

## TASMANIA

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# **HEALTH SERVICE ESTABLISHMENTS AMENDMENT BILL 2011**

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# HEALTH SERVICE ESTABLISHMENTS AMENDMENT BILL 2011

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*  
12 April 2011

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

## A BILL FOR

**An Act to amend the *Health Service Establishments Act 2006***

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 *Health Service Establishments Amendment Act 2011*.

### 2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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**3. Principal Act**

In this Act, the *Health Service Establishments Act 2006\** is referred to as the Principal Act.

**4. Section 3 amended (Interpretation)**

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

(a) by omitting the definition of “chief nurse”;

(b) by inserting the following definition after the definition of “day-procedure centre”:

**“director of nursing”** means the director of nursing of an establishment as referred to in section 39;

(c) by inserting the following definition after the definition of “licensee”:

**“licensed establishment”** means an establishment in respect of which a licence has been issued under this Act;

(d) by omitting the definition of “registered nurse”.

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\*No. 17 of 2006

**5. Section 20 substituted**

Section 20 of the Principal Act is repealed and the following section is substituted:

**20. Notification of alterations or extensions of licensed establishments**

(1) For the purposes of this section –

**“material alteration to or extension of”**, in relation to an establishment, means a material alteration to or extension of the establishment for which a permit is required under the *Building Act 2000*.

(2) If a licensee of an establishment proposes to make any material alteration to or extension of the establishment, the licensee must, within the period specified in subsection (3), apply to the Secretary for approval of the alteration or extension.

(3) The application is to be made at least 14 days –

(a) before an application for a permit in relation to the alteration or extension is made under the *Land Use Planning and Approvals Act 1993*; or

(b) if a permit is not required under the *Land Use Planning and*

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*Approvals Act 1993*, before an application under the *Building Act 2000* is made to a building surveyor for a certificate of likely compliance in relation to the alteration or extension.

- (4) The application is to be accompanied by the prescribed fee.
- (5) The application is to indicate –
  - (a) the purpose of the alteration or extension; and
  - (b) any amendments to the licence held by the applicant that the applicant considers will be required –
    - (i) during the construction works to be undertaken in relation to the alteration or extension; or
    - (ii) as a result of the alteration or extension.
- (6) On receipt of the application together with the prescribed fee and an indication of the matters referred to in subsection (5)(a) and (b), the Secretary –
  - (a) may give ‘in principle’ approval to the alteration or extension and, if necessary, amend the licence to reflect the construction work to

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be undertaken in relation to the alteration or extension; or

- (b) refuse to approve the alteration or extension.
- (7) If 'in principle' approval is given under subsection (6), the licensee, on completion of the alteration or extension, is to give the Secretary a copy of the certificate of completion (building work) under section 112 of the *Building Act 2000* within 14 days of the certificate being issued under that section.
- (8) On receipt of the certificate of completion (building work) and if the alteration or extension substantially complies with the application, the Secretary is to endorse the licence and, if necessary, amend the licence to reflect the changes effected by the alteration or extension.
- (9) If a material alteration to or extension of the licensed establishment is made without the prior 'in principle' approval of the Secretary, the Secretary may cancel the licence under section 30.
- (10) Notwithstanding subsection (9), a licensee may on payment of the prescribed late application fee make a late application for the approval of any material alteration to or extension of the establishment that has been commenced

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without the ‘in principle’ approval of the Secretary.

- (11) The Secretary may accept a late application for approval referred to in subsection (10) and subsections (5), (6), (7) and (8) apply as if the late application were an application under subsection (2).

**6. Section 24 amended (Notice of reasons for refusal of application)**

Section 24 of the Principal Act is amended by inserting “under section 9 or an application for approval of a material alteration to or extension of a licensed establishment under section 20” after “licence”.

**7. Section 30 amended (Cancellation of licence with notice)**

Section 30(1) of the Principal Act is amended by inserting after paragraph (g) the following paragraph:

- (ga) if the establishment no longer meets the requirements of the licence because of the material alteration to or extension of it made by the licensee; or



**8. Section 39 amended (Director of nursing of establishment)**

Section 39 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(a) “chief nurse” and substituting “director of nursing”;
- (b) by omitting from subsection (3) “chief nurse” and substituting “director of nursing”;
- (c) by omitting from subsection (4) “chief nurse” and substituting “director of nursing”;
- (d) by omitting from subsection (5)(a) “chief nurse” and substituting “director of nursing”;
- (e) by omitting from subsection (6) “chief nurse” and substituting “director of nursing”.

**9. Section 40 amended (Title of “matron” and “director of nursing”)**

Section 40(1) of the Principal Act is amended by omitting “chief nurse” and substituting “director of nursing”.

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**10. Section 43 amended (Copy of Act and regulations to be available)**

Section 43 of the Principal Act is amended by omitting “chief nurse” and substituting “director of nursing”.

**11. Section 55A inserted**

After section 55 of the Principal Act, the following section is inserted in Part 6:

**55A. Infringement notices**

(1) In this section –

**“infringement offence”** means an offence against this Act or the regulations made under this Act that is prescribed by the regulations made under this Act to be an infringement offence.

(2) The Secretary may issue and serve an infringement notice on a person if he or she reasonably believes that the person has committed an infringement offence.

(3) An infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.

(4) The regulations –

- (a) may prescribe, for infringement offences, the penalties payable under infringement notices; and
  - (b) may prescribe different penalties for bodies corporate and individuals.
- (5) In the application of the *Monetary Penalties Enforcement Act 2005* to an infringement notice issued and served under this section –
- (a) the issuer and server of the infringement notice is taken to be a public sector body within the meaning of that Act; and
  - (b) a penalty prescribed under subsection (4) in respect of an infringement offence is taken to be the prescribed penalty applicable to that offence for the purposes of section 14(a)(ii) of that Act.

## **12. Repeal of Act**

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