



New South Wales

Health Legislation Amendment (Miscellaneous) Bill 2024

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2024

Clerk of the Parliaments



New South Wales

Health Legislation Amendment (Miscellaneous) Bill 2024

Act No _____, 2024

An Act to make miscellaneous amendments to various Acts relating to health and associated matters; and to repeal the *Health Services Amendment (Ambulance Services) Act 2015*.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Health Legislation Amendment (Miscellaneous) Act 2024*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Repeal of Health Services Amendment (Ambulance Services) Act 2015 No 22

The *Health Services Amendment (Ambulance Services) Act 2015* No 22 is repealed.

Schedule 1 **Amendment of Assisted Reproductive Technology Act 2007 No 69**

[1] Section 27 Donated gametes or embryos—maximum number of families

Omit “information referred to in subsection (4)” from section 27(5).

Insert instead “relevant information”.

[2] Section 27(7)–(9)

Insert after section 27(6)—

- (7) Subject to the regulations, the Secretary may—
- (a) give relevant information to an interstate government agency or interstate ART provider in the circumstances prescribed by the regulations, and
 - (b) authorise an ART provider to give relevant information to an interstate government agency or interstate ART provider in the circumstances prescribed by the regulations.
- (8) The regulations may—
- (a) provide for the kinds of relevant information that may not be given to an interstate government agency or an interstate ART provider, and
 - (b) prescribe, or authorise the Secretary to impose, conditions on the giving of relevant information to an interstate government agency or interstate ART provider.
- (9) In this section—
- interstate ART provider*** means a person who—
- (a) provides ART services in another State or Territory, and
 - (b) is prescribed by the regulations.
- interstate government agency*** means a Minister or head of a government department in another State or Territory who—
- (a) has similar functions to the Secretary under this Act, and
 - (b) is prescribed by the regulations.
- relevant information*** means the information in relation to a donor specified in subsection (4).

Schedule 2 Amendment of Crimes Act 1900 No 40

[1] Section 60AA Definitions

Insert after the definition of *frontline health worker*, paragraph (a)—

- (a1) a medical practitioner or other person employed or otherwise engaged to provide services in a medical practice, or

[2] Section 60AA, definition of “frontline health worker”

Insert “or” at the end of paragraphs (b) and (e)–(g).

Schedule 3 Amendment of Drug and Alcohol Treatment Act 2007 No 7

[1] Schedule 3 Provisions relating to principal official visitor and official visitors

Insert “, including an acting official visitor,” after “An official visitor” in clause 3.

[2] Schedule 3, clause 3, note

Insert at the end of the clause—

Note— Under the *Interpretation Act 1987*, section 47, the power to appoint a person to an office includes the power to appoint a person to act in that office in certain circumstances.

Schedule 4 Amendment of Health Records and Information Privacy Act 2002 No 71

[1] Section 4 Definitions

Insert after section 4(1), definition of *public sector agency*, paragraph (b)—

- (c) a State owned corporation that is not subject to the *Privacy Act 1988* of the Commonwealth,

[2] Section 4(1), definition of “public sector agency”

Omit “but does not include a State owned corporation.”.

[3] Schedule 2 Savings and transitional provisions

Insert before clause 1—

Part 1 General

[4] Schedule 2, clause 1(1)

Insert at the end of the subclause—

another Act that amends this Act

[5] Schedule 2

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provisions consequent on enactment of Health Legislation Amendment (Miscellaneous) Act 2024

Application of Act to State owned corporations

- (1) This clause applies to a State owned corporation that is not subject to the *Privacy Act 1988* of the Commonwealth (a *relevant SOC*).
- (2) Section 19 applies to a relevant SOC as if a reference in that section to the commencement of Schedule 1 were a reference to the commencement of the relevant amendments.
- (3) Section 21 applies to a relevant SOC as if a reference in that section to the commencement of that section were a reference to the commencement of the relevant amendments.
- (4) In this clause—
relevant amendments means the amendments to section 4 made by the *Health Legislation Amendment (Miscellaneous) Act 2024*.

Schedule 5 Amendment of Medicines, Poisons and Therapeutic Goods Act 2022 No 73

[1] Section 117 Maximum penalty for Tier 1, 2, 3, 4 and 5 offences

Omit “120 penalty units” from the matter relating to Tier 5 in the table.

Insert instead “100 penalty units”.

[2] Section 117, table, matter relating to Tier 5

Omit “60 penalty units”. Insert instead “50 penalty units”.

