



New South Wales

# Health Services Amendment (Ambulance Services) Bill 2015

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are:

- (a) to make it lawful for non-government organisations and private operators to provide supported non-emergency transport (that is, transport for sick and injured persons, to or from hospitals or other places where those persons can obtain medical services) for fee or reward without the consent of the Secretary of the Ministry of Health, subject to certain requirements, and
- (b) to prohibit emergency ambulance services (rather than all transport for sick or injured persons, as at present) from being provided by non-government organisations and private operators for fee or reward without the consent of the Health Secretary.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day to be appointed by proclamation.

## Schedule 1 Amendment of Health Services Act 1997 No 154

**Schedule 1 [1]** makes it clear that a reference in the *Health Services Act 1997* to the public health system refers to the Health Secretary only in respect of the provision by or on behalf of the Health Secretary of ambulance services.

**Schedule 1 [2]** prohibits persons from directly or indirectly providing or taking part in the provision of emergency ambulance services for fee or reward unless they have the consent of the Health Secretary and act in accordance with any conditions that the Health Secretary imposes on that consent. This replaces the current prohibition on providing any type of ambulance transport without consent. Accordingly, the amendment permits supported non-emergency transport to be provided without the need to obtain consent (but subject to certain new requirements in proposed sections 67FA and 67FB).

**Schedule 1 [3]** is a consequential amendment. It makes it an offence to collect money from the public for the provision of emergency ambulance services (at present the relevant provision prohibits the collection of money for any ambulance services).

**Schedule 1 [4]** inserts provisions that regulate supported non-emergency transport. Supported non-emergency transport is a service (other than an emergency ambulance service) that provides transport to sick and injured persons to or from hospitals or other places where those persons can obtain medical services, in certain circumstances.

Proposed section 67FA:

- (a) provides that a person must not provide supported non-emergency transport unless the person has taken reasonable steps to ensure that any vehicles or other methods of transportation used to provide the transport are equipped in a manner that ensures patient safety and that clinical care or monitoring provided as part of that service is provided in a manner that ensures patient safety, and
- (b) provides for the regulations to make provision for the standards to be complied with in the provision of supported non-emergency transport and makes it an offence to provide such transport for fee or reward in contravention of the prescribed standards.

Proposed section 67FB provides that a person must not engage another person to provide supported non-emergency transport unless the person takes all reasonable steps to ensure that any vehicles or other methods of transportation used to provide the transport are equipped in a manner that ensures patient safety, that the service provider is able to provide clinical care or monitoring in a manner that ensures patient safety and that complies with the prescribed standards and that the service provider has obtained any accreditation or authorisation necessary under the prescribed standards or other State or Commonwealth laws relating to the transportation of passengers by road, waterway or air.

Proposed section 67FC provides for the Health Secretary to make orders prohibiting persons from providing or taking part in the provision of supported non-emergency transport or orders placing conditions on the provision of such transport. Such an order can be made only if the Health Secretary is satisfied that the relevant transport has been provided in contravention of certain requirements and the order is necessary to protect the health or safety of members of the public. The proposed section makes it an offence to provide, or take part in the provision of, supported non-emergency transport in contravention of a prohibition order.

**Schedule 1 [5]** inserts definitions of terms used in the proposed provisions.

## **Schedule 2      Amendment of Health Insurance Levies Act 1982 No 159**

**Schedule 2 [1]** inserts a definition of a term used in the proposed amendments.

**Schedule 2 [2]** makes it clear that a reference to a person who is otherwise exempt from the payment of fees for the provision of ambulance services refers only to a person exempt from fees for services provided by or on behalf of the Health Secretary.

**Schedule 2 [3]–[5]** make it clear that an exemption from ambulance fees for contributors to certain health benefits funds or to the State Ambulance Insurance Plan refers only to services provided by or on behalf of the Health Secretary.



