

HEALTH PRACTITIONERS (SPECIAL EVENTS EXEMPTION) BILL 1998

EXPLANATORY NOTE

GENERAL OUTLINE

Policy Objectives of the Bill

The objective of this Bill is to provide exemptions from the registration requirements of Queensland legislation for health practitioners who accompany overseas visitors participating in, or training for, declared sporting, cultural and other events. The exemptions may be subject to conditions and will only operate in relation to the provision of health care services to the overseas visitors who engage the services of the health care practitioners concerned.

How the Policy Objectives will be achieved

Visiting health practitioners from overseas who are accompanying athletes or visitors for sporting, cultural or other events will be exempted from registration requirements in Queensland and permitted to practice by the following mechanisms:

- Ministerial declaration of a “special event” for a specified period
- A requirement for visiting practitioners to give notice of their intention to provide health care services
- Authorisation of visiting practitioners to issue written prescriptions for restricted and controlled drugs
- Authorisation of wholesalers to supply visiting practitioners with S2 and S3 pharmaceutical products
- A requirement for the Chief Health Officer to monitor the prescription of controlled and restricted drugs by visiting health practitioners and the supply of S2 and S3 pharmaceutical

products by wholesale

- The imposition of special conditions on the provision of health care services by visiting health practitioners via a special event notice
- Ensuring that visiting health practitioners operating in accordance with the Act do not commit an offence under the *Health (Drugs and Poisons) Regulation 1996*, the *Drugs Misuse Act 1986* or the following health registration Acts:

Chiropractors and Osteopaths Act 1979

Dental Technicians and Dental Prosthetists Act 1991

Dental Act 1971

Medical Act 1939

Nursing Act 1992

Occupational Therapists Act 1979

Optometrists Act 1974

Pharmacy Act 1976

Physiotherapists Act 1964

Podiatrists Act 1969

Psychologists Act 1977

Speech Pathologists Act 1979

Estimated cost for Government Implementation

The proposal is cost neutral.

Consistency with Fundamental Legislative Principles

One aspect of the Bill raising a possible fundamental legislative principle issue arises from clause 6 of the Bill. Clause 6 details the proposed process for the Minister to declare a special event via gazettal notice rather than via subordinate legislation. It could be argued that this aspect of the Bill infringes the principle that legislation should have sufficient regard to the

institution of Parliament allowing the delegation of legislative power to be sufficiently subject to the scrutiny of the Legislative Assembly.

The declaration of an event by subordinate legislation is considered unnecessary as the declaration of a special event, triggering exemptions for overseas health practitioners from Queensland registration requirements, does not adversely affect the rights and liberties of any Queensland resident. Also, given the administrative nature of aspects of the declaration it is questionable whether the matters can be properly dealt with in a regulation, eg. the specific conditions which may be attached to the practice of each type of health practitioner.

Consultation

All Health Practitioner Registration Boards and health professional associations were given the opportunity to comment on the New South Wales *Health Professionals (Special Events) Exemption Bill 1997* (on which this Bill is based). The Interdepartmental Committee for the 2000 Olympics was also consulted.

OUTLINE OF PROVISIONS

PART 1—Preliminary

Clause 1 sets out the short title of the Act

Clause 2 sets out the purpose of the Act. The main object is to exempt visiting health practitioners from the requirement for registration with the relevant registration boards in Queensland for particular sporting, cultural or other events, including the 2000 Olympics.

PART 2—Interpretation

Clause 3 provides that particular words used in the Bill are defined in the dictionary in the schedule to the Bill (located at the end of the Bill).

Clause 4 defines the term ‘visiting health practitioner’ to capture those persons who are resident in another country and who are engaged to provide health care services to a visitor (defined in Clause 5). A visiting health practitioner is only afforded this official status once notice has been given of the practitioner’s intention to treat visitors via the procedure outlined in Clause 6.

Clause 5 defines the scope of what is meant by a “visitor”. This term is particularly relevant to Clause 7 which clarifies that the scope of the visiting health practitioner’s entitlement to practice is confined to those persons who are defined as visitors. The definition of visitor targets two specific types of visitor - the first being a person who lives in another country who is visiting Queensland to officially *participate* in a gazetted event. This part of the definition also captures persons who are in Queensland to prepare, train, rehearse or become acclimatised in the lead in period prior to a special event.

The second part of the definition captures persons who live in Australia but are members of a group, the majority of which are residents of another country. For example, a person may live in Australia but be a member of a New Zealand sporting team.

PART 3—Special Events Exemption For Visiting Health Practitioners

Clause 6 authorises the Minister to declare a special event by publishing a notice in the Gazette for a sporting, cultural or other event where the Minister considers the event will attract a significant number of participants from other countries. The clause also requires the notice to specify the period for which the declaration will operate and clarifies that the declaration may include a period before or after the special event actually takes place. The clause also includes a requirement that the notice must state the required process for visiting health practitioners to notify their intention to provide health care services to a visitor in Queensland.

