

Health Legislation Amendment Bill 2006

Explanatory Notes

Title of the Bill

Health Legislation Amendment Bill 2006

Objectives of the Bill

The Bill amends a number of health portfolio Acts to ensure the effective operation of the portfolio's extensive legislative base.

The main objective of the Bill is to amend Queensland's 13 Health Practitioner Registration Acts to provide greater opportunities for the recruitment of medical and allied health professionals. The Bill amends:

- the *Medical Practitioners Registration Act 2001* to give effect to recommendations of the Ministerial Taskforce on Recruitment, Assessment and Registration Processes for International Medical Graduates in Areas of Need;
- the *Dental Practitioners Registration Act 2001* to give effect to the Public Sector Dental Workforce Scheme that was established by the Australian Health Ministers' Conference to help address the national shortage of dentists in the public sector; and
- 12 of the Health Practitioner Registration Acts to replicate arrangements under the *Medical Practitioners Registration Act 2001* to enable allied health practitioners to be registered in Queensland for short periods of time (that is, up to 5 weeks).

The Bill also amends the *Tobacco and Other Smoking Products Act 1998* to prohibit the supply of smokeless tobacco products (eg nasal and oral snuff), which are known to have similar adverse health impacts as cigarettes and other smoking products.

Achievement of the Objectives

The *Dental Practitioners Registration Act 2001* is to be amended to give effect to the Public Sector Dental Workforce Scheme that was established by the Australian Health Ministers' Conference to help address the shortage of dentists in the public sector. Under this scheme, dentists with

overseas qualifications recognised by the Australian Dental Council may be exempt from the preliminary Australian Dental Council examination and granted conditional registration to work in the public sector for up to 3 years. In addition, an amendment is to be made to the Act to enable interstate dentists to provide professional services under specified circumstances, such as an emergency.

The ***Health Services Act 1991*** is to be amended to:

- enable the appointment of inspectors with appropriate powers to investigate alleged breaches of the various confidentiality clauses in the Act (i.e. under sections 33 and 57, not just 62A);
- clarify that the power to appoint and receive information from investigators may be delegated by the chief executive; and
- make a minor definitional change to ensure consistency with the restrictions imposed on smoking in certain places under the *Tobacco and Other Smoking Products Act 1998*.

The ***Medical Practitioners Registration Act 2001*** is to be amended to:

- enable the Minister or delegate to decide an area of need for a stated class of medical practitioners in the State, specify the key criteria for making such decisions and allow area of need decisions to remain in force for up to 4 years;
- allow junior medical officers to transfer between area of need positions, without affecting their registration;
- allow deemed specialists and senior medical officers to undertake supervised training in health facilities throughout the State, without affecting their registration; and
- set ‘standard’ conditions on special purpose registration so that these registrants must practise under supervision and obtain general or specialist registration within set timeframes.

The ***Mental Health Act 2000*** is to be amended to enable the classified patient scheme under Chapter 3 of the *Mental Health Act 2000* to be applied to persons who are lawfully held, or detained in custody, but not yet charged under prescribed State and Commonwealth legislation.

The ***Pharmacists Registration Act 2001*** is to be amended to clarify that:

- a person (eg. a mortgagee) who has an interest in a pharmacy business arising under a mortgage, bill of sale or other security does not “own” the business;

- section 139G (that currently specifies that the Trustee in Bankruptcy and liquidators do not commit an offence against s.139B) also applies to administrators and receivers; and
- mortgages, bills of sale or other securities in relation to a pharmacy business are not void to the extent they give rights to administrators, receivers, or receivers and managers.

Minor amendments are to be made to the *Private Health Facilities Act 1999* to address an operational deficiency in relation to the giving of information (where the giving of information is required under a prescribed agreement) and to omit an incorrect reference.

The *Radiation Safety Act 1999* is to be amended to achieve consistency with the National Directory for Radiation Practice endorsed by the Australian Health Ministers' Conference in July 2004. The Act is to be amended to expressly provide, as one of its objectives, the protection of the environment. In addition, the Act is to be amended to facilitate the more timely acquisition of certain radiation sources used to carry out diagnostic and therapeutic procedures.

The *Tobacco and Other Smoking Products Act 1998* is to be amended to prohibit the supply of smokeless tobacco products (eg nasal and oral snuff). In addition, the Bill will make a number of minor amendments to correct operational deficiencies and clarify the policy intent of certain provisions inserted in the Act by the *Tobacco and Other Smoking Products Amendment Act 2004*.

The *Transplantation and Anatomy Act 1979* is to be amended to address a range of operational issues, namely to:

- simplify the process required to enable researchers to take certain types of tissue samples;
- clarify that schools of anatomy may loan bodies and body parts to other schools of anatomy;
- allow a school of anatomy to recover reasonable costs involved in loaning bodies;
- allow tissue banks to recover the costs of “off-site” irradiation; and
- increase the maximum penalty that may be fixed under a regulation from 10 to 20 penalty units.

The Bill also amends the 13 *Health Practitioner Registration Acts* to replicate arrangements under the *Medical Practitioners Registration Act 2001* to expand the Boards' power of delegation regarding their registration

functions. In addition, the Bill will lessen the legislative burden on registrants and the Boards by no longer requiring that registrants:

- return their certificate of registration to the Board if conditions on their registration are removed. Under these circumstances, a registrant will be issued a new certificate of registration; and
- notify the relevant Board (except under the *Pharmacists Registration Act 2001*) of their business name, as this information is discoverable in other ways.

Alternative Ways of Achieving Policy Objectives

Alternative ways of achieving the policy objects were considered. However, each of the policy objectives dealt with in the Bill is required to be effected by legislation.

Estimated Cost for Government Implementation

There are administrative as well as operational costs (including monitoring and enforcement costs) under the Bill for the State Government.

Implementation costs associated with the Health Practitioner Registration Acts will be borne by the Health Practitioner Registrations Boards which are all fully self-funded.

Consistency with Fundamental Legislative Principles

Aspects of the Bill which raise possible fundamental legislative principles issues are outlined below.

Immunity from proceedings – supervisors

Clause 46 (Protection for persons involved in supervising special purpose registrants) confers immunity from proceeding or prosecution on supervisors who, honestly and on reasonable grounds, give information to the Board in response to a request made under section 129A(2) of the *Dental Practitioners Registration Act 2001*. Section 129A specifies that if a special purpose registrant is registered on condition that they carry out their practice under supervision, then the Board may ask a person involved in the supervision to give information to the Board about the supervised practice. Clause 46 provides that supervisors are not liable civilly, criminally or under an administrative process for giving this information.

The inclusion of this clause raises the issue whether the clause has sufficient regard to the rights and liberties of individuals by not conferring

immunity from proceedings or prosecution without adequate justification (section 4 (3)(h) of the *Legislative Standards Act 1992*).

This protection is considered essential to ensure that persons involved in the supervision of special purpose registrants give the Board full and frank information relevant to the special purpose registrant's performance under supervised practice. The provision is defensible on the grounds that supervisors have a vital role in protecting the public through the effective supervision and assessment of special purpose registrants. If supervisors were liable to be sued for defamation or breach of confidence, there is a risk that they would be less likely to provide candid and comprehensive reports and information about the registrants they supervise.

Regulation-making power

Clause 121 amends section 64 of the *Mental Health Act 2000* to extend the application of Part 3 of the Act to persons lawfully held in custody, or lawfully detained, without charge under a Commonwealth or State Act prescribed under a regulation.

