



Queensland

# Health Legislation Amendment Regulation (No. 5) 2011

## Explanatory Notes for SL 2011 No. 306

made under the

*Health Act 1937*

*Health Services Act 1991*

*Pharmacy Business Ownership Act 2001*

*Water Fluoridation Act 2008*

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## General outline

### Short title

*Health Legislation Amendment Regulation (No. 5) 2011.*

### Authorising law

The Regulation is made under the following provisions:

Section 180 of the *Health Act 1937*

Section 68(2) of the *Health Services Act 1991*

Section 202 of the *Pharmacy Business Ownership Act 2001*

Section 100 of the *Water Fluoridation Act 2008*.

### Policy objectives and the reasons for them

The objectives of the amendments are to ensure the *Health (Drugs and Poisons) Regulation 1996* and the *Water Fluoridation Regulation 2008*

operate effectively, to increase the pharmacy fees in the *Health Services Regulation 2002* and achieve their policy intent and to repeal the *Pharmacists Registration Regulation 2001*.

## **Achievement of policy objectives**

### ***Health (Drugs and Poisons) Regulation 1996***

The amendments correct drafting errors and other minor errors. In addition, they ensure that trainee orthoptists have authorisation in relation to drugs and poisons that is consistent with the authorisations for other trainee health professionals under the Regulation. The amendments also replace a definition to refer to the current Poisons Standard under which drugs and poisons are scheduled.

### ***Health Services Regulation 2002***

In line with Queensland Health policy, the amendments to the *Health Services Regulation 2002* increase the maximum charges for pharmaceutical items supplied by public hospitals to maintain consistency with the charges set by the Commonwealth for pharmaceuticals dispensed by privately operated pharmacies. The increases are based on a weighted average of the September 2010-September 2011 quarters consumer price index (CPI) in the eight capital cities, as recorded by the Australian Bureau of Statistics.

### ***Water Fluoridation Regulation 2008***

The amendments correct an error in relation to the date by which the Millmerran and Proserpine Water Treatment Plants are required to fluoridate their water supplies; correct a spelling error and also relocate an entry from Schedule 2, part 2 to Schedule 2, part 1 to correct an error.

### ***Pharmacists Registration Regulation 2001***

The amendments repeal the *Pharmacists Registration Regulation 2001* which is redundant.

## **Consistency with policy objectives of authorising law**

The amendments are consistent with the main objectives of the *Health Act 1937*, *Water Fluoridation Act 2008*, *Health Services Act 1991* and *Pharmacy Business Ownership Act 2001*.

## **Inconsistency with policy objectives of other legislation**

The amendments are consistent with the policy objectives of other Queensland legislation.

## **Benefits and costs of implementation**

The proposed fee increases to the *Health Services Regulation 2002* provide for standard annual fee variations in line with, or below, a government-endorsed indexation factor (ie CPI).

None of the other amendments will impose financial or other costs on the persons or organisations to which they apply.

## **Consistency with fundamental legislative principles**

The amendments are consistent with fundamental legislative principles.

## **Consultation**

The Commonwealth Department of Health and Ageing has advised Queensland Health that Pharmaceutical Benefits Scheme (PBS) co payments for general and concessional pharmaceutical items will be increased from 1 January 2012. The proposed fee increases are consistent with equivalent fee increases to be made by the Commonwealth under the PBS.

Relevant local councils and the Orthoptists Association of Australia were consulted about the amendments relevant to those bodies. All stakeholders consulted support the amendments.

## **Notes on provisions**

### **Part 1 Preliminary**

#### **Short Title**

Clause 1 provides the short title of the Regulation.

## **Commencement**

Clause 2 provides that the amendments to the *Health Services Regulation 2002* in Part 3 commence on 1 January 2012.

## **Part 2                      Amendment of Health (Drugs and Poisons) Regulation 1996**

### **Regulation amended**

Clause 3 specifies that Part 2 amends the *Health (Drugs and Poisons) Regulation 1996* (HDPR).

### **Amendment of s5, 7, 9A, 9B, 10, 11, 12, 85, 198, 276, 292 and appendix 7**

Clause 4 amends sections 5, 7, 9A, 9B, 10, 11, 12(1), 85(3)(i), 198(3), 276(3)(i), 292(2)(c) and appendix 7, item 9 to replace references to 'standard' with 'current poisons standard' as a consequence of the definition of 'current poisons standard' replacing the definition of 'standard' in the amendment to Appendix 9 made by clause 16.

