

# CLAUSE NOTES

## *Health Service Establishments Amendment Bill 2011*

- Clause 1** Short Title
- Clause 2** Commencement: the Act commences on Royal Assent.
- Clause 3** The Principal Act is the *Health Service Establishments Act 2006*.
- Clause 4** The 'Interpretation' section 3 amended by omitting the definition of 'chief nurse' and substituting 'director of nursing'; and inserting a definition of 'licensed establishment'. The definition of 'registered nurse' is omitted as the *Acts Interpretation Act 1931* definition applies.
- Clause 5**  
**Notification of alternations or extensions of licensed establishments**
- Section 20 is repealed and a new section 20 is substituted. The section sets out the processes for seeking approval for proposed material alterations or extensions of licensed establishments.
- Subsection (1) defines 'material alteration to or extension of' with reference to such work that requires a building permit under the *Building Act 2000*.
- Subsection (2) provides that if a licensee of an establishment proposes to make any material alteration to or extension of the establishment, then the licensee must first apply to the Secretary for approval of that building work. An application is to be accompanied by the prescribed fee (subsection (4)).
- Subsection (3) stipulates the time in which an application under subsection (2) is to be made -i.e. at least 14 days before either a application for a permit is made under the *Land Use Planning and Approvals Act 1993* or before an application is made under the *Building Act 2000* for a certificate of likely compliance.
- Subsection (5) provides that the application is to indicate the purpose of the alteration or extension and any possible amendments that may be required to the licence either during the construction work or as a result of the alteration or extension.
- Subsection (6) provides that the Secretary may either give 'in principle' approval to the proposed work or refuse to approve the alteration or extension. If the former, the licence may be amended if necessary.
- Subsection (7) provides that if 'in principle' approval is given, once the work is completed, the licensee is to give the Secretary a copy of the certificate of completion (building work).

Subsection (8) provides that upon receipt of the certificate of completion, and if the alteration or extension substantially complies with the original application, the Secretary is to endorse the licence and, if necessary, amend the licence to reflect the changes made.

Subsection (9) provides that if a material alteration to or extension of a licensed establishment is made without prior 'in principle' approval, the Secretary may cancel the licence under section 30.

Notwithstanding subsection (9), subsection (10) allows a licensee to make a late application for approval. If the Secretary accepts a late application under subsection (11) then the approval process as set out in the section 20 applies as if the application had been made before the work commenced.

- Clause 6** Amends section 24 so that if the Secretary refuses an application under section 20, the Secretary must notify the applicant.
- Clause 7** Amends section 30(1) to add a ground for cancellation of a licence on the basis that the establishment no longer meets the requirement of the licence due to the material alteration or extension made.
- Clause 8** Amends section 39 by omitting the references to 'chief nurse' and substituting 'director of nursing' wherever appearing.
- Clause 9** Amends section 40 by omitting the reference to 'chief nurse' and substituting 'director of nursing'.
- Clause 10** Amends section 43 by omitting the reference to 'chief nurse' and substituting 'director of nursing'.
- Clause 11**  
**Infringement notices** Inserts a new section 55A which provides that the Secretary may issue an infringement notice on a person if there is a reasonable belief that the person has committed an infringement offence. An infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.
- The Act sets out a range of offences which may be dealt with summarily and the penalties. The regulations may prescribe which of those offences may be dealt with alternatively as infringement offences and thus may be subject to an infringement notice rather than proceeding by summons. The regulations may also prescribe the penalties payable under infringement notices.
- Clause 12** Provides that this Act is repealed on the 90<sup>th</sup> day from commencement.