Clause 124 amends section 90 of the *Mental Health Act 2000* to extend the category of persons who may take a classified patient from the authorised mental health service into the custodian's custody, to include a person prescribed under a regulation

The inclusion of these clauses raises the issue of whether they have sufficient regard to the institution of Parliament by sufficiently subjecting the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly (section 4(4)(b) of the *Legislative Standards Act 1992*).

In relation to clause 121, there are a number of Commonwealth and State Acts which allow for persons to be held in custody or detained without charge. Enabling those Acts to be prescribed by regulation provides flexibility by enabling an Act to be added to, or removed from, the prescribed list of Acts when necessary.

In relation to clause 124, various State officers (eg. police officers) may currently exercise this power under section 90. However, as the section will also apply to classified patients lawfully held in custody, or lawfully detained, without charge under a Commonwealth or State Act prescribed under a regulation, other persons such as officers acting under one of the prescribed Commonwealth Acts may also need to exercise the power. The regulation-making power provides the legislation with flexibility to enable such persons to have authority to exercise the power under section 90 if the need arises.

Consultation

Community

The following non-government organisations have been consulted about, and support the introduction of, the Bill:

Amendments to the Dental Practitioners Registration Act 2001

The Australian Dental Council, Australian Dental Association (Queensland Branch) and the Dental Board of Queensland.

Amendments to the Medical Practitioners Registration Act 2001

The Medical Board of Queensland, Office of the Health Practitioner Registration Boards and Australian Medical Association (Qld Branch).

Amendments to the Pharmacists Registration Act 2001

The Pharmacy Guild of Australia, Pharmaceutical Society of Australia and the Pharmacists Board of Queensland.

Amendments to the Private Health Facilities Act 1999

The Australian Private Hospitals Association, Australasian Day Surgery Association and Private Hospitals Association of Queensland.

Transplantation and Anatomy Act 1979

The University of Queensland (Medical Research Ethics Committee) and Schools of Anatomy at the University of Queensland, Bond University, Griffith University, James Cook University, and the Queensland University of Technology.

Amendments to the Tobacco and Other Smoking Products Act 1998

The Queensland Cancer Fund, National Heart Foundation, Australian Medical Association Queensland, Philip Morris Limited, British American Tobacco Australia, Imperial Tobacco Australia, Swedish Match, National Alliance of Tobacco Retailers, Queensland Retail Traders and Shopkeepers Association, National Retail Association, Queensland Retail Tobacco Traders' Association, Restaurant and Catering Queensland, Hotel, Motel and Accommodation Association, Queensland Hotels Association, Clubs Queensland, Conrad Treasury Brisbane, Reef Casino Trust, Queensland Clubs Alliance, RSL Clubs Association Qld and Cabarets Queensland.

Government

The following government agencies and statutory bodies have been consulted about, and support the introduction of, the Bill:

- Education Queensland
- Department of Emergency Services
- Health Quality and Complaints Commission
- Department of Local Government, Planning and Sport
- Department of Justice and Attorney-General
- Department of the Premier and Cabinet
- Department of Tourism, Fair Trading and Wine Industry Development.
- Office of the Health Practitioner Registration Boards
- Queensland Police Service
- Radiation Advisory Council

Notes on Provisions

Part 1 Preliminary

Clause 1 sets out the short title of the Bill.

Clause 2 sets out the arrangements for the commencement of the Bill.

Part 2 Amendment of *Chiropractors Registration Act 2001*

Clause 3 specifies that Part 2 amends the *Chiropractors Registration Act 2001*.

Clause 4 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 5 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 6 inserts a new section 67A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 7 inserts a new section 75A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 8 omits the reference in section 95(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 99 (inserted by clause 11), which requires a new certificate of registration to be issued if conditions are removed.

Clause 9 omits the reference in section 96(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 8.

Clause 10 omits the reference in section 97(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 8.

Clause 11 replaces section 99 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 99(5) to issue a new certificate to the registrant.

Clause 12 inserts a new section 107A to clarify that Part 3, Division 8, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 13 amends section 114 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 114(4) to issue a new certificate to the registrant.

Clause 14 inserts a new section 120AA which provides that a person may apply for short-term general or special purpose registration for a period of

up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 15 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 16 amends section 129 to remove the reference to a business name notified to the Board.

Clause 17 omits section 234 which is a transitional provision that is no longer required.

Clause 18 amends Schedule 4 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 120AA. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 3 Amendment of the *Dental Practitioners Registration Act 2001*

Clause 19 specifies that Part 3 amends the *Dental Practitioners Registration Act 2001*.

Clause 20 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 21 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 22 inserts a new section 67A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 23 inserts a new section 75A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 24 omits the reference in section 95(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 99 (inserted by clause 27) which requires a new certificate of registration to be issued if conditions are removed.

Clause 25 omits the reference in section 96(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 24.

Clause 26 omits the reference in section 97(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 24.

Clause 27 replaces section 99 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 99(5) to issue a new certificate to the registrant.

Clause 28 amends section 109 by inserting a provision to clarify that section 109, which allows the period of specialist registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 29 amends section 116 by removing the requirement for registrants to return their certificate of specialist registration if conditions on their general registration are removed. On removal of conditions, the Board will be required under section 116(8) to issue a new certificate to the registrant.

Clause 30 amends section 119 to add a new category of special purpose registration, to enable practise of the profession, under the Public Sector Dental Workforce (PSDW) scheme, at a dental health service facility operated by the State. The PSDW scheme is defined as meaning the public sector dental workforce scheme established by the Australian Health Ministers' Conference on 28 November 2003. Under this scheme, dentists with overseas qualifications recognised by the Australian Dental Council may be exempt from the preliminary Australian Dental Council examination and granted conditional registration to work in the public sector for up to 3 years. The clause also provides the website address of the Australian Dental Council for further information and details about the PSDWS scheme.

Clause 31 amends section 120 to provide that Divisions 2 and 3 of the Act, which deal with applications for general registration and provisional general registration, also apply in relation to applications for special purpose registration, except for sections 43 (Eligibility) and 44 (When

applicant is qualified for general registration) and Subdivisions 6 (Period of general registration) and 7 (Conditions of general registration). This amendment ensures that section 45 of the Act, which sets out the criteria used by the Board to determine whether an applicant for general registration is 'fit to practise the profession' also applies in relation to applications for special purpose registration.

Clause 32 amends section 121 to provide that, as well as having a qualification required for special purpose registration, a person is eligible for special purpose registration if the person is fit to practise the profession.

Clause 33 omits section 123 which previously set out the criteria for assessment as to whether an applicant was a 'suitable person' to be a special purpose registrant. The section is being omitted because the test for all special purpose registration applicants will now be whether the person is 'fit to practise' the profession.

Clause 34 inserts a new section 126A to clarify that Part 3, Division 9, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 35 amends section 127 to provide that Division 4 (Renewal of general registrations), Subdivision 2 (Applications for renewal of general registrations) and Subdivision 3 (Decision on applications), other than section 75(3) (Steps to be taken after application decided) and provisions relating to recency of practice, also apply for applications to renew special purpose registration. This amendment will ensure that, when seeking renewal of their special purpose registration, applicants must also state whether they suffer from any ongoing medical condition affecting their ability to competently and safely practise the profession.

Clause 36 amends section 128 to provide that in deciding whether to renew a special purpose registration, the Board may have regard to the 'fitness to practise' criteria.

Clause 37 inserts a new section 129A. If a person is registered as a special purpose registrant on condition that the person is supervised, the section enables the Board to ask a person involved in the supervision to give information to the Board about the supervised practice.

Clause 38 amends section 130 to specify that, for special purpose registrants registered under section 119(1)(e) to practise under the PSDW scheme, the Board must not renew the special purpose registration for a period that expires more than 3 years from the date of initial registration under the scheme. This ensures that the maximum period of registration for the purpose of participating in the PSDW scheme is 3 years.

