

# **Proclamation – Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022**

Explanatory notes for SL 2023 No. 37

made under the

*Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022*

## **General Outline**

### **Short title**

Proclamation commencing certain 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 certain provisions of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* (Amendment Act) on 15 May 2023. The Amendment Act was passed by the Legislative Assembly on 13 October 2022 and received Royal Assent on 21 October 2022.

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 professions.

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 deal with under the National Law.

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. 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*.

The Proclamation will commence provisions on 15 May 2023 that make amendments that do the following:

- allow National Boards to accept an undertaking from a person when deciding that person's application for registration or endorsement of registration;
- set out the process for a National Board to change or remove a condition imposed on an endorsement of registration;
- allow National Boards to withdraw a practitioner's registration if it was improperly obtained because of the provision of false or misleading information or documents;
- require registered health practitioners and students to report charges and convictions related to regulated medicines and poisons to the relevant National Board;
- allow National Boards to take disciplinary action against persons who continue to practice or use a protected title after their registration has lapsed;
- clarify when disciplinary action may be taken in relation to a health practitioner while the practitioner was unregistered;
- empower regulators to require practitioners to provide information or documents to support a preliminary assessment of a notification, subject to the practitioner having a reasonable excuse not to provide such material;
- remove barriers to information sharing to protect the public and enable more efficient and appropriate resolution of notifications;
- allow a prohibition order issued by a tribunal to place restrictions on a practitioner's provision of health services, in addition to the current ability to prohibit the provision of specified health services or the use of a title;
- align the maximum penalties for prohibition orders and interim prohibition orders issued under the *Health Ombudsman Act* with those of the National Law;
- empower the Health Ombudsman and national regulators to issue public statements about persons whose conduct poses a serious risk to public health and safety;
- allow a National Board to refer a matter (or a part of the matter), after preliminary assessment, to another appropriate entity to take further regulatory action;
- amend show cause processes to:
  - remove the ability for National Boards to waive a show cause process when proposing to take certain disciplinary actions; and
  - allow National Boards, after undertaking a show cause process, to take the most appropriate regulatory action based on all relevant information available to them;
- give National Boards limited discretion to decide not to refer matters to a tribunal where there is no public interest in making such referral; and
- make minor amendments to reflect the repeal of the *Medicare Australia Act 1973* (Cth).

Commencement of these provisions will strengthen public protection and increase public confidence in health services provided by practitioners registered under the National Law.

The remaining provisions of the Amendment Act will be commenced in a separate, later Proclamation.

## **Achievement of policy objectives**

The policy objective is achieved by fixing 15 May 2023 for the commencement of certain provisions of the Amendment Act that are not yet in force.

## **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 inconsistency with the policy objectives of other legislation has been identified.

## **Alternative ways of achieving policy objectives**

The Proclamation is the only effective means of achieving the policy objective.

## **Benefits and costs of implementation**

Commencement of the Amendment Act in stages takes into account the operational needs of impacted external stakeholders, providing them with appropriate lead time to support implementation.

The amendments that will be commenced by the Proclamation can be met through existing budgets.

## **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 defined in section 4 of the *Legislative Standards Act 1992*. The Proclamation does not engage any additional fundamental legislative principles.

## **Consultation**

A wide range of stakeholders were consulted in the development of the Amendment Act. This is outlined in detail in the Explanatory Notes to that Act.

The timeframes for commencing provisions of the Amendment Act were determined in consultation with departments with responsibility for health in all States, Territories and the Australian Government.

The Office of the Health Ombudsman and the Australian Health Practitioner Regulation Agency, who will be involved in implementing the amendments that this Proclamation commences, support the commencement date in the Proclamation.

The Proclamation was assessed by Queensland Health, in accordance with *The Queensland Government Guide to Better Regulation*, as being excluded from regulatory impact assessment under exclusion category (g), on the basis that the Proclamation is machinery in nature. Therefore, consultation with the Office of Best Practice Regulation, Queensland Treasury was not required.

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