[3] Schedule 5 Amendment of other legislation

Insert before Schedule 5.27[1]—

[1A] Sections 7A(8)(a), 21A(8)(a) and 40(6)(a)

Omit “inspector under the *Poisons and Therapeutic Goods Act 1966*”
wherever occurring.

Insert instead “authorised officer under the *Medicines, Poisons and
Therapeutic Goods Act 2022*”.

Schedule 6 Amendment of Mental Health Act 2007 No 8

[1] Section 52 Notice of applications

Insert “to the affected person” after “given” in section 52(3).

[2] Section 52(5)

Insert after section 52(4)—

- (5) As soon as practicable after becoming aware of the application, the director of community treatment of the declared mental health facility at which the treatment plan is proposed to be implemented must take all reasonably practicable steps to give written notice of the application to—
- (a) each designated carer of the affected person, and
 - (b) the principal care provider of the affected person, if the principal care provider is not a designated carer.

[3] Section 58 Breach of community treatment order

Insert at the end of section 58(2)(b)—

, and

- (c) take all reasonably practicable steps to notify the following persons of the action taken under paragraphs (a) and (b)—
- (i) each designated carer of the affected person,
 - (ii) the principal care provider of the affected person, if the principal care provider is not a designated carer.

[4] Section 58(5)(b)

Omit “posted to the last known address of the person”.

Insert instead “given to the person in a way specified in section 192(1)(a)(ii), (iv) or (v)”.

[5] Section 58(6)

Insert after section 58(5)—

- (6) The director must take all reasonably practicable steps to give a copy of a breach notice and a breach order to—
- (a) each designated carer of the affected person, and
 - (b) the principal care provider of the affected person, if the principal care provider is not a designated carer.

[6] Schedule 4 Provisions relating to Principal official visitor and official visitors

Insert “, including an acting official visitor,” after “An official visitor” in clause 3.

[7] Schedule 4, clause 3, note

Insert at the end of the clause—

Note— Under the *Interpretation Act 1987*, section 47, the power to appoint a person to an office includes the power to appoint a person to act in that office in certain circumstances.

Schedule 7 Amendment of Private Health Facilities Act 2007 No 9

[1] Section 12 Conditions of licence

Omit “in the time and manner specified by the Secretary, such information as may be prescribed” from section 12(2)(f).

Insert instead “, in the time and way specified by the Secretary, information prescribed by the regulations or specified by the Secretary”.

[2] Section 65 Regulations

Insert after section 65(3)—

- (4) The regulations may apply, adopt or incorporate a publication as in force from time to time.

Schedule 8 Amendment of Public Health Act 2010 No 127

[1] Section 26 Definitions

Insert “, or determined by the Secretary,” after “regulations” wherever occurring in section 26, definitions of *prescribed installation requirements*, *prescribed maintenance requirements* and *prescribed operating requirements*.

[2] Section 134 Regulations

Insert after section 134(2)—

- (2A) The regulations may provide for the Secretary to exempt, with or without conditions, a person or class of persons from a provision of the regulations about a matter specified in subsection (2)(n)–(v).

Schedule 9 Amendment of Public Health (Tobacco) Act 2008 No 94

[1] Section 4 Definitions

Omit section 4(1), definition of *inspector*. Insert in alphabetical order—

certificate of authority, for an inspector, means the certificate of authority issued to the inspector under section 43A(3).

inspector means an inspector appointed under section 43A.

[2] Section 43A

Insert before section 44—

43A Appointment and functions of inspectors

- (1) The Secretary may appoint the following persons as an inspector—
 - (a) a member of staff of the Ministry of Health,
 - (b) a member of the NSW Health Service, within the meaning of the *Health Services Act 1997*,
 - (c) a person of a class prescribed by the regulations.
- (2) Subject to the instrument of appointment, an inspector has the functions conferred or imposed on the inspector by or under this Act or another Act.
- (3) The Secretary must ensure each inspector who is not a police officer is issued with a certificate of authority.
- (4) The certificate of authority must—
 - (a) be in the form approved by the Secretary, and
 - (b) contain a recent photograph of the inspector.

[3] Schedule 1 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provisions consequent on enactment of Health Legislation Amendment (Miscellaneous) Act 2024

Existing inspectors

- (1) A person who, immediately before the commencement date, was an inspector under this Act is taken, on the commencement date, to have been appointed as an inspector under section 43A.
- (2) This clause applies to an inspector who is an authorised officer within the meaning of the *Public Health Act 2010* only if the authorised officer was appointed in relation to functions exercisable under this Act.
- (3) In this clause—

commencement date means the date on which section 43A, as inserted by the *Health Legislation Amendment (Miscellaneous) Act 2024*, commences.