Clause 39 amends the heading for Part 3, Division 9, Subdivision 4.

Clause 40 inserts a new section 132A to enable the Board to change the conditions imposed on special purpose registrants at any time if the Board reasonably believes it is necessary for the registrant to competently and safely undertake the activity that is the subject of registration. The Board will first be required to give the registrant a 'show cause notice' and provide the registrant with an opportunity to show, within a stated period, why the conditions should not be changed. The Board will be required to give notice of its decision as soon as practicable after the decision is made.

Clause 41 amends section 133 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. Instead of having the option of amending certificates that are returned, or issuing a new certificate, the Board will be required under section 133(4) to issue a new certificate to the registrant.

Clause 42 inserts a new section 139AA which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 43 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 44 amends section 151 to remove the reference to a business name notified to the Board.

Clause 45 inserts new section 230A which provides deemed general or specialist registration to dentists registered in another State or in New Zealand while providing professional services in an emergency or while a patient is being transported from a place outside Queensland to a place in Queensland or vice versa (and includes coverage for where the interstate transportation requires transport from one place within Queensland to another). For those specific situations, interstate and New Zealand dentists have the same privileges and responsibilities as a local registrant under the *Dental Practitioners Registration Act 2001* and the *Health Practitioners (Professional Standards) Act 1999*.

Clause 46 inserts new section 231A to protect supervisors who, honestly and on reasonable grounds, give information about a registrant to the Board in response to the Board's request for information under section 129A(2). Section 129A provides that if a special purpose registrant is registered on

condition that they carry out their practice under supervision, then the Board may ask a registrant's supervisor to give information to the Board about the registrant's supervised practice. Clause 46 ensures that the supervisor is not liable civilly, criminally or under an administrative process for giving this information. The purpose of this provision is to ensure that supervisors provide full and frank reports and information about the special purpose registrants' supervised practice.

Clause 47 omits sections 258 and 259 which are transitional provisions that are no longer required.

Clause 48 amends Schedule 4 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 139AA. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 4 Amendment of *Dental Technicians and Dental Prosthetists Registration Act 2001*

Clause 49 specifies that Part 4 amends the *Dental Technicians and Dental Prosthetists Registration Act 2001*.

Clause 50 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 51 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 52 inserts a new section 67A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 53 inserts a new section 75A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 54 omits the reference in section 96(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 101 (inserted by clause 58) which

requires a new certificate of registration to be issued if conditions are removed.

Clause 55 amends section 97 removing the requirement for registrants to return their certificate of general registration as a dental prosthetist if conditions on their general registration as a dental technician are removed. Instead of having the option of amending a certificate that is returned, or issuing a new certificate, the Board will be required under section 97(8) to issue a new certificate to the registrant.

Clause 56 omits the reference in section 98(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 54.

Clause 57 omits the reference in section 99(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 54.

Clause 58 replaces section 101 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 101(5) to issue a new certificate to the registrant.

Clause 59 inserts a new section 109A to clarify that Part 3, Division 8, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 60 amends section 116 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 116(4) to issue a new certificate to the registrant.

Clause 61 inserts a new section 124AA which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 62 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 63 amends section 133 to remove the reference to a business name notified to the Board.

Clause 64 omits sections 236 and 237 which are transitional provisions that are no longer required.

Clause 65 amends Schedule 4 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 124AA. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 5 Amendment of *Health Services Act 1991*

Clause 66 specifies that Part 5 amends the *Health Services Act 1991*.

Clause 67 amends section 51 which makes it an offence for a person to smoke on health services land, other than in a designated smoking area. The amendments make a minor definitional change to ensure consistency with the restrictions imposed on smoking in enclosed and outdoor places under the *Tobacco and Other Smoking Products Act 1998*.

Clause 68 amends section 55 to clarify that investigators appointed by a delegate of the chief executive may report to the delegate.

Clause 69 amends section 63 to enable the appointment of inspectors with appropriate powers to investigate alleged breaches of the various confidentiality clauses imposed under sections 33, 57 or Part 7 of the Act. Currently, this section limits the functions of inspectors to monitoring and enforcing compliance with the confidentiality clauses under Part 7 as well as the investigation and enforcement provisions under Part 7A.

Part 6 Amendment of *Medical Practitioners Registration Act 2001*

Clause 70 specifies that Part 6 amends the *Medical Practitioners Registration Act 2001*.

Clause 71 omits the reference in section 95(2) to certificates of general registration being amended if probationary conditions are removed. This is necessary to ensure consistency with new section 97 (inserted by clause 73)

which requires a new certificate of registration to be issued if conditions are removed.

Clause 72 omits the reference in section 96(5) to certificates of general registration being amended if probationary conditions are removed. The amendment has the same purpose as the amendment in clause 71.

Clause 73 inserts a replacement section 97 which removes the requirement for registrants to return their certificate of general registration to the Board if probationary conditions on their registration are removed. On removal of conditions, the Board will be required under section 97(2) to issue a new certificate to the registrant.

Clause 74 omits the reference in section 105(3) to certificates of general registration being amended if conditions (non-probationary) are removed. This is necessary to ensure consistency with new section 109 (inserted by clause 77) which requires a new certificate of registration to be issued if conditions (non-probationary) are removed.

Clause 75 omits the reference in section 106(4) to certificates of general registration being amended if conditions (non-probationary) are removed. The amendment has the same purpose as the amendment in clause 74.

Clause 76 omits the reference in section 107(4) to certificates of general registration being amended if conditions (non-probationary) are removed. The amendment has the same purpose as the amendment in clause 74.

Clause 77 inserts a replacement section 109, which removes the requirement for registrants to return their certificate of general registration to the Board, if conditions (non-probationary) on their registration are removed. On removal of conditions, the Board will be required under section 109(5) to issue a new certificate to the registrant.

Clause 78 amends section 111(5) which sets out the criteria the Board must consider when deciding if an applicant is eligible for specialist registration in a speciality. The effect of the amendment is that the Board must have regard to the advice and recommendations of any relevant Australian specialist college or institution for the specialty and the Australian Medical Council.

Clause 79 amends section 128 by removing the requirement for registrants to return their certificate of specialist registration, if conditions on their general registration are removed. On removal of conditions, the Board will be required under section 128(9) to issue a new certificate to the registrant.

Clauses 80 to 94 of the Bill primarily amend Part 3, Division 10 of the Act (Special purpose registration) to give effect to the recommendations of the

Ministerial Taskforce on Recruitment, Assessment and Registration Processes for International Medical Graduates in Areas of Need. Division 10 sets out the categories of special purpose registration which may be applied for under the Act, including postgraduate study or training (section 132); supervised training to prepare for clinical examination (section 133); medical practice connected with teaching or research (section 134); practice in area of need (section 135); study or training to obtain a qualification in a speciality (section 136); practice in the public interest (section 137) and practice in general practice (section 138). Special purpose registration applies the privileges and obligations of registration to practitioners who do not meet the criteria for general or specialist registration, but may be registered for a purpose mentioned in sections 132 to 138.

