

# CLAUSE NOTES

## *Perinatal Registry Amendment Bill 2010*

<b>Clause 1</b>	<b>Short Title</b>
<b>Clause 2</b>	<b>Commencement</b> Provides for the Act to commence on Royal Assent.
<b>Clause 3</b>	Principal Act
<b>Clause 4</b>	The long title of the Principal Act is amended.
<b>Clause 5</b>	The short title of the Principal Act is amended so the title of the Act is the <i>Obstetric and Paediatric Mortality and Morbidity Act 1994</i> .
<b>Clause 6</b>	<b>S3 amended - Interpretation:</b>  Definitions of 'child death', 'committee', 'information' and 'relevant Minister' are inserted into section 3. The Act is amended to include reference to 'relevant Minister' because matters pertaining to children come under a number of Ministerial portfolios and not just the Minister responsible for the Principal Act.
<b>Clause 7</b>	<b>S6 amended - Functions of Council</b>  The clause amends section 6 by adding two new functions. The current subsection (d) provides that the Council may investigate and report on other matters referred to the Council by the Minister or Secretary. The new subsection (da) allows the Council to investigate and report to the Minister, a relevant Minister or the Secretary of the Department of Health and Human Services of its own motion on any matter relating to obstetric and paediatric mortality and morbidity.  The new subsection (db) allows the Council to provide information relating to the death or morbidity of an individual, that is, a child or a woman who is or has been pregnant, to the Minister, a relevant Minister, the Secretary or a prescribed body.

**Clause 8****S6A Information to coroner**

This clause inserts a new section 6A which gives the Council the power to make recommendations and provide information to a coroner, whether of its own motion or at the request of a coroner. The information would relate to a child death or a maternal or later maternal death.

Subsection (2) of section 6A makes it clear that the coroner may admit into evidence the information provided by the Council to the coroner.

**Clause 9**

Statute revision, reference to a 'document' is omitted as the reference is no longer required as information is defined in section 3 to include a document.

**Clause 10**

Statute revision, reference to a committee being 'established under section 9' is omitted as 'committee' is defined in section 3.

**Clause 11**

Statute revision, reference to a committee being 'established under section 9' is omitted as 'committee' is defined in section 3.

**Clause 12**

Repeals section 15 and substitutes two new sections:

**S15****Section 15 Confidentiality and use of information**

The replacement section rearranges the former section 15, but clarifies the provision and adds some exemptions.

**15(1)**

Subsection (1) provides that a person who is or has been involved with the Council, whether as a member or employee, may only record, disclose, publish, communicate or use information gained in their capacity as a member or employee of the Council, to the extent necessary in carrying out the Council's functions or in the exercise of the Council's powers. It is an offence to use or disclose Council information for any other purpose.

**15(2)**

Subsection (2) provides that information provided to the Council or created by the Council is not admissible in any proceedings before a court, tribunal, board, Agency or person.

**15(3)**

Subsection (3) restates the former subsection (4) and provides that the Council, a Council or committee member, or a Council employee cannot be compelled to disclose or produce information before a court, tribunal, board, Agency or person, if the information was provided to the Council under the Act or was produced by the Council, a Council or committee member or employee in the performance of the Council's functions.

This subsection does not apply to the Annual Report which is required to be produced under section 12.

- 15(4) Subsection (4) restates part of the former subsection (1) and provides that information may be provided with the approval of the Council to a medical practitioner, a nurse or midwife concerned in the care of a pregnant woman and her unborn child, the birth of the child, the care of the child under the age of six months or the care of a child born with a congenital abnormality, injury, illness or defect. Information may also be disclosed to a person concerned in research.
- 15(5) Subsection (5) restates the former subsection (2) and provides that information disclosed to a researcher must not contain identifying information unless consent has been given by the person or the person's guardian.
- 15(6) Subsection (6) restates the former subsection (5) and provides that persons who receive information under subsection (4) and (5) – that is, a health practitioner or a researcher – are subject to the same rights, obligations and liabilities that apply to a Council member in respect of the information received from the Council, that is, it is an offence to use it or disclose it for another purpose, and they cannot be required to produce the information in legal proceedings.
- 15(7) Subsection (7) restates the former subsection (6) and provides that the *Right to Information Act 2009* does not apply to Council information.
- 15(8) Subsection (8) is a new provision. The Council members who are health practitioners (for example a medical practitioner or midwife) are 'prescribed persons' under the *Children, Young Persons and Their Families Act 1996*. As a prescribed person, if they believe a child has been abused or neglected or is otherwise in danger, they are obliged to report that information to the Secretary. But for this subsection, the confidentiality provisions of this section would prevent those members from carrying out their obligations as prescribed persons and making such reports.
- 15(9) Subsection (9) is also a new provision. It provides that if the Council believes or suspects that an indictable offence has been committed in relation to a child or woman, it may report that information to the Commissioner of Police.

**Clause 12  
cont'd**

S15A

**Section 15A Restriction on dealing with information**

This section provides that where the Council provides information under the Act to another person or body, the Council may declare that the information or part of the information is confidential information.

The effect of such a declaration is that while the person who receives that information may use it in the performance of that person or body's duties, it cannot be used or disclosed for any other purpose, and the person cannot be required to produce the information before any court, tribunal, board, Agency or person.

**Clause 13**

Statute revision, reference to a 'document' is omitted as the reference is no longer required as information is defined in section 3 to include a document.

**Clause 14**

**Part 3 Coroners Rules 2006 amended**

Clause 14 states that in Part 3, the *Coroners Rules 2006* are referred to as the Principal Rules.

**Clause 15**

The clause amends rule 26 of the *Coroners Rules* by adding subrule (5A). Rule 26 provides the mechanism whereby a coroner may give a person access to, or a copy of, the coronial record. Subrule (5A) places a restriction on a coroner so that the coroner may not give access to information that has been provided by the Council and which is declared by the Council under section 15A to be confidential information.

**Clause 16**

Provides that the amendment to the *Coroners Rules* by clause 15 of this Act does not prevent the *Coroners Rules* from being amended by a later rule.

**Clause 17**

The *Perinatal Registry Amendment Act* is repealed 90 days after commencement.