



New South Wales

Health Practitioner Regulation (New South Wales) Amendment (Savings and Transitional) Regulation 2010

under the

Health Practitioner Regulation National Law (NSW)

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Practitioner Regulation National Law (NSW)*.

CARMEL TEBBUTT, MP
Minister for Health

Explanatory note

The object of this Regulation is to amend the *Health Practitioner Regulation (New South Wales) Regulation 2010* to provide for savings and transitional matters consequent on the commencement of the *Health Practitioner Regulation National Law (NSW)* (the **National Law**). The National Law provides for the registration of health practitioners and establishes a complaints and disciplinary scheme in relation to those health practitioners that is to be administered by Councils. On the commencement of the National Law a number of Acts (the **repealed Acts**) that previously provided for the registration and regulation of health practitioners by Boards were repealed.

Specifically, this Regulation provides as follows:

- (a) that a delegation made by a Board under a repealed Act continues in force under the National Law until 1 January 2013,
- (b) that a registered health practitioner may apply for a review of conditions imposed on the health practitioner's registration by a Board under a repealed Act or by a Council,
- (c) that if, immediately before the commencement of the National Law, a Board had started but not completed dealing with a complaint about a registered health practitioner by an inquiry under a repealed Act the inquiry is to continue under the repealed Act but is to be conducted by the relevant Council.

This Regulation is made under the *Health Practitioner Regulation National Law (NSW)*, including sections 247A (the general regulation-making power) and clause 1 of Schedule 5A (the savings and transitional regulation-making power).

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Health Practitioner Regulation (New South Wales) Amendment (Savings
and Transitional) Regulation 2010

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Amendment (Savings and Transitional) Regulation
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Health Practitioner Regulation National Law (NSW)

1 Name of Regulation

This Regulation is the *Health Practitioner Regulation (New South Wales) Amendment (Savings and Transitional) Regulation 2010*.

2 Commencement

- (1) This Regulation (other than Schedule 1 [1]) is taken to have commenced on 1 July 2010 and is required to be published on the NSW legislation website.
- (2) Schedule 1 [1] is taken to have commenced on 1 October 2010.

Schedule 1 Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010

[1] Clause 22 Delegations

Omit clause 22 (2) (b). Insert instead:

- (b) 1 January 2013.

[2] Clauses 23 and 24

Insert after clause 22:

**23 Right of review of conditions imposed by Council or former Board
on registration**

- (1) A health practitioner registered in a health profession may apply to the Council established for the profession for a review of:
 - (a) a direction by the Council, or an order by the former Board established for the health profession, that conditions be imposed on the health practitioner's registration in the health profession, or
 - (b) an order made under this clause.
- (2) An application for review may not be made:
 - (a) if the terms of the direction or order provide that an application for review may not be made, or
 - (b) while an appeal to a Tribunal or the Supreme Court in respect of the same matter is pending.
- (3) An application for review must be lodged with the Executive Officer of the Council.
- (4) The Council must conduct an inquiry into the application.
- (5) The inquiry is a review to decide the appropriateness, at the time of the review, of the direction or order concerned.
- (6) The inquiry is not to review the decision to make the direction or order, or any findings made in connection with the making of the decision.
- (7) The inquiry must take into account any complaint or notification made to a Council or a National Board, or a former Board, about the health practitioner, whether the complaint or notification was made or notified before or after the making of the direction or order that is the subject of the review and whether or not any action was taken on the complaint or notification.

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Schedule 1 Amendment of Health Practitioner Regulation (New South Wales) Regulation 2010

- (8) After conducting the inquiry the Council must:
 - (a) dismiss the application, or
 - (b) make an order altering or removing the conditions to which the health practitioner's registration is subject, including by imposing new conditions.
- (9) The Council's order may also provide that the order is not to be reviewed under this clause until after a specified time.

24 Relevant matters still being dealt with on participation day

- (1) This clause applies if, immediately before the commencement of the Act, a former Board had started but not completed dealing with a complaint by an inquiry under a repealed Act.
- (2) On and from the commencement, the inquiry is to continue under the repealed Act.
- (3) After the inquiry has been decided under the repealed Act, any further proceedings or appeal in relation to the matter the subject of the inquiry is to be dealt with under this Law as if the inquiry had been decided under this Law.
- (4) For the purposes of this clause, the repealed Act applies:
 - (a) as if a reference to the former Board were a reference to the Council for the health profession, and
 - (b) with any other changes that are necessary or convenient.
- (5) The National Board for the health profession must give effect to a decision made by the former Board on the complaint at the inquiry under the repealed Act, and the decision continues to apply, as if it were a decision made under this Law.