As detailed below, the Bill gives effect to the recommendations of the Taskforce by:

- introducing additional criteria for eligibility for registration, and renewal of registration, as a special purpose registrant (clauses 81 and 89)
- requiring that decisions about special purpose registrants practising in a specialty be made having regard to the advice and recommendations of any relevant Australian specialist college and the Australian Medical Council (clauses 83 and 84)
- clarifying the scope of the Minister's power to declare an area of need for a medical service, specifying the key criteria for making such decisions and allowing these decisions to remain in force for up to 4 years (clause 84)
- setting out the supervision requirements for special purpose registrants and enabling the Board to ask a registrant's supervisor for information about the registrant's practice (clause 86)
- setting out the timeframes within which special purpose registrants must apply for general or specialist registration (clause 86)
- setting out the circumstances under which specified medical practitioners may transfer on a temporary or permanent basis within a declared area of need or undertake supervised training (clause 94)
- making consequential amendments to the application and decision-making processes associated with the granting, renewal and cancellation of special purpose registration (clauses 85, 87 to 93) .

Clause 80 inserts new Subdivision 1AA in Part 3, Division 10. The new subdivision consists of new section 130A which contains definitions of the terms *proposed supervisor* and *supervised practice plan*. The term “proposed supervisor” is used in the definition of “supervised practice plan”, which is defined to mean a plan prepared, in the approved form, by an applicant for special purpose registration in consultation with the applicant’s proposed supervisor. “Supervised practice plan” is used in the amended section 131(2)(d) (see clause 81), section 139(3) (see clause 85) and new section 140A (inserted by clause 86).

Clause 81 amends section 131(2) to include additional criteria for eligibility for special purpose registration namely, that the applicant is not qualified for general registration under section 44 and the Medical Board of Queensland (the Board) is satisfied about the content of the applicant’s supervised practice plan accompanying the application. However, new subsection (3) specifies that subsection (2)(c) does not apply to applications under section 134 or 135 for practice in a speciality. This allows, for example, overseas trained specialists who pass the Australian Medical Council Examinations to practise pending their specialist qualifications being formally assessed by the relevant Australian specialist college.

Clause 82 omits the words in section 132(2) that exclude persons from being qualified for special purpose registration (for postgraduate study or training) under section 132 if they are qualified for general registration under section 44. The exclusion is unnecessary as section 131(2)(c) excludes persons from being registered under any category of special registration if they are qualified for general registration under section 44.

Clause 83 amends section 134 to require the Board, when deciding if an applicant has the qualifications and experience for special purpose registration to practise as a specialist, to have regard to the advice and recommendations of any relevant Australian specialist college and the Australian Medical Council.

Clause 84 amends section 135 to specify matters that the Minister must have regard to when making area of need decisions or when deciding if an applicant has the qualifications and experience to practise as a specialist. It also clarifies that an area of need decision may be amended and may relate to a stated class of medical practitioners (eg. by reference to position title) practising in the State or part of the State. The clause also specifies that area of need decisions may remain in force for up to 4 years.

Clause 85 amends section 139 which sets out the requirements for applications for special purpose registration. The amendment requires that an applicant's supervised practice plan must accompany their application.

Clause 86 inserts new sections 140A and 140B.

Section 140A(1) makes it a standard condition that special purpose registrants registered to undertake an activity specified in sections 132 to 137 must practise only in accordance with their supervised practice plan. Section 140A(2) is relocated from section 141A(2) (omitted by clause 87). This section enables the Board to ask a person involved in the supervision of a special purpose registrant, under the registrant's supervised practice plan, to give the Board information about the supervised practice.

Section 140B makes it a standard condition that special purpose registrants registered to undertake an activity specified in sections 132 to 136 apply for general, specialist or special purpose registration under s.138 (as the case may be) during a specified continuous period of registration. It is not necessary for this condition to be applied to special purpose registration under section 137, which enables registration in the public interest, as this type of registration is only granted in exceptional circumstances and for very short periods.

Clause 87 omits section 141A which allows a registrant's supervisor to give information to the Board about the registrant's supervised practice. This matter is now dealt with under new section 140A(2) (inserted by clause 86).

Clause 88 inserts a definition for the purposes of section 143 to clarify that the conditions referred to in section 143 are conditions imposed by the Board under section 141 that are considered to be necessary or desirable to ensure that a special purpose registrant practises in a competent and safe manner.

Clause 89 amends section 145 to specify that the Board, in deciding whether to renew special purpose registration, must be satisfied the registrant has made reasonable progress towards:

- for registration under the special purpose categories in sections 132 (postgraduate study or training), 134 (medical teaching or research) or 135 (practice in an area of need), being qualified for general registration under section 44 or obtaining a qualification mentioned in sections 111(1)(b)(i) or 138(2);

- for registration under section 133 (supervised training to prepare for clinical examination), being qualified for general registration under section 44;
- for registration under section 136 (study or training to obtain a qualification in a specialty), obtaining a qualification mentioned in section 111(1)(b)(i).

Clause 90 amends section 146 to enable conditions attaching to special purpose registration prior to renewal, to automatically continue to apply after renewal, unless the Board decides otherwise. An information notice will be required to be given by the Board in cases where conditions on registration apply after renewal.

Clause 91 specifies that section 149(1)(a), which makes it a ground for cancelling special purpose registration if registrants practise the profession other than for the activity for which they are registered, applies subject to sections 150B(4) and 150C(8).

Clause 92 amends section 149A(1) to clarify that section 149A, which allows the Board to change conditions, applies only to conditions imposed by the Board on a special purpose registration.

Clause 93 amends section 150(1) to clarify that section 150, which allows the Board to remove conditions, applies only to conditions imposed by the Board on a special purpose registration. The clause also amends section 150(4) to omit the reference to certificates of special purpose registration being amended if conditions are removed.

Clause 94 replaces section 150A and inserts new Subdivision 6 in Part 3, Division 10 consisting of new sections 150B-150D.

The new section 150A removes the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 150A(4) to issue a new certificate to the registrant.

Section 150B requires junior medical officers (i.e. junior house officers, senior house officers and principal house officers or private sector equivalents) to give notice to the Board prior to a permanent or temporary transfer to a junior medical officer position with a different level of seniority at any health service facility, or the same level of seniority at a different facility. The notice must be in the approved form and be accompanied by the documents specified in the provision.

Section 150B(4) specifies that persons who transfer positions and give the required notice are taken to be practising the profession for the activity for

which they were registered under section 135. This is to ensure the transfer does not constitute a ground for cancelling the person's registration under section 149(1)(a).

Section 150C requires specialists or senior medical officers registered under section 135 and specialists registered under section 134(1)(b), to give notice to the Board prior to undertaking supervised training at a different health service facility for which they were registered. The notice must be in the approved form and be accompanied by the documents specified in the provision.

Section 150C(8) specifies that persons who undertake supervised training and give the required notice are taken to be practising the profession for the activity for which they were registered under sections 134(1)(b) or 135. This provision has the same purpose as section 150C(4).

Clause 95 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 96 amends section 169 to remove the reference to a business name notified to the Board.

Clause 97 updates a section reference in section 272.

Clause 98 omits section 299 which is a transitional provision that is no longer required.

Clause 99 inserts new section 303 which is a transitional provision to clarify that a person may still give information to the board if requested to do so prior to the repeal of section 141A (by clause 87).

Clause 100 amends Schedule 3 by inserting various definitions.

Part 7 **Amendment of *Medical Radiation Technologists Registration Act 2001***

Clause 101 specifies that Part 7 amends the *Medical Radiation Technologists Registration Act 2001*.

Clause 102 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 103 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 104 inserts a new section 71A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 105 inserts a new section 79A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 106 omits the reference in section 98(2) to certificates of general registration being amended if probationary conditions are removed. This is necessary to ensure consistency with new section 101 (inserted by clause 108) which requires a new certificate of registration to be issued if conditions are removed.

Clause 107 omits the reference in section 99(5) to certificates of general registration being amended if probationary conditions are removed. The amendment has the same purpose as the amendment in clause 106.

