

## CLAUSE NOTES

### *Poisons (Miscellaneous Amendments) Bill 2017*

Clause 1	<b>Short Title</b>
Clause 2	<b>Commencement</b> Provides for the Act to commence on the date of Royal Assent.
Clause 3	<b>Principal Act</b> States that the <i>Poisons Act 1971</i> is the Principal Act.
Clause 4	<b>Section 2 repealed</b> Repeals section 2 of the Principal Act to remove transitional provisions that are no longer required.
Clause 5	<b>Section 3 amended (Interpretation)</b> Amends section 3 of the Principal Act by including a new definition of authorised health professional to be used in the new sections 25C and 25D of the Principal Act, by removing the definition of eligible midwife and substituting a new definition of endorsed midwife to identify midwives with pharmaceutical endorsements, by adding the Secretary to the definition of responsible licensing authority, by amending the definition of veterinary surgeon to require practice in Tasmania to be able to prescribe narcotic and certain restricted substances in Tasmania and by omitting a transitional provision that is no longer required.
Clause 6	<b>Section 10 amended (suspension or cancellation of licence)</b> Amends section 10 to clarify that notice of suspension or cancellation is not required where the suspension or cancellation is requested by the licensee.
Clause 7	<b>Section 16 amended (licences)</b> Amends section 16 to extend the maximum term for a wholesale chemist licence from 12 to 24 months and to provide existing licences in force at the time of Royal Assent to be extended out to 24 months.

- Clause 8**                      **Section 18 Amended (Offences)**
- Makes minor grammatical changes to subsection 18 (3) of the Principal Act and adds authorised health professionals to paragraph e) of subsection (3) as persons who may make, refine, buy or sell scheduled substances.
- Clause 9**                      **Part II, Division 3A inserted**
- Inserts new provisions to provide for the licensing of first aid providers to purchase, possess and supply scheduled substances for the purposes of first aid subject to any conditions and restrictions specified in the licence.
- Clause 10**                    **Section 25C, 25D and 25E inserted**
- Inserts a new provision 25C for the authorisation of health professions by regulation and allows regulations to be made to permit authorised health professions to possess, sell, supply or prescribe scheduled substances within their scope of practice under such conditions as may be specified in the regulations.
- Inserts a new provision 25D for the authorisation of health professions by Ministerial order (time limited to 6 months) and permits authorised health professions to possess, sell, supply or prescribe scheduled substances within their scope of practice under such conditions as may be specified in the order.
- Inserts a new provision 25E that provides a general power to authorise persons or class of persons to be in possession of scheduled substances under such terms and conditions as specified in the authorisation. For example this can permit persons or organisations to store scheduled substances, undertake testing of scheduled substances or possess scheduled substances for training purposes.
- Clause 11**                    **Section 26 amended (Sale and supply of potent substances and hazardous and medicinal poisons)**
- Amends section 26 by adding authorised health professionals to the list of professions approved to sell or supply certain scheduled substances (schedules 1, 2, 3 and 4) in the lawful practice of their profession (except in the case of an open shop) and provides that it is not an offence to supply free clinical samples to that profession.

- Clause 12**                      **Section 28 amended (Sale of certain substances to be entered and kept in a poisons book)**
- Subsection (1) is amended to become a penalty provision for failure to keep records in a poisons book. The form of the poisons book will now be approved by the Secretary rather than specified in the Regulations.
- Clause 13**                      **Section 29 amended (Sale of certain substances by correspondence)**
- Amends section 29 to refer to written communication and to permit the use of electronic signatures and permits the Secretary to approve alternative arrangements for recording such correspondence such as electronic records.
- Clause 14**                      **Section 30 repealed**
- Repeals outdated provision relating to the sale of substances by telegram.
- Clause 15**                      **Section 31 amended (Modification of section 28 in relation to certain sales, &c.)**
- Amends section 31 by adding authorised health professionals to the list of professions with modified arrangements for the sale and supply of hazardous poisons.
- Clause 16**                      **Section 36 amended (Offences relating to certain restricted substances)**
- Amends section 36 by extending exemptions from offence provisions to authorised health professionals and changing terminology from “eligible midwife” to “endorsed midwife”.
- Clause 17**                      **Section 38 amended (Limitation of application of certain provisions of Division 1 of this Part)**
- Amends section 38 by extending exemptions from sections 26 (1) and (1B) to authorised health professionals and changing terminology from “eligible midwife” to “endorsed midwife”. Amends the wording of 38 (1) (c) to reflect that nursing and midwifery are now separate professions. Paragraphs (ea) and (f) and the definitions of class 1 substance, class 2 substance and optometrists have been omitted as these matters are now covered by the new provisions in subsection 38 (3) (c) relating to an authorised health professional so acting in the course of his or her profession.

