

# CLAUSE NOTES

## *Health Miscellaneous Amendments Bill 2019*

- Clause 1            **Short Title**  
Provides for the Act to be cited as the *Health, Miscellaneous Amendments Act 2019*.
- Clause 2            **Commencement**  
Provides for the Act to commence on Royal Assent.
- Clause 3            **Consequential Amendments**  
Provides for miscellaneous amendments to legislation as specified in Schedule 1.
- Clause 4            **Repeal of Act**  
Provides for automatic repeal of the Amendment Act one year after commencement, as the amendments are incorporated into the relevant amended legislation.
- Schedule 1         **Consequential amendments**  
**Ambulance Service Act 1982**
1. Amends the definition of non-emergency patient transport in Section 3 of the Principal act to specify that regulated NEPT relates to transport on public roads or by air or water to remove uncertainty relating to private property and to change the types of services that may be provided from “basic care and observation” to better define the current activities undertaken by NEPT providers and allow for possible increased scope of care for NEPT as a result of national registration of paramedics.
  2. Amends penalties in the Act as follows:  
Section 35F NEPT licence subject to conditions  
Decreases the penalties to 50 penalty units and a daily penalty of 5 penalty units.
  3. Section 35M Notification of changes  
Decrease the penalties to 15 penalty units and a daily penalty of 1.5 penalty units.
  4. Section 37 Unauthorized provision of ambulance services  
Increases the penalty from 20 penalty units to 200 penalty units and includes a daily penalty of 20 penalty units.

5. Section 37A Unauthorized provision of non-emergency patient transport services

Decreases the penalty to 100 penalty units with a daily penalty of 10 penalty units

6. Section 37B Representation of person as licensed NEPT Service

Decreases the penalty to 100 penalty units with a daily penalty of 10 penalty units

### **Food Act**

The amendments to the Food Act 2003 primarily reduce red-tape. These include removing the duplicated approval process in the principal act for laboratories already accredited with the National Association of Testing Authorities Australia, removing the requirement for mobile food businesses to be separately notified in each local government area and clarifying notification and audit processes.

Specific changes include:

1. Definitional changes through removing the definition of 'approved laboratory' from section 4, including a new definition for 'accredited laboratory'
2. Section 36 is amended to introduce an alternative 'notice' method for an order made to several persons, a class of persons, or all persons (as noted at s.36(1)(b)). Such a notice may be given in accordance with the existing s.36(2) (via newspaper), or by serving the notice on each of the persons bound by the order.
3. Section 77 is amended to reflect the new definitions by replacing 'approved laboratory' with 'accredited laboratory' and removing the requirement for an approved form. A certificate of analysis no longer needs to be in a form approved by the Director of Public Health. The amendments therefore remove the requirement from subsection 77(2).

4. The amendments removing all of Division 3 of Part 6 and substitutes a new section 78 which is essentially section 80 of the current Act renumbered and with the term 'approved laboratory' replaced with 'accredited laboratory'.
5. Section 83G(2) has been amended so that an audit required under s.83G(2) must be conducted by a food safety auditor. The Act already contains a scheme for approving food safety auditors (ss.83A-83E). Food safety auditor is defined in s.4 as a person approved under Division 1 of Part 6A but the link between the existing requirement to audit and the existing approved auditor scheme needs to be made explicit.
6. Section 84 sets out who must notify what information and when. Changes are needed to specify whom the notice goes to. The Food Safety Standards say is to be notified to the relevant council, but it doesn't impose the obligation to actually provide the information to the council. This section has been amended to make that obligation clear.
7. Section 85 sets out exemptions for who must notify under section 84. Two additional exemptions are required as follows.
  - any food business that is not required by regulations to notify.
  - a food business conducted in whole, or in part, at or from a mobile structure need only notify one council (not every council in whose municipal area the business operates). There are no requirements for which council they must choose. This approach is similar to s.88 which provides for single state-wide registration for such businesses. *Mobile structure* is currently defined in s.4.

This removes the requirement for mobile food businesses to be separately notified in each local government area. This supports the amendments to the Food Act in 2015 that extended single state-wide registration to all mobile food businesses.

8. Under s.86, the Director of Public Health may, by notice in the Gazette, require food businesses to register (with the relevant council). The amendments enable the Director of Public Health to approve a food business risk-classification-system for the purposes of s.86. The Director's notice can then require registration in accordance with that approved system. It isn't practical to set out the entire system in the notice as it is quite lengthy. A similar approach is already in place for s.83H. That section uses the phrase '*approved* priority classification system', where approved means approved by the Director of Public Health (s.4).

9. Section 110 (j) is amended to reflect the new definitions by replacing 'approved laboratory' with 'accredited laboratory'.
10. Section 77 is amended to reflect the new definitions by replacing 'approved laboratory' with 'accredited laboratory'

### **Mental Health Act 2013**

1. Amends section 204 to clarify the provisions around how orders made in another jurisdiction will be recognised under Tasmanian law where forensic mental health patients are transferred to Tasmania from another jurisdiction.

### **Pharmacy Control Act 2001**

1. Amends section 71K of the Act to provide a fee making power to prescribe fees for the regulation of pharmacy depots.

### **Poisons Act 1971**

1. The definition of Poisons List in Section 3 of the Principal Act references Appendix C. Substances in Appendix C have now been transferred to Schedule 10 of Part 4 so the reference to Appendix C can be deleted.
2. Section 36 has been amended to allow possession of a declared restricted substance under a permit, licence or authorisation under the Act or Regulations in accordance with the conditions of that permit, licence or authorisation.
3. Section 40 (2) (c) contains a reference to section 15 which has been repealed. The reference has been amended to Section 14 as this provides the relevant power to make Orders relating to the Poisons List.
4. Section 48 has been amended to allow possession of a narcotic substance under a permit, licence or authorisation under the Act or Regulations in accordance with the conditions of that permit, licence or authorisation.

5. Section 54G has been amended to provide a grace period to accept late applications from poppy growers for renewals of licences to grow alkaloid poppies. This is because of the move from annual licences to licences of up to five years duration is expected to result in more late applications from poppy growers. Currently under section 6 of the Act an application for a licence must be made 30 days before renewal with discretion to accept an application lodged less than 30 days before renewal. Currently any late application after the expiry of a licence must be treated as a new application under the Act. The amendments will allow a late application for a poppy licence renewal to be made for a period of three months following the expiry of a licence.
6. The amendments correct the references in Schedule I of the Principal Act to fix erroneous cross references in the provisions around Board appointments.

### **Public Health Act 1997**

1. Changes to the Public Health Act 1997 have been identified for the definitions associated with regulated systems (which are systems where Legionella bacteria are likely to proliferate – increasing the risk of Legionnaires' disease). Existing systems include warm-water systems, cooling towers, and air-handling systems. Regulated systems can be required by the Director of Public Health to register under the Act, and then comply with relevant requirements in the Act and guidelines. The existing definition of a warm-water system is not consistent with current national standards.
1. The changes will ensure water distribution systems (including warm-water systems) that create environments where Legionella are likely to proliferate are included as regulated systems. Strictly speaking, an Act change is not required to achieve this as the definition of regulated system includes any system or process that may involve a risk of Legionnaires' disease. Specifically including the change in the Act is supported for transparency. The amendments also remove unnecessary words from the definition of regulated system to clarify the provisions. Section 3 of the Principal Act is amended to provide new definitions of 'exempt system', 'hot water system', 'regulated system' and 'warm water system'. Further, new Section 112A is inserted into the Principal Act to allow the Director of Public Health to declare an air or water system as a regulated system or to be an exempt system.