Clause 7 authorises a visiting health practitioner to provide health care services to a visitor if the health practitioner has been engaged to provide services to the visitor identified in the notice required under clause 6. The

clause then qualifies this authorisation so that the exemption only operates during the period specified in the Gazettal notice and as long as the visiting health practitioner is in compliance with the provisions of this Bill and any conditions imposed under it.

Clause 8 provides for the inclusion of special conditions of practice to be imposed on visiting health practitioners via the Gazettal notice.

Clause 9 provides for a visiting health practitioner to be authorised via a special event notice, to issue a written prescription for a restricted drug¹ or controlled drug² to treat a visitor. The clause also authorises dispensers (ie. pharmacists) to dispense drugs which may be legally prescribed by a visiting health practitioner. The clause also authorises wholesalers who are licensed under the *Health (Drugs and Poisons) Regulation 1996* to supply S2 and S3 substances³ to visiting health practitioners.

The authorisations relating to the supply and dispensing of drugs are qualified by a requirement that such authorisations may only be issued under a Special Event Notice where the Minister is satisfied adequate arrangements are in place to guarantee that the drugs will only be prescribed for visitors (as defined in the Act).

The Bill also provides that the visiting health practitioner's authorisation to prescribe drugs may also be qualified in a way which permits conditions to be imposed on the authorisation. In keeping with the intent to limit this privilege where necessary, the Minister may for example, withhold prescribing rights for a particular class of drugs or for a particular group of persons via the imposition of special conditions under this clause.

Clause 10 creates a duty for visiting health practitioners to ensure that restricted or controlled drugs in their possession are kept in a secure place under their personal control and in accordance with the written directions of the Chief Health Officer. The intention of this provision is to create a duty for visiting health practitioners to store any restricted or controlled drugs in a secure manner. The duty has been cast in a form equivalent to that which

¹ A restricted drug is a class of drug excluding narcotic substances, which is available on prescription from a medical practitioner or, in limited circumstances, a dentist.

² A controlled drug is a narcotic substance which can only be obtained on prescription from a medical practitioner or, in limited circumstances, a dentist.

³ An S2 or S3 substance is a preparation which is retailed only from a pharmacy.

exists for local practitioners.

Clause 11 provides that a visiting health practitioner does not commit an offence under a health registration Act, the *Health (Drugs and Poisons) Regulation* or the *Drugs Misuse Act 1986* by prescribing, possessing, supplying or administering any substance which can be legally prescribed, possessed, supplied or administered by a local practitioner in Queensland, or by providing health care services in accordance with the proposed legislation (including “holding out” to be so authorised).

The clause also provides that a visitor does not commit an offence under the *Health (Drugs and Poisons) Regulation 1996* or the *Drugs Misuse Act 1986* by doing anything or possessing any substance as a result of receiving health care services from a visiting health professional in accordance with the Act.

The clause also authorises pharmacists to fill prescriptions issued in accordance with the Act, and for wholesalers to supply substances in accordance with the proposed Act without committing offences under the *Health (Drugs and Poisons) Regulation 1996* or the *Drugs Misuse Act 1986*.

PART 4—Monitoring

Clause 12 creates a duty for the Chief Health Officer to monitor the prescription of controlled and restricted drugs and the wholesale supply of S2 and S3 substances under clause 9. The intent of this provision is to ensure that visiting health practitioners are held accountable for the drugs they are supplied and to minimise the risk of abuse of this privilege. Clause 13 reinforces the monitoring arrangements for controlled and restricted drugs. For S2 and S3 drugs there is an existing requirement under s. 237 of the *Health (Drugs and Poisons) Regulation* for wholesalers to keep a record of all substances supplied for 2 years after the transaction, which can be accessed as required by the Chief Health Officer.

Clause 13 requires dispensers to forward copies of prescriptions received from visiting health practitioners to the chief health officer within 14 days. The copies of prescriptions must clearly list the type and quantities of any drugs issued via prescription. The intent of this provision is to ensure that it is possible to monitor the dispensing and administration of prescription

drugs by visiting health practitioners.

PART 5—Miscellaneous

Clause 14 states that a complaint may not be made against a visiting health practitioner under the *Health Rights Commission Act 1991* or a health registration Act. However the proposed legislation does not prevent the taking of proceedings against a visiting health professional for the commission of an offence against a registration Act. This clarifies that a registration board can prosecute a visiting health practitioner if the practitioner does not comply with the requirements of the Act including, for example, treating persons other than visitors. The final part of the clause clarifies that where a visiting health practitioner is also registered in Queensland then nothing in the proposed legislation prevents anyone from making a complaint under the *Health Rights Commission Act* or a health registration Act against that registered practitioner.

Clause 15 clarifies that a visiting health practitioner who is already registered under a health registration Act is not limited by this Act in the practice of his or her profession as a registered health practitioner.

Clause 16 provides for the taking of summary proceedings for an offence against the Act.

Clause 17 enables regulations to be made for the purposes of the Act.