

Health and Other Legislation (Nursing and Midwifery) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 187

made under the

Child Employment Act 2006

Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004

Coal Mining Safety and Health Act 1999

Health Act 1937

Private Health Facilities Act 1999

Radiation Safety Act 1999

General Outline

Short title

Health and Other Legislation (Nursing and Midwifery) Amendment Regulation 2018

Authorising law

Section 39 of the *Child Employment Act 2006*

Section 78 of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*

Section 282 of the *Coal Mining Safety and Health Act 1999*

Section 180 of the *Health Act 1937*

Section 151 of the *Private Health Facilities Act 1999*

Section 215 of the *Radiation Safety Act 1999*

Policy objectives and the reasons for them

In 2014, an independent review of the Health Practitioner Regulation National Law (National Law) recommended that the National Law be amended to reflect that nursing and midwifery are two separate health professions regulated by one National Board.

The *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2017* (Amendment Act) amended the National Law to recognise nursing and midwifery as two separate health professions, by amending the definition of *health profession* in section 5 of the National Law. These two professions will continue to be regulated by the Nursing and

Midwifery Board of Australia. There are currently separate registers for nurses and midwives. These registers will continue to be maintained.

Schedule 1, part 2 of the Amendment Act makes consequential amendments to the following Queensland Acts to reflect the recognition of nursing and midwifery as separate professions:

- *Births, Deaths and Marriages Registration Act 2003*
- *Child Protection Act 1999*
- *Coroners Act 2003*
- *Corrective Services Act 2006*
- *Disaster Management Act 2003*
- *Forensic Disability Act 2011*
- *Hospital and Health Boards Act 2011*
- *Law Reform Act 1995*
- *Mental Health Act 2016*
- *Police Powers and Responsibilities Act 2000*
- *Police Service Administration Act 1990*
- *Prostitution Act 1999*
- *Public Health Act 2005*
- *Public Safety Preservation Act 1986*
- *Rail Safety National Law (Queensland) Act 2017*
- *Transport Operations (Road Use Management) Act 1995*
- *Weapons Act 1990*
- *Workers' Compensation and Rehabilitation Act 2003.*

The policy objective is to make consequential amendments to a number of Queensland Regulations to recognise nursing and midwifery as two separate health professions.

The consequential amendments to Queensland Acts and Regulations do not make any policy changes to the roles of nurses or midwives and have no effect on scope of practice issues for the two professions. The amendments acknowledge the growing number of registered midwives that are qualified to practice as midwives only.

Achievement of policy objectives

The policy objective will be achieved by amending Queensland Regulations to reflect nursing and midwifery as separate health professions. The Queensland Regulations to be amended are:

- *Child Employment Regulation 2016*
- *Child Protection (Offender Reporting and Offender Prohibition Order) Regulation 2015*
- *Coal Mining Safety and Health Regulation 2017*

- *Health (Drugs and Poisons) Regulation 1996*
- *Private Health Facilities Regulation 2016*
- *Radiation Safety Regulation 2010.*

The *Health and Other Legislation (Nursing and Midwifery) Amendment Regulation 2018* (Amendment Regulation) amends these Queensland Regulations:

- where there is reference to a *nurse* or *registered nurse* defined by reference to the nursing and midwifery profession, by removing the reference to ‘midwifery’; and
- where there is reference to a *midwife* or *midwifery* defined by reference to the nursing and midwifery profession, by removing the reference to ‘nursing’.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the authorising Acts.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The Amendment Regulation is the only effective means of achieving the policy objective.

Benefits and costs of implementation

There are no costs arising from the Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*.

Consultation

The Amendment Regulation makes consequential amendments and does not change the policy effect of the Regulations. Therefore, no consultation was required.

The Amendment Regulation was assessed by Queensland Health, in accordance with *The Queensland Government Guide to Better Regulation*, as being excluded from regulatory impact assessment on the basis that the amendments are consequential in nature. Therefore, consultation with the Queensland Productivity Commission was not required.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 provides the short title.

Commencement

Clause 2 provides for the commencement of the Regulation.

Part 2 Amendment of Child Employment Regulation 2016

Regulation amended

Clause 3 provides that part 2 amends the *Child Employment Regulation 2016*.

Amendment of sch 3 (Dictionary)

Clause 4 amends the definition of *midwife* in schedule 3 to replace the reference to the ‘nursing and midwifery profession’ with the ‘midwifery profession’.

Clause 4 also amends the definition of *registered nurse* in schedule 3 to replace the reference to the ‘nursing and midwifery profession’ with the ‘nursing profession’ in paragraph (a).

Part 3 Amendment of Child Protection (Offender Reporting and Offender Prohibition Order) Regulation 2015

Regulation amended

Clause 5 provides that part 3 amends the *Child Protection (Offender Reporting and Offender Prohibition Order) Regulation 2015*.

Amendment of s 12 (Reports not made in person—Act, s 29(5))

Clause 6 amends the definition of *registered nurse* to replace the reference to the ‘nursing and midwifery profession’ with the ‘nursing profession’.

Part 4 Amendment of Coal Mining Safety and Health Regulation 2017

Regulation amended

Clause 7 provides that part 4 amends the *Coal Mining Safety and Health Regulation 2017*.

Amendment of s 16 (Giving notice of incidents)

Clause 8 amends the definition of *nurse* to replace the reference to the ‘nursing and midwifery profession’ with the ‘nursing profession’.

Part 5 Amendment of Health (Drugs and Poisons) Regulation 1996

Regulation amended

Clause 9 provides that part 5 amends the *Health (Drugs and Poisons) Regulation 1996*.

Amendment of appendix 9 (Dictionary)

Clause 10 amends the definition of *enrolled nurse* in appendix 9 to remove the words ‘and midwifery’ from paragraph (a).

The definition of *midwife* in appendix 9 is amended to replace the reference to the ‘nursing and midwifery profession’ with the ‘midwifery profession’.

Clause 10 also amends the definition of *registered nurse* in appendix 9 to remove the words ‘and midwifery’ from paragraph (a).

Part 6 Amendment of Private Health Facilities Regulation 2016

Regulation amended

Clause 11 provides that part 6 amends the *Private Health Facilities Regulation 2016*.

Amendment of s 5 (Prescribed change for which notice must be given)

Clause 12 amends the definition of *nurse* to replace the reference to the ‘nursing and midwifery profession’ with the ‘nursing profession’ in paragraph (a).

Part 7 Amendment of Radiation Safety Regulation 2010

Regulation amended

Clause 13 provides that part 7 amends the *Radiation Safety Regulation 2010*.

Amendment of sch 9 (Dictionary)

Clause 14 amends the definition of *nurse practitioner* in schedule 9 to replace the reference to the ‘nursing and midwifery profession’ with the ‘nursing profession’ in paragraph (a).

Clause 14(2) amends the definition of *registered nurse* in schedule 9 to remove the words ‘and midwifery’ from paragraph (a).