Clause 108 replaces section 101 with a new section that removes the requirement for registrants to return their certificate of general registration, if probationary conditions on the registration are removed. On removal of conditions, the Board will be required under section 101(5) to issue a new certificate to the registrant.

Clause 109 omits the reference in section 109(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 113 (inserted by clause 112) which requires a new certificate of registration to be issued if conditions are removed.

Clause 110 omits the reference in section 110(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 109.

Clause 111 omits the reference in section 111(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 109.

Clause 112 replaces section 113 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 113(5) to issue a new certificate to the registrant.

Clause 113 inserts a new section 122A to clarify that Part 3, Division 9, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 114 amends section 129 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 129(4) to issue a new certificate to the registrant.

Clause 115 inserts a new section 135A which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 116 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 117 amends section 144 to remove the reference to a business name notified to the Board.

Clause 118 omits section 234 which is a transitional provision that is no longer required.

Clause 119 amends Schedule 3 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 135A. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 8 Amendment of *Mental Health Act 2000*

Clause 120 specifies that Part 8 amends the *Mental Health Act 2000*.

Clause 121 amends section 64 to allow Part 3 of the Act to also apply to a person who is lawfully held in custody, or lawfully detained, without charge under an Act of the State or the Commonwealth prescribed under a regulation.

Clause 122 amends section 69(3), which specifies the sections in the Act under which a person ceases to be a “classified patient”, to insert a reference to new s.100C.

Clause 123 amends section 78(2) to include that a patient lawfully held in custody, or lawfully detained, without charge under an Act of the State or the Commonwealth prescribed under a regulation for section 64(3), is not subject to the provisions of section 78(1), which specifies when a patient ceases to be a classified patient.

Clause 124 amends section 90(1) to include that a patient lawfully held in custody, or lawfully detained, without charge under an Act of the State or the Commonwealth prescribed under a regulation for section 64(3), is also subject to the provisions of section 90. Section 90 provides for matters about a classified patient being returned to the custodian’s custody from an authorised mental health service.

The clause also amends section 90(3), (4) and (5) by inserting a definition of the term “proper officer” to extend the category of person who may take a classified patient from an authorised mental health service under section 90. “Proper officer” is defined in section 90(6) to include a person acting for the State or the Commonwealth who is prescribed under a regulation. The rationale for this amendment is set out in the General Outline section of these Notes.

Clause 125 amends section 99 to clarify that a person does not cease to be a classified patient if their period of imprisonment or detention under a court order ends, or they are granted parole, but continue to be lawfully held in custody, or lawfully detained, without charge under an Act of the State or the Commonwealth prescribed under a regulation for section 64(3).

Clause 126 inserts a new Part 6A in Chapter 3 (sections 100A-100D).

Section 100A specifies that Part 6A applies to persons lawfully held in custody, or lawfully detained, without charge under an Act of the State or the Commonwealth prescribed under a regulation for section 64(3).

Section 100B sets out the notification requirements that apply to the administrator of the authorised mental health service at the end of the patient’s lawful custody or detention without charge.

Section 100C specifies that at the end of the patient’s lawful custody or detention, the patient ceases to be a classified patient unless the patient is awaiting the start or continuation of proceedings for an offence or is a person to whom Part 6 applies.

Section 100D sets out the notification requirements that apply to the administrator of the authorised mental health service when the patient ceases to be a classified patient.

Clause 127 amends section 253(2)(a) to include that the requirements of 253(1) do not apply if the patient is lawfully held in custody, or lawfully detained, without charge under an Act of the State or the Commonwealth prescribed under a regulation for section 64(3).

Clause 128 amends section 287(2)(a) so that a patient does not cease to be a classified patient, following the Mental Health Court's decision on a reference made to it, if the patient is lawfully held in custody, or lawfully detained, without charge under an Act of the State or the Commonwealth prescribed under a regulation for section 64(3).

Clause 129 amends the definition of a 'person in lawful custody' in Schedule 2 to also include a person who is lawfully held in custody, or lawfully detained, without charge under an Act of the State or the Commonwealth prescribed under a regulation for section 64(3).

Part 9 Amendment of *Occupational Therapists Registration Act 2001*

Clause 130 specifies that Part 9 amends the *Occupational Therapists Registration Act 2001*.

Clause 131 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 132 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 133 inserts a new section 67A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 134 inserts a new section 75A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 135 omits the reference in section 95(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 99 (inserted by clause 138) which requires a new certificate of registration to be issued if conditions are removed.

Clause 136 omits the reference in section 96(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 138.

Clause 137 omits the reference in section 97(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 138.

Clause 138 replaces section 99 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 99(5) to issue a new certificate to the registrant.

Clause 139 inserts a new section 107A to clarify that Part 3, Division 8, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 140 amends section 114 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 114(4) to issue a new certificate to the registrant.

Clause 141 inserts a new section 120A which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 142 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 143 amends section 129 to remove the reference to a business name notified to the Board.

Clause 144 omits sections 235 and 236 which are transitional provisions that are no longer required.

Clause 145 amends Schedule 3 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 120A. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 10 Amendment of *Optometrists Registration Act 2001*

Clause 146 specifies that Part 10 amends the *Optometrists Registration Act 2001*.

Clause 147 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 148 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 149 inserts a new section 67A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 150 inserts a new section 75A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 151 omits the reference in section 95(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 99 (inserted by clause 154) which requires a new certificate of registration to be issued if conditions are removed.

Clause 152 omits the reference in section 96(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 151.

Clause 153 omits the reference in section 97(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 151.

Clause 154 replaces section 99 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions,

the Board will be required under section 99(5) to issue a new certificate to the registrant.

Clause 155 inserts a new section 107A to clarify that Part 3, Division 8, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 156 amends section 114 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 114(4) to issue a new certificate to the registrant.

Clause 157 inserts a new section 120AA which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 158 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 159 amends section 129 to remove the reference to a business name notified to the Board.

Clause 160 omits sections 229 and 230 which are transitional provisions that are no longer required.

Clause 161 amends Schedule 4 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 120AA. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 11 Amendment of *Osteopaths Registration Act 2001*

Clause 162 specifies that Part 11 amends the *Osteopaths Registration Act 2001*.

Clause 163 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 164 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 165 inserts a new section 67A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 166 inserts a new section 75A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 167 omits the reference in section 95(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 99 (inserted by clause 170) which requires a new certificate of registration to be issued if conditions are removed.

Clause 168 omits the reference in section 96(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 167.

Clause 169 omits the reference in section 97(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 167.

Clause 170 replaces section 99 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 99(5) to issue a new certificate to the registrant.

Clause 171 inserts a new section 107A to clarify that Part 3, Division 8, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 172 amends section 114 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 114(4) to issue a new certificate to the registrant.

Clause 173 inserts a new section 120A which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that

registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 174 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 175 amends section 129 to remove the reference to a business name notified to the Board.

Clause 176 omits section 225 which is a transitional provision that is no longer required.

Clause 177 amends Schedule 2 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 120A. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 12 **Amendment of *Pharmacists Registration Act 2001***

Clause 178 specifies that Part 12 amends the *Pharmacists Registration Act 2001*.

Clause 179 amends section 15 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 180 amends section 60 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 181 inserts a new section 71A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 182 inserts a new section 79A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 183 omits the reference in section 99(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 103 (inserted by clause 186) which requires a new certificate of registration to be issued if conditions are removed.

Clause 184 omits the reference in section 100(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 183.

Clause 185 omits the reference in section 101(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 183.

Clause 186 replaces section 103 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 103(5) to issue a new certificate to the registrant.

Clause 187 inserts a new section 111A to clarify that Part 3, Division 8, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 188 amends section 118 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 118(4) to issue a new certificate to the registrant.

