

Schedule 7 Amendment of Pharmacy Act 1964 No 48

(Section 3)

[1] Section 26 Restrictions on carrying on business of a pharmacist in pharmacies

Omit “one partnership” from section 26 (2).

Insert instead “3 partnerships”.

[2] Section 36 Fees

Insert after section 36 (6):

- (7) The Board may, for any reason the Board considers sufficient, exempt a person from the requirement to pay a fee, or waive or wholly or partly refund a fee, that would otherwise be payable or has been paid in accordance with this Act.

**Schedule 8 Amendment of Human Tissue Act 1983
No 164**

(Section 3)

[1] Section 20 Consents to removal of blood from children

Omit section 20 (a) and (b). Insert instead:

- (a) the child is in agreement with the removal of blood from the child's body, and
- (b) in the case of a child who is under 16 years of age, a medical practitioner advises the parent or guardian that the removal of blood is not likely to be prejudicial to the health of the child.

[2] Section 20 (2)

Insert at the end of section 20:

- (2) Such a consent given in relation to a child aged 16 or 17 years of age (unless given for the removal of blood on a particular occasion only) is ongoing but can be withdrawn either by the parent or guardian who gave it or by the child ceasing to be in agreement.

Schedule 9 Amendment of Health Services Act 1997 No 154

(Section 3)

[1] Section 90 Appointment of arbitrator by relevant Minister

Omit “the President or”.

[2] Section 90

Insert “nominated by the President of the Commission” after “Industrial Relations Commission”.

[3] Section 127 Determination of subsidies

Insert after section 127 (3):

(3A) The Minister may vary a determination under subsection (3) in such circumstances as the Minister considers appropriate.

[4] Sections 127A and 127B

Insert after section 127:

127A Deferral of payment of subsidy

The Minister may determine that payment of the whole or any part of an amount payable under section 127 in a financial year is to be deferred until a subsequent financial year. Payment is deferred in accordance with such a determination.

127B Loans to public health organisations

- (1) The Minister may determine that an amount of money is to be lent to an area health service, statutory health corporation or affiliated health organisation, out of money appropriated from the Consolidated Fund to the Minister.
- (2) Any such amount is to be lent in accordance with that determination and on such terms and conditions as the Minister determines.

- (3) The loans made pursuant to subsection (1) must not result in expenditure in excess of forward estimates.
- (4) The *Public Authorities (Financial Arrangements) Act 1987* does not apply to a loan made under this section.

[5] Schedule 7 Savings and transitional provisions

Insert at the end of clause 1 (1):

Health Legislation Amendment Act 1999

[6] Schedule 7, Part 3

Insert at the end of Schedule 7:

Part 3 Provisions consequent on the enactment of the Health Legislation Amendment Act 1999

55 Validation of loans to public health organisations

Any loan made before the commencement of this clause to an area health service, statutory health corporation or affiliated health organisation out of money appropriated from the Consolidated Fund to the Minister for Health is validated.

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Schedule 10 Amendment of Public Finance and Audit Act 1983 No 152

Schedule 10 Amendment of Public Finance and Audit Act 1983 No 152

(Section 3)

Schedule 2 Statutory bodies

Omit “Pathology Laboratories Accreditation Board”.

[Minister's second reading speech made in—
Legislative Assembly on 18 November 1999
Legislative Council on 25 November 1999]

BY AUTHORITY