Clause 18	<p><b>Section 45 amended (Restriction of importation)</b></p> <p>Amends section 45 to make it clear that no offence occurs where a person brings a lawfully prescribed or dispensed narcotic from another country into Tasmania provided that the substance was declared on entry into Australia and was personally brought into Tasmania.</p>
Clause 19	<p><b>Section 47 amended (Sale and supply of narcotic substances, prohibited plants and prohibited substances)</b></p> <p>Amends section 47 by extending exemptions from offence provisions to include a person acting as an employee of an authorised health professional or under the direction of an authorised health professional.</p>
Clause 20	<p><b>Section 47B repealed</b></p> <p>Repeals a transitional provision that is no longer required.</p>
Clause 21	<p><b>Section 47C amended (endorsed midwives)</b></p> <p>Amends section 47C by changing terminology from “eligible midwife” to “endorsed midwife”.</p>
Clause 22	<p><b>Section 47D amended (offence for endorsed midwife to make available drugs of dependence, &amp;c.)</b></p> <p>Amends section 47D by changing terminology from “eligible midwife” to “endorsed midwife”.</p>
Clause 23	<p><b>Section 48 amended (Possession of narcotic substances, &amp;c.)</b></p> <p>Amends section 48 (1) by adding authorised health professionals to extend exemptions to a person acting as an employee of, or under the direction of, an authorised health professional, amends section 48 (2) to add authorised health professionals and to insert a new subsection (2B) to make it clear that no offence occurs where a person brings a lawfully prescribed or dispensed narcotic from another country into Tasmania provided that the substance was declared on entry into Australia and was personally brought into Tasmania.</p>
Clause 24	<p><b>Section 54E amended (Conditions of licence)</b></p> <p>Corrects terminology as “grow” is defined in the Act as including the term “cultivate”.</p>

- Clause 25**                      **Section 59 amended (Regulations relating to narcotics and narcotic substances)**
- Amends section 59 by adding authorised health professionals to the list of health professions subject to regulations relating to narcotics and narcotic substances.
- Clause 26**                      **Section 59B amended (Notification required in relation to certain restricted substances and narcotic substances)**
- Amends section 59 by updating the provisions regarding notification to the Secretary in relation to notifiable restricted substances or narcotic substances and notifying drug seeking behaviour. The updated provisions make it clear it is lawful to provide information and that it is unnecessary to issue a script to a patient before reporting drug seeking behaviour. Veterinary surgeons and authorised health professionals have been added to the specified persons to whom this section now applies.
- Clause 27**                      **Section 59C amended (Offence to make available drugs of dependence, &c.)**
- Amends section 59C by adding authorised health professionals to the list of professions to which the offence provisions apply.
- Clause 28**                      **Section 59E amended (Authority for making drugs available to certain patients)**
- Amends section 59E to improve arrangements for the administration of authorities to make drugs available to certain patients by allowing conditions in authorisations made under section 59E to be changed as the situation requires, without further application by the practitioner, and to make it clear that the grant of a fresh authority extinguishes all previous authorities and provides for an internal review of the decision of a delegate.
- Clause 29**                      **Section 59F amended (Protection from liability for information)**
- Extends the protection from liability to include authorised health professionals.

- Clause 30**                      **Section 83 amended (Hawking, &c., of scheduled substances prohibited)**
- Adds nurse practitioners, endorsed midwives and authorised health professionals to the list of exempted professions in subsection (2).
- Clause 31**                      **Section 92 amended (Revocation or suspension of rights)**
- Amends subsection 92(6) of the Principal Act by permitting rights to be revoked or suspended under section 92 of the Act if it is in the public interest to do so.
- Clause 32**                      **Section 93 amended (Regulations)**
- Amends section 93 by extending Regulation powers to authorised health professionals, extending powers to include prescription, possession, use or supply of scheduled substances and regulating, controlling and restricting the free distribution of clinical samples.
- Clause 33**                      **Repeal of Act**
- Provides for automatic repeal of the Poisons (Miscellaneous Amendments) Act one year after commencement.