Clause 189 inserts a new section 124A which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 190 amends the definition of “own” in section 139A to specify that it does not include having an interest in a pharmacy business arising under a mortgage, bill of sale or other security. The purpose of the amendment is to that having such an interest is not a contravention of section 139B (which specifies who may own a pharmacy business).

Clause 191 replaces section 139G to extend the scope of the current section, which applies to the Trustee in Bankruptcy and liquidators, so that it also applies to administrators and receivers.

Clause 192 amends section 139I to clarify that mortgages, bills of sale or other securities in relation to a pharmacy business are not void under section 139I to the extent that they give rights to an administrator, receiver or receiver and manager.

Clause 193 amends Schedule 4 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 124A. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 13 Amendment of *Physiotherapists Registration Act 2001*

Clause 194 specifies that Part 13 amends the *Physiotherapists Registration Act 2001*.

Clause 195 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 196 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 197 inserts a new section 67A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 198 inserts a new section 75A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 199 omits the reference in section 95(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 99 (inserted by clause 202) which requires a new certificate of registration to be issued if conditions are removed.

Clause 200 omits the reference in section 96(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 199.

Clause 201 omits the reference in section 97(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 199.

Clause 202 replaces section 99 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions,

the Board will be required under section 99(5) to issue a new certificate to the registrant.

Clause 203 inserts a new section 107A to clarify that Part 3, Division 8, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 204 amends section 114 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 114(4) to issue a new certificate to the registrant.

Clause 205 inserts a new section 120A which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 206 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 207 amends section 129 to remove the reference to a business name notified to the Board.

Clause 208 omits section 235 which is a transitional provision that is no longer required.

Clause 209 amends Schedule 4 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 120A. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 14 Amendment of *Podiatrists Registration Act 2001*

Clause 210 specifies that Part 14 amends the *Podiatrists Registration Act 2001*.

Clause 211 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 212 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 213 inserts a new section 67A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 214 inserts a new section 75A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 215 omits the reference in section 95(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 99 (inserted by clause 218) which requires a new certificate of registration to be issued if conditions are removed.

Clause 216 omits the reference in section 96(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 215.

Clause 217 omits the reference in section 97(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 215.

Clause 218 replaces section 99 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 99(5) to issue a new certificate to the registrant.

Clause 219 inserts a new section 107A to clarify that Part 3, Division 8, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 220 amends section 114 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 114(4) to issue a new certificate to the registrant.

Clause 221 inserts a new section 120A which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that

registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 222 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 223 amends section 129 to remove the reference to a business name notified to the Board.

Clause 224 omits sections 232 and 233 which are transitional provisions that are no longer required.

Clause 225 amends Schedule 4 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 120A. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 15 Amendment of *Private Health Facilities Act 1999*

Clause 226 specifies that Part 15 amends the *Private Health Facilities Act 1999*.

Clause 227 amends section 147, which imposes a duty of confidentiality on persons who obtain information in the course of their functions under the *Private Health Facilities Act 1999*. However, section 147(4)(c) enables information to be given to the Commonwealth, another State or an entity of the Commonwealth or another State under specified conditions, including that the entity must not give that information to anyone else. This is creating operational barriers for the Commonwealth and other State Governments, which engage independent researchers and contractors to conduct specific tasks on its behalf (eg to collate data provided by jurisdictions on key health initiatives). To address this situation, the restriction imposed by section 147(7) is to be modified to specify that if an entity is given information under section 147(4)(c), it must not give this information to anyone else, unless the disclosure is permitted by the relevant prescribed agreement or is permitted by the chief executive in writing.

Clause 228 omits an erroneous provision from section 148.

Part 16 Amendment of *Psychologists Registration Act 2001*

Clause 229 specifies that Part 16 amends the *Psychologists Registration Act 2001*.

Clause 230 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 231 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 232 inserts a new section 73A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 233 inserts a new section 81A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 234 omits the reference in section 99(2) to certificates of general registration being amended if probationary conditions are removed. This is necessary to ensure consistency with new section 99 (inserted by clause 236) which requires a new certificate of registration to be issued if probationary conditions are removed.

Clause 235 omits the reference in section 100(5) to certificates of general registration being amended if probationary conditions are removed. The amendment has the same purpose as the amendment in clause 234.

Clause 236 replaces section 102 with a new section that removes the requirement for registrants to return their certificate of general registration if probationary conditions on the registration are removed. On removal of conditions, the Board will be required under section 102(5) to issue a new certificate to the registrant.

Clause 237 omits the reference in section 110(3) to certificates of general registration being amended if conditions (non-probationary) are removed. This is necessary to ensure consistency with new section 114 (inserted by clause 240) which requires a new certificate of registration to be issued if (non-probationary) conditions are removed.

Clause 238 omits the reference in section 111(4) to certificates of general registration being amended if conditions (non-probationary) are removed. The amendment has the same purpose as the amendment in clause 237.

Clause 239 omits the reference in section 112(4) to certificates of general registration being amended if conditions (non-probationary) are removed. The amendment has the same purpose as the amendment in clause 237.

Clause 240 replaces section 114 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions (non-probationary) on the registration are removed. On removal of conditions, the Board will be required under section 114(5) to issue a new certificate to the registrant.

Clause 241 inserts a new section 123A to clarify that Part 3, Division 9, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 242 amends section 130 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 114(4) to issue a new certificate to the registrant.

Clause 243 inserts a new section 136A which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 244 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 245 amends section 145 to remove the reference to a business name notified to the Board.

Clause 246 omits sections 251 and 252 which are transitional provisions that are no longer required.

Clause 247 amends Schedule 3 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 136A. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 17 **Amendment of the *Radiation Safety Act 1999***

Clause 248 specifies that Part 17 amends the *Radiation Safety Act 1999*.

Clause 249 amends section 4 to specify that the main object of this Act is to protect persons and the environment from the harmful effects of particular sources of ionising radiation and harmful non-ionising radiation. This amendment is being made to ensure that Queensland's radiation safety and protection legislation is consistent with the National Directory for Radiation Practice (NDRP). The NDRP was endorsed by the Australian Health Ministers' Conference in July 2004 as providing a uniform national framework for radiation protection in Australia.

Part A of the NDRP requires that the object of each jurisdiction's radiation protection legislation is to protect the health and safety of people and the environment from the harmful effects of radiation. To ensure consistency with the NDRP, section 4 is amended by the Bill to expressly provide that the object of the Act includes the protection of the environment. As a consequence of this amendment, it also necessary to amend sections 140 and 210 of the Act to make specific reference to the environment (see clause 251 and 252).

Clause 250 amends section 52 to enable a possession licensee to obtain a continuing approval to acquire specified short-lived, low-activity sealed radioactive substances that may be used to carry out diagnostic and therapeutic procedures involving the irradiation of another person. To give effect to this provision a regulation must be made to specify the concentration (Bq/g) and activity (Bq) levels of the sealed radioactive substances that may be obtained under a continuing approval to acquire.

Clause 251 amends section 140 to specify that an inspector may issue a prohibition notice if an inspector reasonably believes that circumstances causing, or likely to cause, immediate health risks to any person or immediate risks to the environment have arisen, or are likely to arise, in relation to the carrying out of a radiation practice.

Clause 252 amends section 210 to specify that a regulation may be made to exempt a radiation source from the Act or a provision of the Act if the exemption poses negligible health risks to any person or adverse effects on the environment.

Part 18 **Amendment of *Speech Pathologists Registration Act 2001***

Clause 253 specifies that Part 18 amends the *Speech Pathologists Registration Act 2001*.

