

TASMANIA

POISONS AMENDMENT (MIDWIVES) BILL 2010

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POISONS AMENDMENT (MIDWIVES) BILL 2010

*(Brought in by the Minister for Health, the Honourable
Michelle Anne O'Byrne)*

A BILL FOR

An Act to amend the *Poisons Act 1971*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Poisons Amendment (Midwives) Act 2010*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Principal Act

In this Act, the *Poisons Act 1971** is referred to as the Principal Act.

*No. 81 of 1971

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4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “drug-seeking behaviour”:

“eligible midwife” means a midwife whose registration is endorsed under section 94 of the Health Practitioner Regulation National Law (Tasmania) –

- (a) to administer, obtain, possess, sell, supply or prescribe a restricted substance or a class of restricted substances; and
- (b) to administer, obtain or possess a narcotic substance or a class of narcotic substances;

- (b) by inserting the following definitions after the definition of “midwife”:

“midwifery narcotic substance” means a narcotic substance that is declared by the Minister, by order, to be a midwifery narcotic substance for the purposes of this Act;

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“midwifery restricted substance”
means a restricted substance that is declared by the Minister, by order, to be a midwifery restricted substance for the purposes of this Act;

5. Section 26 amended (Sale and supply of potent substances and hazardous and medicinal poisons)

Section 26 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “and section 47C” after “section 47A”;
- (b) by inserting in subsection (1B) “and section 47C” after “section 47A”.

6. Section 36 amended (Offences relating to certain restricted substances)

Section 36 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(b)(i) “, eligible midwife” after “nurse practitioner”;
- (b) by inserting in subsection (2)(a) “, eligible midwife” after “nurse practitioner”;

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- (c) by inserting in subsection (2)(b) “, eligible midwife” after “nurse practitioner”.

7. Section 38 amended (Limitation of application of certain provisions of Division 1 of this Part)

Section 38(1) of the Principal Act is amended by inserting after paragraph (ab) the following paragraph:

- (ac) the sale or supply of a midwifery restricted substance that is sold or supplied by a pharmaceutical chemist on and in accordance with the prescription of an eligible midwife;

8. Sections 47C and 47D inserted

After section 47B of the Principal Act, the following sections are inserted in Division 2:

47C. Eligible midwives

- (1) Notwithstanding section 26(1B) and section 36(1) and subject to subsection (2), an eligible midwife may administer, obtain, possess, sell, supply or prescribe a midwifery restricted substance in the lawful practice of the profession of midwifery.
- (2) In the case of a midwifery restricted substance that is a restricted substance

declared by the Minister by order under section 36, the eligible midwife may only administer, obtain, possess, sell, supply or prescribe the substance if the midwife is acting in the lawful practice of the profession of midwifery in Tasmania.

- (3) Notwithstanding sections 47 and 48 and subject to section 47D, an eligible midwife may only administer, obtain or possess a midwifery narcotic substance if the midwife is acting in the lawful practice of the profession of midwifery in Tasmania.

47D. Offence for eligible midwife to make available drugs of dependence, &c.

- (1) An eligible midwife must not administer a midwifery narcotic substance to any person who he or she has reason to believe is a drug-dependent person.

Penalty: Fine not exceeding 50 penalty units.

- (2) An eligible midwife must not administer a midwifery narcotic substance to a person who he or she has reason to believe is exhibiting drug-seeking behaviour.

Penalty: Fine not exceeding 50 penalty units.

- (3) An eligible midwife must not administer a midwifery narcotic substance to any

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person for any period longer than 48 hours.

Penalty: Fine not exceeding 50 penalty units.

- (4) An eligible midwife must not administer a midwifery narcotic substance to any person who has a history of obtaining a notifiable restricted substance, narcotic substance or prohibited substance for a non-medical purpose or of unlawful possession or unlawful supply of a notifiable restricted substance, narcotic substance or prohibited substance.

Penalty: Fine not exceeding 50 penalty units.

- (5) An eligible midwife must not make available a midwifery restricted substance that is also a notifiable restricted substance, or administer a midwifery narcotic substance, to any person if the eligible midwife knows or ought to know that the person is the subject of an authority under section 59E(1).

Penalty: Fine not exceeding 50 penalty units.

- (6) In this section –

“notifiable restricted substance”
means a notifiable restricted

substance within the meaning of
section 59A.

9. Section 93 amended (Regulations)

Section 93(2) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (m) “eligible midwives” after “practitioners,”;
- (b) by inserting in paragraph (n) “eligible midwives” after “nurse practitioners,”.

10. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.