

# CLAUSE NOTES

## Health Miscellaneous Bill 2024

### Part I - Preliminary

- Clause 1** The Short Title states that the Act is to be cited as the *Health Miscellaneous Act 2024*
- Clause 2** This clause provides for the Act to commence on Royal Assent.

### Part 2 – Anatomical Examinations Act 2006 Amended

- Clause 3** References to the “Principal Act” in this Part are with respect to the *Anatomical Examinations Act 2006*.
- Clause 4** This clause amends section 3 of the Principal Act.
- Subclauses (a), (b) and (c) amend the definition of *next of kin* to remove gendered language in subclauses (a), (b) and (d) of the Principal Act.
- Subclause (d) omits paragraph (e) of the Principal Act to remove reference to the now defunct *Aboriginal and Torres Strait Islander Commission Act 1989 (Cth)* when defining Aboriginal person. A new paragraph is inserted to align with the definition contained in the *Coroners Act 1995* so that when an Aboriginal person’s family member is not available, a person who is an appropriate person according to the customs and tradition of the community group that the deceased person belonged, is the appropriate next of kin.

### Part 2 – Food Act 2003 Amended

- Clause 5** References to the “Principal Act” in this Part are with respect to the *Food Act 2003*.
- Clause 6** The definition of *public institution* in section 4(1) of the Principal Act is Amended to include the power to prescribe any other facility, organisation, or entity. This amendment will enable the prescription of schools so that programs such as school lunch programs, or similar, can be regulated in relation to the sale of food when, and if, required.
- The definition of *sell* in section 4(1) of the Principal Act is also amended to reflect the change to the definition of *public institution*.

**Clause 7**

This clause amends section 60(2) of the Principal Act.

Consistent with intent to clarify that orders or notices issues apply throughout the State, the reference to 'an' authorised officer is amended to 'any' authorised officer. This clarifies that any authorised officer can extend the period of an improvement notice.

**Clause 8**

This clause amends section 61 of the Principal Act.

A new subclause 61(1A) is inserted into the Principal Act to clarify that any authorised officer may act pursuant to section 61(1) of the Principal Act, not just the authorised officer who issued the improvement notice.

**Clause 9**

This clause amends section 62 of the Principal Act.

Consistent with intent to clarify that orders or notices issued apply throughout the State the following changes are made:

- section 62(1)(b)(i) is amended to include 'issued in respect of the food business' so that it is clear that a notice may be issued in any place across the State;
- a new subsection (1A) is inserted to clarify that an authorised officer may rely on an improvement notice regardless of which authorised officer issued the notice;
- a new subsection (4A) is inserted to clarify that prohibition orders apply to the operation of a food business throughout the State; and
- 'The' is substituted with 'An' in subsection (5) to clarify that any authorised officer may give the certificate of clearance, not just the authorised officer who issued the prohibition order.

**Part 3 – Poisons Act 1971 Amended**

**Clause 10** References to the “Principal Act” in this Part are with respect to the *Poisons Act 1971*.

**Clause 11** This clause amends section 3(1) of the Principal Act by:

- omitting the definition of *Poisons List* and replacing it with a new definition which does not refer specifically to Part 4 of the Uniform Standard, referring to just the Uniform Standard, or such part of that Standard, that is adopted in Tasmania; and
- amending the definition of *prohibited plant* to include fungi to enable the Minister to determine whether any fungi should be declared as a prohibited plant for the purposes of cultivation for medicinal purposes.

**Clause 12** This clause makes consequential amendments to section 14 of the Principal Act by:

- omitting reference to ‘Part 4’ of the Uniform Standard in subsection (1) and substituting, ‘all, or a specified part, of’ in reference to the Uniform Standard;
- inserting a semicolon after ‘health authorities’ in subsection (4)(i); and
- inserting a new subparagraph (4)(j) to include Schedule 10 substances and thereby complete the list of possible substances.

**Clause 13** This clause amends section 25C of the Principal Act by inserting ‘or person, including the Crown’ in the definition of *authorised body*. This will allow the Secretary of the Department of Health to fall within the definition of *authorised body* to endorse pharmacists

### **Part 5 – Legislation Repealed and Revoked**

**Clause 14** This clause repeals the legislation specified in Schedule 1.

**Clause 15** This clause revokes the legislation specified in Schedule 2.

### **Part 6 - Miscellaneous**

**Clause 16** This clause repeals the Bill on the first anniversary of its commencement.

### **Schedule 1 – Legislation Repealed**

This schedule lists the legislation repealed by clause 14 of the Bill.

### **Schedule 2 – Legislation Revoked**

This schedule lists the legislation revoked by clause 15 of the Bill.