### **Amendment of s43 (Controlled Drug Manufacturer Licence)**

Clause 5 amends section 43(b) of the HDPR to correct a numbering error.

### **Amendment of s51 (Endorsement needed for Controlled Drugs)**

Clause 6 amends section 51(5) and (6) of the HDPR to correctly refer to the maximum penalty as 'penalty units' instead of 'penalty points'.

### **Amendment of s137 (Restricted Drug Manufacturer Licence)**

Clause 7 amends section 137(b) of the HDPR to correct a numbering error.

### **Amendment of s146 (Endorsement needed for Restricted Drugs)**

Clause 8 amends section 146(7) of the HDPR to correctly refer to the maximum penalty as 'penalty units' instead of 'penalty points'.

### **Amendment of s170A (Orthopists)**

Clause 9 amends section 170A of the HDPR to correct a spelling error in the heading.

### **Amendment of s179AA (Trainees in certain occupations)**

Clause 10 amends section 179AA(4) of the HDPR to include orthoptists in the definition of 'relevant occupation' so that the authorisation under section 179AA also applies to trainee orthoptists.

### **Amendment of s198 (Labelling dispensed medicines)**

Clause 11 amends section 198(3)(k) to correct a spelling error.

### **Amendment of s243 (Endorsement needed for S2, S3 or S7 poison)**

Clause 12 amends section 243(4) of the HDPR to correctly refer to the maximum penalty as 'penalty units' instead of 'penalty points'.

### **Amendment of s256AA (Orthopists)**

Clause 13 amends section 256AA of the HDPR to correct a spelling error in the heading.

### **Amendment of s265AA (Trainees in certain occupations)**

Clause 14 amends section 265AA of the HDPR to include orthoptists in the definition of 'relevant occupation' so that the authorisation under section 265AA also applies to trainee orthoptists.

### **Amendment of s270 (When endorsement is not needed)**

Clause 15 amends section 270 of the HDPR to replace a reference to 'controlled drug' with 'S2, S3 or S7 poison' to correct a drafting error.

### **Amendment of appendix 9 (Dictionary)**

Clause 16 omits the definition of 'standard' Appendix 9 of the HDPR and replaces it with a definition of 'current Poisons Standard' that refers to the meaning of that term in section 52A of the *Therapeutic Goods Act 1989* (Cwlth).

## **Part 3    Amendment of Health Services Regulation 2002**

### **Regulation amended**

Clause 17 provides that Part 3 amends the *Health Services Regulation 2002*.

### **Amendment of s8 (Pharmaceuticals)**

Clause 18 amends section 8 of the *Health Services Regulation 2002* to increase the maximum charges for pharmaceutical items supplied by public hospitals to align with charges set by the Commonwealth for pharmaceuticals dispensed by privately operated pharmacies. Subsection 8(2) is to be amended to increase the charge from \$34.20 to \$35.40 for general patients and subsection 8(3) is to be amended to increase the charge from \$5.60 to \$5.80 for concessional patients.

## **Part 4    Amendment of Water Fluoridation Regulation 2008**

### **Regulation amended**

Clause 19 specifies that Part 4 amends the *Water Fluoridation Regulation 2008* (WFR).

### **Amendment of sch 1 (Dates before which fluoride must be added)**

Clause 20(1) corrects a spelling error in Schedule 1 of the WFR.

Clause 20(2) and (4) amend Schedule 1 of the WFR to provide that 31 December 2012 is the new date before which fluoride must be added to public potable water supply at the Millmerran and Proserpine Water Treatment Plants. This corrects an error that occurred when the existing dates were inserted.

Clause 20(3) omits the entry for Townsville City Council, Giru Water Treatment Plant in Schedule 1 to remove the requirement for fluoridation of the public potable water supply at that Plant. This is because the Plant no longer supplies a population of more than 1000 people and therefore is exempt from the fluoridation requirement.

### **Amendment of sch 2 (Local governments)**

Clause 21 relocates the entry for Kowanyama Aboriginal Shire Council from Schedule 2, part 2 to Schedule 2, part 1 of the WFR. This corrects an error that currently requires the Council to add a higher fluoride level to its public potable water supply than is necessary, based on the Council area's daily maximum temperature.

## **Part 5                      Repeal provision**

### **Repeal**

Clause 22 repeals the *Pharmacists Registration Regulation 2001*. This Regulation became redundant as from 1 July 2010 as a consequence of amendments to the renamed *Pharmacy Business Ownership Act 2001* made by the *Health Legislation (Health Practitioner Regulation National Law) Amendment Act 2010*.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Health.

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