Clause 254 amends section 14 to enable the Board to delegate decisions to register an applicant for registration and to impose conditions on registration.

Clause 255 amends section 56 by inserting a provision to clarify that section 56, which allows the period of general registration to be prescribed by regulation, does not apply to a short-term registration.

Clause 256 inserts a new section 67A to clarify that Part 3, Division 4, which deals with renewal of general registration, does not apply to a short-term registration.

Clause 257 inserts a new section 75A to clarify that Part 3, Division 5, which deals with restoration of general registration, does not apply to a short-term registration.

Clause 258 omits the reference in section 95(3) to certificates of general registration being amended if conditions are removed. This is necessary to ensure consistency with new section 99 (inserted by clause 261) which requires a new certificate of registration to be issued if conditions are removed.

Clause 259 omits the reference in section 96(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 258.

Clause 260 omits the reference in section 97(4) to certificates of general registration being amended if conditions are removed. The amendment has the same purpose as the amendment in clause 258.

Clause 261 replaces section 99 with a new section that removes the requirement for registrants to return their certificate of general registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 99(5) to issue a new certificate to the registrant.

Clause 262 inserts a new section 107A to clarify that Part 3, Division 8, Subdivision 2, which deals with renewal of special purpose registration, does not apply to a short-term registration.

Clause 263 amends section 114 by removing the requirement for registrants to return their certificate of special purpose registration if conditions on the registration are removed. On removal of conditions, the Board will be required under section 114(4) to issue a new certificate to the registrant.

Clause 264 inserts a new section 120A which provides that a person may apply for short-term general or special purpose registration for a period of up to 5 weeks. The Board may decide to refuse to grant an application for short-term registration if it is not satisfied the applicant has a good reason for registration for the period sought. The provision also specifies that registration has effect for the period decided by the Board and may not be renewed or restored.

Clause 265 omits Part 4, Division 2 which obliges a registrant to notify the Board of any business name under which the registrant carries on business.

Clause 266 amends section 129 to remove the reference to a business name notified to the Board.

Clause 267 omits sections 232 and 233 which are transitional provisions that are no longer required.

Clause 268 amends Schedule 3 by inserting a definition of *short-term registration* as meaning registration on an application mentioned in section 120A. This clause also amends the definition of *renewable registration* to clarify that a short-term registration is not a renewable registration.

Part 19 Amendment of *Tobacco and Other Smoking Products Act 1998*

Clause 269 specifies that part 19 amends the *Tobacco and Other Smoking Products Act 1998*.

Clauses 270 and 271 amend sections 20 and 21 to include a reference to a 'quit smoking sign'. This amendment ensures that all provisions relating to mandatory signage (prohibition signs and quit smoking signs) are located

together in one Division. The headings in sections 20 and 21 are also updated to reflect the revised purpose of the provisions.

Clause 272 omits the heading in Part 2, Division 6 (Supply of things resembling tobacco products). This amendment is required because section 24 is being relocated to Part 2D (see clause 273), so that all prohibited product offences are located together.

Clause 273 relocates section 24 (Supply of food or toys resembling tobacco products) to Part 2D and renumbers the provision as section 26ZS. This amendment will ensure that all prohibited product offences are located together in Part 2D.

Clauses 274 and 275 renumber Part 2, Division 7 and section 26 as Part 2, Division 6 and section 24 respectively. This occurs as a result of removing the heading for Division 6 and relocating section 24 to Part 2D as outlined above.

Clause 276 renumbers section 26AA as section 25.

Clause 277 inserts a new section 26 into Part 2A, Division 1 to exclude tobacco product vending machines from the provisions in Division 1.

Clause 278 deletes section 26B(4) in Part 2A, Division 1 which clarified that the section did not apply to tobacco product vending machines. This subsection is no longer required because provisions for tobacco product vending machines are located in Part 2A, Division 2 and the amendment in clause 277 clarifies that Division 1 does not apply to tobacco product vending machines.

Clause 279 amends section 26CA(4) of Part 2A, Division 1 to remove the reference to tobacco product vending machines. Requirements about the display of tobacco products in tobacco product vending machines are relocated to a new Part 2A, Division 2 by clause 285.

Clause 280 amends section 26CB by inserting a new subsection (4) to clarify that a price board, price tickets and other indicators of price mentioned in section 26H(1)(a) and (b) can be displayed in addition to, or outside, the smoking product display area specified in section 26CB(1)(a) and (b), unless the price indicator is located within the perimeter of the display.

Clauses 281 and 282 amend sections 26D(1)(c)(ii) and 26F respectively to ensure that the representation of an immediate package of a smoking product, or a display of the health warning on a humidified container and humidified room, are consistent with the labelling requirements under the *Commonwealth Trade Practices (Consumer Product Information*

Standards) (Tobacco) Regulations 2004. Clause 281 also removes a reference to tobacco product vending machines in subsection 26D(5).

Clause 283 amends section 26H to clarify that the display of smoking products and the prices of those products at a retail outlet must not include anything else about the price of the smoking product (for example, something that indicates that the product is discounted). The clause also clarifies that the price tickets for covered smoking products may be displayed in the ways stated in section 26H(1)(a) and (b).

Clause 284 amends section 26HA to ensure that business names do not refer to the price or overt promotion of tobacco products. For example, "Discount Cigs and Tobacco" or "Cheap Smokes" would be prohibited.

Clause 285 removes Part 2A, Division 2 and replaces it with a new Division 2 to prescribe the requirements for the display of tobacco products in tobacco product vending machines. The same requirements for other displays are already provided for under Part 2A, Division 1. However, these provisions do not apply to tobacco product vending machines, as the machines are excluded from the definitions of *display* under section 16CA(4) and *stack dispenser* under section 26D(5).

The new Division is comprised of sections 26IA to 26IE.

Section 26IA creates an offence for a person in charge of a tobacco product vending machine to advertise or display a tobacco product by any means other than allowed under the Act. The maximum penalty of 140 penalty units is consistent with a similar offence for retail advertising and display under 26A(2).

Section 26IB specifies the size and perimeter of the surface display area for a tobacco product vending machine, and the circumstances in which indicators of price are included or excluded from being within the perimeter of the display.

Section 26IC specifies the ways in which tobacco products may be displayed in a tobacco product vending machine. A single immediate package or a single representation of an immediate package may be displayed. A representation of an immediate package in a tobacco product vending machine must be no larger than the actual size of the package and must include the warning message and corresponding graphic required by the *Commonwealth Trade Practices (Consumer Product Information Standards)(Tobacco) Regulations 2004*.

Section 26ID specifies the way in which the retail price of a tobacco product in a tobacco product vending machine may be displayed. The

display of tobacco products *and the prices of those products* in a tobacco product vending machine must not include anything else about the price of the smoking product, for example something that indicates that the product is discounted. The price tickets for tobacco products not on display (but available or usually available for sale) may be displayed in the ways stated in section 26ID(1).

Section 26IE prohibits the advertising or a display, on a tobacco product vending machine, of a business name that refers to the price or overt promotion of tobacco products. For example, "Discount Cigs and Tobacco" or "Cheap Smokes" would be prohibited.

Clause 286 amends section 26Q by omitting the definitions of the terms *common area* and *multi-unit residential accommodation*. The definitions are linked to the meaning of *residential premises*. Variations of these definitions are already used throughout the Act to refine the meaning of *residential premises* for application in the Part to which it refers. For clarity, the definitions will be inserted into each section to which they refer. As a consequence, the definitions for *lot* and *community titles scheme* have been moved to the Dictionary for the Act.