New South Wales

# Health Services Amendment (Ambulance Services) Bill 2015

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New South Wales

# Health Services Amendment (Ambulance Services) Bill 2015

No. , 2015

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## **A Bill for**

An Act to amend the *Health Services Act 1997* to make further provision in relation to the provision of ambulance services, including supported non-emergency transport; and for related purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Health Services Amendment (Ambulance Services) Act 2015</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day to be appointed by proclamation.	5

<b>Schedule 1</b>	<b>Amendment of Health Services Act 1997 No 154</b>	1
<b>[1] Section 6</b>	<b>What is the public health system?</b>	2
	Insert “, by or on behalf of the Health Secretary,” after “provision” where firstly occurring in section 6 (d).	3 4
<b>[2] Section 67E</b>		5
	Omit the section. Insert instead:	6
<b>67E</b>	<b>Unauthorised provision of emergency ambulance services</b>	7
(1)	A person must not directly or indirectly provide or take part in the provision of emergency ambulance services for fee or reward unless the person has the consent of the Health Secretary and acts in accordance with such conditions (if any) as the Health Secretary may from time to time impose on that consent. Maximum penalty: 200 penalty units.	8 9 10 11 12
(2)	The Health Secretary may revoke any consent given, or revoke or vary any condition imposed, under this section.	13 14
(3)	This section does not apply to any person (or class of persons) prescribed by the regulations.	15 16
<b>[3] Section 67F</b>	<b>Unauthorised collections</b>	17
	Insert “emergency” before “ambulance services” in section 67F (1).	18
<b>[4] Sections 67FA–67FC</b>		19
	Insert after section 67F:	20
<b>67FA</b>	<b>Regulation of supported non-emergency transport</b>	21
(1)	A person must not directly or indirectly provide or take part in the provision of supported non-emergency transport for fee or reward unless the person has taken all reasonable steps to ensure that:	22 23 24
(a)	any vehicles or other methods of transportation used to provide the supported non-emergency transport are equipped in a manner that ensures patient safety, and	25 26 27
(b)	clinical care or monitoring provided as part of that transport is provided in a manner that ensures patient safety.	28 29
	Maximum penalty: 50 penalty units.	30
(2)	The regulations may make provision for the standards to be complied with in the provision of supported non-emergency transport (the <i>prescribed standards</i> ).	31 32 33
(3)	Without limiting the matters for which the prescribed standards may provide, those standards may make provision for or with respect to the following:	34 35
(a)	the circumstances in which a patient will be required to be transferred to an emergency ambulance service,	36 37
(b)	the accreditation or authorisation of vehicles or the drivers of vehicles,	38
(c)	staffing levels,	39
(d)	the training and qualifications of staff,	40
(e)	the maintenance and safety of vehicles,	41

- (f) the equipment that must be available for use in vehicles and the maintenance of that equipment, 1  
2
- (g) restrictions or prohibitions on the livery and lights used on vehicles. 3
- (4) A person must not directly or indirectly provide or take part in the provision of supported non-emergency transport for fee or reward in contravention of the prescribed standards. 4  
5  
6  
Maximum penalty: 50 penalty units. 7
- (5) This section does not apply to the following: 8
  - (a) the provision of supported non-emergency transport in vehicles that are ordinarily used to provide emergency ambulance services, 9  
10
  - (b) the provision of a taxi service (within the meaning of the *Passenger Transport Act 2014*) if: 11  
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    - (i) the operator of the service is accredited as the operator under that Act, and 13  
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    - (ii) clinical care or monitoring is not offered or provided in connection with the service, 15  
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  - (c) the provision of a community transport service (within the meaning of the *Passenger Transport Act 2014*) if: 17  
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    - (i) the operator of the service is accredited as the operator under that Act, and 19  
20
    - (ii) clinical care or monitoring is not offered or provided in connection with the service, 21  
22
  - (d) the provision of services by the Home and Community Care service operated by the Commonwealth (or any program operated by the Commonwealth or the State that replaces it), 23  
24  
25
  - (e) any other circumstances prescribed by the regulations. 26
- Note.** The operator of supported non-emergency transport is also subject to requirements relating to the transportation of passengers by road, waterway or air (including obligations under State laws about passenger transport or Commonwealth laws about air navigation). 27  
28  
29  
30
- 67FB Engagement of persons to provide supported non-emergency transport** 31
- (1) A person must not, by contract or other arrangement, engage another person (a *service provider*) to provide supported non-emergency transport in connection with any business or undertaking unless the person takes all reasonable steps to ensure that: 32  
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  - (a) any vehicles or other methods of transportation used by the service provider to provide the supported non-emergency transport are equipped in a manner that ensures patient safety, and 36  
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  - (b) the service provider is able to provide clinical care or monitoring in a manner that ensures patient safety and that complies with the prescribed standards under section 67FA, and 39  
40  
41
  - (c) the service provider has obtained any accreditation or authorisation necessary to provide the transport under the prescribed standards under section 67FA or any law of the State or the Commonwealth that relates to transportation of passengers by road, waterway or air. 42  
43  
44  
45
- Maximum penalty: 50 penalty units. 46

