

## CLAUSE NOTES

### *Health and Related Legislation (Miscellaneous Amendments) Bill 2017*

- Clause 1**            **Short Title**  
Provides for the Act to be cited as the Health and Related Legislation (Miscellaneous Amendments) Act 2017.
- 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.
- Schedule 1**        **Consequential amendments**
- Ambulance Service Act 1982**
1. Substitutes “Commissioner for Ambulance Services” for “Director of Ambulance Services in the Long Title of the Act. This corrects terminology that should have been updated when the Ambulance Service Act was last amended.
  2. Amends section 19 to permit the Secretary as well as the Commissioner to authorise officers. This is so the Secretary can appoint authorised officers in relation to non-emergency patient transport service provisions in the Act, as these services are licensed by the Secretary.
  3. Consistent with the second amendment, makes a change to section 41B(1) to remove the requirement that authorised officers are officers of the Ambulance Service. This is so that officers authorised by the Secretary may issue infringements when enforcing the non-emergency patient transport provisions.
- Disability Services Act 2011**
1. Amends definitions in the Disability Services Act. The current definition of ‘funded provider’ is effectively limited to providers receiving funding under the Tasmanian Act. This means that the powers in the Act (such as inspection of premises for quality reasons) do not currently apply to providers not in receipt of state funding, such as National Disability Insurance Scheme funded services. The amendment allows the Secretary

to determine such services are also 'funded providers.' The amendment also inserts a definition of therapeutic services to clarify the scope of that term.

2. Amends the period for which a restrictive intervention may be approved by the Guardianship and Administration Board after a hearing. Currently the period is 6 months or a shorter period. The amendment retains the default period as 6 months, but allows for a shorter or longer period (up to 2 years), where agreed to by the Senior Practitioner. Longer periods may be used to reduce the frequency of review where appropriate to do so.

#### **Health Act 1997**

1. Amends definitions in the Health Act to remove outdated references to the Commonwealth Act and to remove references to the Hospitals and Ambulance Service Advisory Board.
2. Replaces provisions in section 6 of the Health Act relating to the Hospitals and Ambulance Service Advisory Board with provisions for a more general power for the Secretary to appoint advisory panels as required. These panels are provided with the ability to receive confidential information, and also subject to requirements to maintain confidentiality.

#### **Mental Health Act 2013**

1. Amends terminology in section 200 to use the correct titles of orders under the Act. These changes replace the incorrect term of "continuing care order" with the correct term of "treatment order".
2. Amends terminology in section 204 to use the correct titles of orders under the Act. This replaces the incorrect term of "continuing care order" with the correct term of "treatment order".

#### **Pharmacy Control Act 2001**

1. Amends section 61C(1) to ensure that both the legal interest and the beneficial interest in each share in an applicant company is held by a pharmacist or a close relative of a pharmacist. Recent changes to the Act did not address the situation where a (pharmacist) shareholder of a company is holding those shares as a trustee of a family trust, unit trust or other body corporate. Such a person is then exempt from needing to hold an 'eligibility certificate', as the certificate is held by the body corporate and the requirement for a trust to comply with the limitations relating to beneficiaries does not apply. The amendment addresses this situation so that in all cases both the legal interest and the beneficial interest in

each share in an applicant company is held by a pharmacist or a close relative of a pharmacist.

2. Inserts a new power to make regulations in relation to Pharmacy Depots. Pharmacy depots are places, such as a general retail shop in geographic areas without a pharmacy, where prescriptions (other than for narcotic substances) can be deposited and sent to a pharmacist who dispenses and return the medications to be collected. Pharmacy depots were previously regulated in Tasmania's legislation through the Pharmacy Code made under the Act. Amendments made through the introduction of the *Pharmacy Control Act 2001* in 2010 meant a Code was considered unnecessary at the time, and the provision was repealed. The clause provides a head of power under the Act for regulations to be developed to regulate pharmacy depots as appropriate in future, subject to the usual regulatory impact assessment process. This would be to ensure that any growth in pharmacy depot arrangements is done in an appropriately safe manner for consumers. For example, there may be powers prescribed to inspect depots to ensure the storage and supply of dispensed medicines is done properly, securely and safely.

#### **Poisons Act 1971**

1. Amends section 47(10)(a) of the Act to include references to new provisions 25C, 25D, and 25E. This means it will be lawful for a person to possess a raw narcotic, narcotic substance, prohibited plant or prohibited substance where the person is authorised under sections 25A, 25B, 25C, 25D or 25E of the Act.
2. Amends section 54E to require a poppy grower to have a notice from the Board specifying the location and area that can be planted for the relevant growing period so that adequate annual compliance activity can be undertaken under new 5-year licensing regime.

#### **Tasmanian Health Organisations Act 2011**

1. Inserts a new provision 5A to permit a Tasmanian Health Organisation to provide services extraterritorially where approved by the responsible ministers, being the Minister for Health and the Treasurer. For example, this power could support arrangements between the Tasmanian Health Service and the Australian Antarctic Division to provide patient retrieval services to mainland Antarctic bases.

### Youth Justice Act 1997

1. Amends the definition of detention centre manager to refer to the new provision 124A. The Youth Justice Act defines “detention centre manager” to mean the person in charge of a detention centre. It does not however contain any supporting appointment provisions, and the person in practice is a senior State Service officer. The detention centre manager’s powers and functions are significant. The inclusion of standalone appointment provisions for the State Service officer to be formally appointed under the Act as detention centre manager reinforces the statutory powers and responsibilities of the role.
2. For the reasons noted above, inserts a new section 124A to provide for the appointment of a detention centre manager.
3. Amends section 146B to remove unnecessary restrictions on the power of the detention centre manager to delegate powers and functions.