Clause 287 amends section 26R to insert definitions for the terms *common area*, *multi-unit residential accommodation* and *residential premises*. These definitions were previously located in section 26Q, but were omitted and, for clarity, inserted directly into the section to which they refer. Doing so will avoid confusion when variations of the definitions appear in sections 26W (see clause 290), 26ZJ (see clause 294) and 26ZK (see clause 295).

Clause 288 amends section 26U to clarify that a person contravening section 26R(1) by smoking in an enclosed place must comply with a direction to stop the contravention. The clause also amends section 26U(2) to clarify that a person conducting an on-site food service commits an offence if this person continues to provide food or drink to another person who has not complied with a direction to stop the contravention. A new subsection (3) provides a defence if the person conducting the on-site food business was not aware that the contravention was happening.

Clause 289 amends section 26V to update a section reference.

Clause 290 amends section 26W to clarify the meaning of an outdoor eating or drinking area in line with the original policy intent of the amendments made in the *Tobacco and Other Smoking Products Amendment Act 2004*. The provision excludes enclosed places (which are

covered in Part 2B) and private residences (to avoid capturing, for example, a catered backyard wedding).

The criteria for determining whether an area is an outdoor eating or drinking place has been narrowed to be a place where a person can consume food or drink provided from an on-site food service *and* the place is a licensed premise, a place bounded by a fence and/or a place that a person would reasonably expect has been provided to consume food or drink provided from an on-site food service. The reference to an 'on-site food service' will capture circumstances where the provider of the place and the provider of the food or drink are different persons. It is intended that the provision will capture, for example, a footpath dining area outside a restaurant or café, the tables and chairs outside a takeaway food store, an outdoor area provided by a shopping centre to consume food or drink from outlets at a food court, a fenced sporting ground (where food or drink purchased at the site can be consumed), and an area of a park which is temporarily fenced off for an event (e.g. a cultural festival).

Section 26W also includes definitions for *provide* (food and drink) and *residential premises*.

Clause 291 amends section 26Y to mirror the amendments to section 26U that a person conducting an on-site food service commits an offence if this person continues to provide food or drink to another person who has not complied with a direction to stop the contravention in 26X(1). A new subsection (3) provides a defence if the person conducting the on-site food business was not aware that the contravention was happening.

Clause 292 amends section 26ZA to clarify that an area that may be a designated outdoor smoking area in section 26ZA only relates to a licensed outdoor area. It also clarifies that a designated outdoor smoking area in subsection (2) may be used for drinking and smoking. Finally, it specifies that a licensee may not have a designated outdoor smoking area at the premises if any part of the premises has been designated under section 26W(4) as an area where food or drink may not be consumed.

Clause 293 amends section 26ZB to correct an erroneous provision, replacing the term "authorised officer" with "authorised person". It also updates subsection (5) to reflect that the licensee must not allow smoking anywhere in the licensed area of the premises, other than a designated outdoor smoking area under section 26ZA(2).

Clause 294 amends section 26ZJ to clarify that smoking is prohibited within four metres of any entrance to an enclosed space, including temporary structures (e.g. a circus tent). This ensures that additional

entrances to enclosed places are captured, not just the main entrance. However, the prohibition only applies while the entrance is being used either for public access or to enable the place to be used in a way that it is ordinarily used. The term 'enclosed' is defined in Part 2B of the *Tobacco and Other Smoking Products Act 1998* to include a vehicle; however, a new subsection (2)(e) exempts vehicles from this provision. The definition of *general access* is omitted from subsection (6) and the definition of *residential premises* is inserted.

Clause 295 amends section 26ZK by inserting a reference to the definition of *residential premises* used in section 26ZJ(6).

Clause 296 amends the heading for Part 2D to reflect the relocation to this Part of all provisions relating to prohibited products.

Clause 297 inserts a new section 26ZR to prohibit the supply of smokeless tobacco products. These products will consist of nasal snuff (cured, ground tobacco that may be inhaled) and chewing tobacco (cured, ground tobacco that may be used orally). However, protection is afforded to a person who supplies these products with lawful authority or excuse. The maximum penalty is 140 penalty points, which is consistent with the penalty for contravening other prohibited product provisions in the Act.

Clause 298 amends section 40A to capture all relevant provisions where enforcement officers have the power to direct a person to stop smoking under the Act.

Clause 299 amends section 51 to insert a new subsection (1A), which lists the evidence requirements for a thing labelled as a smokeless tobacco product. The heading for section 51 is also amended to reflect the inclusion of smokeless tobacco products under the section.

Clause 300 makes consequential amendments to the Schedule (Dictionary) to omit definitions for the terms *common area*, *multi-unit residential accommodation* and *residential premises* (which now appear in the sections to which they refer), and *lot*. The clause also inserts new definitions for the terms *community titles scheme*, *food service*, *lot*, *on-site food service*, and *quit smoking sign*. The definition of *package* is updated to include a package containing cigarette papers. In addition, clause 300 excludes smokeless tobacco products from the definition of *tobacco product* and changes a reference from section 26AA to section 25 in the definitions of *humidified container*, *humidified room* and *smoking product*.

Part 20 **Amendment of the *Transplantation and Anatomy Act 1979***

Clause 301 specifies that Part 20 amends the *Transplantation and Anatomy Act 1979*.

Clause 302 amends section 4 to insert a definition of *dental practitioner* as being a general registrant or provisional general registrant under the *Dental Practitioners Registration Act 2001*. This term is used in the new Part 2, Division 6 inserted by clause 303.

Clause 303 inserts a new Part 2, Division 6 to simplify the process for taking donations of tissue for approved scientific or research purposes. This Division is comprised of sections 21A and 21B.

Section 21A defines: the acronym, *NHMRC* as being the National Health and Medical Research Council established under the *National Health and Medical Research Council Act 1992*; the term *National Statement* as the National Statement on Ethical Conduct in Research Involving Humans, issued by the NHMRC in 1999; and the term, *Human Research Ethics Committee* as being a committee formed in accordance with the requirements stated in the National Statement.

Section 21B simplifies the process for the removal of tissue from a person's body by allowing the removal of skeletal muscle tissue, oral tissue or perioral tissue to be undertaken by a medical practitioner, and the removal of oral tissue or perioral tissue to be undertaken by a dental practitioner. Further, the provision ensures that the removal of tissue must be for the purpose of research approved by a Human Research Ethics Committee and consent must be given to the removal in accordance with requirements stated in the National Statement, and the donor must be an adult.

Clause 304 amends section 35 to clarify that the loaning of bodies or parts of bodies from a school of anatomy to another school of anatomy is authorised.

Clause 305 amends the definition of *processing* in section 42A to allow for a tissue bank to recover the costs of "off-site" irradiation. Presently, a tissue bank in Queensland is prevented from recovering costs of irradiation unless it occurs *at* the tissue bank.

Clause 306 inserts a new section 42B to allow a school of anatomy to recover costs incurred from receiving, embalming, storing, maintaining and

disposing of a donated body and body parts that are loaned to another school of anatomy. Protection is also afforded to the person recovering such costs from offences against section 40 (Unauthorised buying of tissue prohibited) and section 42 (Unauthorised selling of tissue prohibited).

Clause 307 amends section 48 to exempt from the offence in relation to the removal of tissue from the body of a living person, persons who remove tissue in accordance with the new Part 2 Division 6 (inserted by clause 303).

Clause 308 amends section 49 so that the confidentiality obligations under the section also apply to dental practitioners who remove tissue in accordance with the new Part 2 Division 6 (inserted by clause 303).

Clause 309 amends section 52 to increase the maximum penalty that can be fixed under a regulation from 10 penalty points to 20 penalty points.