

Proclamation No. 2 – Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022

Explanatory notes for SL 2024 No. 93

made under the

Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022

General Outline

Short title

Proclamation commencing the remaining provisions of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* that are not in force.

Authorising law

Section 2 of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022*.

Policy objectives and the reasons for them

The objective of the Proclamation is to commence the remaining provisions of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* (the Amendment Act) on 1 July 2024. The Amendment Act amends the Health Practitioner Regulation National Law (National Law), which is set out in the schedule to the *Health Practitioner Regulation National Law Act 2009* (Qld), to give effect to nationally agreed reforms to the National Registration and Accreditation Scheme (National Scheme) for health practitioners. The Amendment Act was passed by the Legislative Assembly on 13 October 2022 and received Royal Assent on 21 October 2022.

On 15 May 2023 (Minute No. 167), certain provisions were commenced by Proclamation, pursuant to section 2 of the Amendment Act. A staggered commencement of the Amendment Act's provisions was agreed to ensure, among other things, national consistency and to give each jurisdiction sufficient time to pass their corresponding legislation. Following the Proclamation, the remaining un-commenced provisions of the Amendment Act were due to automatically commence on 21 October 2023.

Prior to the automatic commencement date, not all the jurisdictions had passed their corresponding legislation. Accordingly, on 19 October 2023 (Minute No. 504), the *Health*

Practitioner Regulation National Law and Other Legislation Amendment (Postponement) Regulation 2023 was passed to extend the date for automatic commencement to 21 October 2024.

Queensland's Co-Regulatory Model

Queensland modified the National Law in 2013 to adopt a co-regulatory model. Queensland's co-regulatory model means that the Office of the Health Ombudsman has primary responsibility for managing complaints about a health practitioner's conduct or performance but may refer appropriate matters to national regulators to be dealt with under the National Law. The modifications are made through amendments to the local application provisions of the National Law in part 4 of the *Health Practitioner Regulation National Law Act 2009*.

To accommodate these co-regulatory arrangements, the Amendment Act also amends the *Health Ombudsman Act 2013* and makes minor modifications to how certain amendments to the National Law will operate in Queensland.

Proclamation

The Proclamation will commence the remaining provisions of the Amendment Act on 1 July 2024. These provisions make amendments that do the following:

- allow the Office of the Health Ombudsman to:
 - take immediate action by accepting an undertaking from a practitioner;
 - establish the processes for varying and revoking an undertaking;
- allow the Ministerial Council to delegate its power to approve registration standards to an appropriate entity;
- amend the period of time for the commencement of all registration types;
- establish the process regarding renewal of a practitioner's registration after a period of suspension;
- empower the National Boards to include previously excluded information in the National Register if there is a reasonable belief the circumstances have changed;
- allow National Boards and the Australian Health Practitioner Regulation Agency to issue interim prohibition orders to unregistered persons in certain circumstances where the person poses a serious risk to others;
- give the Queensland Civil and Administrative Tribunal jurisdiction to hear an appeal of a decision of the Health Ombudsman to refuse an application to vary or revoke an undertaking given as an immediate registration action;
- clarify the following:
 - the definition of Ministerial Council to ensure national consistency;

- that a practitioner cannot seek a review from the Queensland Civil and Administrative Tribunal in relation to an immediate action taken if that action is an accepted undertaking;
- the name of a practitioner is to include an alternative name for the purposes of publishing orders, including prohibition orders, on the public register;
- the requirements around use of an alternative name for a registered health practitioner;
- make minor administrative amendments to reflect other amendments in the Amendment Act.

Achievement of policy objectives

The policy objective is achieved by fixing 1 July 2024 as the date for the remaining provisions of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* to commence by Proclamation.

Consistency with policy objectives of authorising law

The Proclamation is consistent with the policy objectives of the Amendment Act.

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 Proclamation is the only effective means of achieving the policy objective to commence the remaining provisions of the Amendment Act.

Benefits and costs of implementation

The costs associated with implementing the provisions being commenced will be met from within the existing Health portfolio budget allocation.

Consistency with fundamental legislative principles

As outlined in the Explanatory Notes to the Amendment Act, the Amendment Act is consistent with fundamental legislative principles, as set out in section 4 of the *Legislative Standards Act 1992*. The Proclamation does not engage any additional fundamental legislative principles.

Consultation

The stakeholders that were consulted in the development of the Amendment Act are set out in the Explanatory Notes to that Act.

The date for commencing the remaining provisions of the Amendment Act was determined in consultation with health departments in all States, Territories and the Australian Government. The Australian Health Practitioner Regulation Agency and the Office of the Health

Ombudsman, who will be involved in implementing the amendments that this Proclamation commences, support the commencement date in the Proclamation.

Queensland Health has assessed the Proclamation in accordance with the *Queensland Government Better Regulation Policy*, as being excluded from regulatory impact assessment under exclusion category (g) as it is machinery in nature. Therefore, consultation with the Office of Best Practice Regulation, Queensland Treasury is not required.

The Office of Best Practice Regulation was notified of this assessment when developing the Impact Analysis Statement for the amendments. The Minister for Health, Mental Health and Ambulance Services and Minister for Women and the Director-General of Queensland Health are satisfied that the regulatory review requirements have been made and have approved the Impact Analysis Statement for publication.