(2)	This section does not apply:	1
(a)	to any contract or other arrangement entered into by or on behalf of a public health organisation, the Health Secretary or a specialty network governed health corporation, or	2 3 4
(b)	to any contract or other arrangement entered into by or on behalf of a private health facility that is licensed under the <i>Private Health Facilities Act 2007</i> , or	5 6 7
(c)	to any contract or other arrangement entered into by a person as the person to be transported, or	8 9
(d)	in any other circumstances prescribed by the regulations.	10
<b>67FC</b>	<b>Prohibition orders for supported non-emergency transport</b>	11
(1)	The Health Secretary may, by order in writing served on a person:	12
(a)	prohibit the person from providing or taking part in the provision of supported non-emergency transport, or	13 14
(b)	place such conditions as the Health Secretary considers appropriate on the person providing or taking part in the provision of supported non-emergency transport.	15 16 17
(2)	The Health Secretary may make an order under this section only if satisfied that:	18 19
(a)	the person has provided or taken part in the provision of supported non-emergency transport, and	20 21
(b)	the transport has been provided in contravention of a relevant requirement, and	22 23
(c)	the order is necessary to protect the health or safety of members of the public.	24 25
(3)	For the purposes of subsection (2), a <b>relevant requirement</b> means:	26
(a)	a requirement imposed by or under section 67FA (Regulation of supported non-emergency transport), or	27 28
(b)	any requirement imposed by or under any law of this State, another State, a Territory or the Commonwealth that relates to the transportation of passengers by road, waterway or air, or	29 30 31
(c)	any other requirement specified in the regulations.	32
(4)	The Health Secretary must, before making or varying an order against a person under this section, give the person a show cause notice and consider any response by the person within the period specified in the notice.	33 34 35
(5)	A show cause notice must:	36
(a)	specify the grounds on which the order is proposed to be made or varied and specify the proposed terms of the order, and	37 38
(b)	invite the person to give reasons to the Health Secretary, within the period specified in the notice (being a period of not less than 14 days after the notice is given), as to why the order should not be made or varied.	39 40 41 42
(6)	A person must not directly or indirectly provide or take part in the provision of supported non-emergency transport in contravention of an order made by the Health Secretary under this section.	43 44 45
	Maximum penalty: 200 penalty units.	46



- (7) In this section, a reference to providing or taking part in the provision of supported non-emergency transport includes a reference to being a director of, or otherwise concerned in the management of, a corporation that provides supported non-emergency transport.

**[5] Dictionary**

Insert in alphabetical order in Part 1:

***clinical care or monitoring*** means clinical care or monitoring provided for the purpose of assessing or protecting the health of a sick or injured person.

***emergency ambulance services*** means ambulance services that provide transport to sick and injured persons to or from hospitals:

(a) in response to requests for medical assistance for persons who may have injuries or illnesses that require immediate medical attention in order to save or maintain life or to alleviate suffering, and

(b) using staff who provide attention for the purpose of saving or maintaining life, or alleviating suffering, during transportation.

***supported non-emergency transport*** means a service (other than an emergency ambulance service) that provides transport to sick and injured persons to or from hospitals or other places where those persons can obtain medical services:

(a) using a vehicle or other method of transportation that has been designed or adapted to carry a stretcher, or

(b) using staff who provide clinical care or monitoring during transportation, or

(c) in circumstances prescribed by the regulations.

<b>Schedule 2</b>	<b>Amendment of Health Insurance Levies Act 1982</b>	1
	<b>No 159</b>	2
<b>[1] Section 4 Definitions</b>		3
	Insert in alphabetical order in section 4 (1):	4
	<i>Health Secretary</i> has the same meaning as in the <i>Health Services Act 1997</i> .	5
<b>[2] Section 16B Contributors</b>		6
	Insert “by or on behalf of the Health Secretary” after “services” in section 16B (1) (b).	7
<b>[3] Part 4, heading</b>		8
	Insert “ <b>certain</b> ” after “ <b>from</b> ”.	9
<b>[4] Section 17 Exemption from certain ambulance fees</b>		10
	Insert “by or on behalf of the Health Secretary” after “to the person” in section 17 (2).	11
<b>[5] Section 17 (4)</b>		12
	Insert “by or on behalf of the Health Secretary” after “service”.	13