

HEALTH SERVICES AMENDMENT BILL 1995

EXPLANATORY NOTE

GENERAL OUTLINE

Short title

Health Services Amendment Bill 1995

Objectives of the legislation

The object of the Bill is to repeal a provision of the *Health Services Act 1991* which deals with indemnity of employees, members and agents of regional health authorities. The legislation also provides for routine machinery amendments.

Reasons for the Bill

Section 3.35 of the *Health Services Act 1991* confers a limited right of indemnity upon employees, members and agents of regional health authorities. There have been longstanding concerns by medical practitioners and other stakeholders about the effect of this section upon the ability of regional health authorities to provide indemnity where an employee has been negligent. While this section does not limit an authority's power to provide indemnity, it has caused considerable confusion and distress amongst stakeholders. The repeal of this section will have little practical effect in the negligence context as the indemnity of employees and others is provided by administrative policy. The repeal will be complemented by a revised indemnity policy.

Estimated Cost for Government Implementation

The repeal of this section has no practical effect on the government's approach to the provision of indemnity. There are no additional costs arising out of the legislation.

Fundamental Legislative Principles

While the omission of Section 3.35 removes a limited statutory right to indemnity, the provision is not one which must appear in legislation as indemnity is provided for by administrative policy. Consequently, there are no fundamental legislative principles implications in its omission.

Consultation

This Bill was developed in consultation with relevant health industry stakeholders.

NOTES ON PROVISIONS

Clause 1 provides a short title for the legislation.

Clause 2 provides for the commencement of the legislation by proclamation.

Clause 3 states which Act is amended by the legislation.

Clauses 4—13 either omit or amend machinery provisions which are otherwise provided for under legislation such as the *Acts Interpretation Act 1954* or *Statutory Instruments Act 1992*. The purpose of these amendments is to improve the quality of the statute.

Clause 14 repeals section 3.35 of the *Health Services Act 1991*.

Clauses 15—19 either omit or amend machinery provisions which are otherwise provided for under other legislation such as the *Statutory Instruments Act 1992* or *Acts Interpretation Act 1954*. The purpose of these amendments is to improve the quality of the statute.