

CLAUSE NOTES

Health Practitioner Regulation National Law (Tasmania) Bill 2010

Clause 1	Short Title
Clause 2	Commencement This clause provides that commencement is to be staggered. Some parts of the Bill (clauses 9 and 11) will commence immediately, upon Royal Assent. Other clauses will commence on a day or days to be proclaimed.
Clause 3	Interpretation This clause provides a reference to the Health Practitioner Regulation National Law (Tasmania) is a reference to the provisions that are applied by clause 4. It also provides that words used in the Bill have the same meaning as in the national law that is being adopted.
Clause 4	Adoption of Health Practitioner Regulations National Law This is the clause that formally applies the national law, which exists in a Schedule to the Queensland Act, as a law of Tasmania
Clause 5	Meaning of generic terms in Health Practitioner Regulation National Law for the purposes of this jurisdiction There are some terms used in the national law that will have a different meaning in each jurisdiction. These terms have been set out in this clause with a meaning attributable to the term specific to Tasmania.
Clause 6	Responsible Tribunal for Health Practitioner Regulation National Law (Tasmania) This clause provides that, in Tasmania, a reference in the national law to the responsible tribunal is a reference to the Magistrates Court (Civil Division).

Clause 7	<p>Exclusion of legislation of this jurisdiction</p> <p>This clause excludes the operation of certain Tasmanian legislation from the Health Practitioner Regulation National Law. In particular, legislation dealing with the interpretation of legislation, financial matters, privacy, freedom of information, right to information and matters relating to the employment of public servants will not apply to the Health Practitioner Regulation National Law. Instead, provisions have been included in the national law covering these matters and ensuring consistency in each Australian jurisdiction.</p>
Clause 8	<p>Regulations</p> <p>This clause provides that, if necessary, Regulations can be made of a savings and transitional nature to give effect to the provisions of the Act.</p>
Clause 9	<p>Interpretation</p> <p>This clause defines a number of expressions that are used in Part 3 of the Bill.</p>
Clause 10	<p>Transfer of certain property exempt from duty</p> <p>This clause provides that where property that is to be transferred under the national law to the national agency would ordinarily attract duty, that transfer is exempt.</p>
Clause 11	<p>Ministers directions</p> <p>This clause provides that the Minister may issue a local registration authority with written directions to do certain things to assist in transition to the national scheme and that the local registration authority must comply with those directions.</p>
Clause 12	<p>Police commissioner may give criminal history information</p> <p>This clause provides the Police Commissioner with the statutory authority to provide criminal history information, specified in the national law, to a National Board, to CrimTrac or to a police service of another jurisdiction or the Commonwealth.</p>
Clause 13	<p>Health and performance assessments</p> <p>This clause provides that a person required to attend a health or performance assessment under the national law is entitled to be accompanied during the assessment.</p>

Clause 14 Procedure with respect to national law regulations

This clause provides a procedure for the tabling of regulations made under the national law.

Clause 15 Interpretation

This clause defines a number of expressions that are used in Part 4 of the Bill.

Clause 16 Declarations of Areas of Need

This clause provides that where a declaration of an area of need has been made under the existing *Medical Practitioners Registration Act 1996*, it will continue to operate as if it had been made under the national law once the national scheme commences.

Clause 17 Complaints being dealt with on participation day

This clause deals with complaints that have been made to a Tasmanian registration authority before the national scheme commences in Tasmania.

It provides that where a local registration authority had started (but not finished) dealing with a complaint prior to the participation date, then the complaint becomes a complaint made to the national board.

It provides that the national board is to continue to deal with the complaint under the Tasmanian legislation, as if that legislation had not been repealed.

It provides that if a matter needs to be referred to a Tribunal under the *Pharmacists Registration Act 2001*, the *Dental Practitioners Registration Act 2001*, the *Nursing Act 1995* or the *Medical Practitioners Registration Act 1996*, then the responsible tribunal defined in clause 6 of the Bill, is to deal with the complaint and has all of the powers that a tribunal under a local registration Act would have had.

If a complaint had already been referred to a Tribunal under the *Pharmacists Registration Act 2001*, the *Dental Practitioners Registration Act 2001*, the *Nursing Act 1995* or the *Medical Practitioners Registration Act 1996* prior to the commencement of the national scheme, then that Tribunal may continue to hear the matter and may do so under the repealed law.

Note that the national law provides that if a complaint had been lodged, but not started to be dealt with by a local registration authority, then the complaint is taken to be made to the national agency and will be dealt with under the national law.

- Clause 18** **Proceedings in respect of offences**
- This clause ensures that a prosecution for an offence committed under one of the former health practitioner registration Acts can proceed or be commenced by the Secretary of the Department.
- Clause 19** **Annual reports**
- This clause provides that despite the repeal of the Acts establishing Tasmania's local registration authorities (Boards), each of those Boards will still be responsible for preparing an annual report for the period of time from the last annual report until the commencement of the national scheme.
- This will mean that each Board will need to prepare an annual report as if it and its functions were not being repealed by the national law in Tasmania.
- Clause 20** **References in other Acts**
- This clause provides that references in Tasmanian legislation to a person registered as a health practitioner under the national law does not include a person who is registered as a student or who has non-practising registration. Therefore, where in another Act, a registered health practitioner has powers or duties to do something; this will not extend to a student or non-practising registrant.
- This also extends to a person who holds provisional registration under the national law if that person is registered in the pharmacy profession.
- Clause 21** **Continuation of excluded legislation, &c**
- This clause provides that certain excluded legislation continues to apply if certain facts existed before the commencement of this Act.
- Clause 22** **Administration of Act**
- This clause provides that the Act is to be administered by the Minister for Health and that the department responsible to the Minister in relation to the administration of the Act is the Department of Health and Human Services.
- Clause 23** **Legislation repealed**
- This clause provides that the legislation listed in Schedule 1 is to be repealed.

Clause 24**Legislation rescinded**

This clause provides that the legislation listed in Schedule 2 is to be rescinded.

Clause 25**Legislation revoked**

This clause provides that the legislation listed in Schedule 3 is to be revoked.