

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

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable Yvette D’Ath MP, Minister for Health and Ambulance Services and Leader of the House provide this human rights certificate with respect to the Proclamation made under the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022*.

In my opinion, the Proclamation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

## Overview of the Subordinate Legislation

The Proclamation fixes 15 May 2023 for commencing certain provisions of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* (Amendment Act) that did not commence on Royal Assent.

### *Amendment Act*

The Amendment Act was passed by the Legislative Assembly on 13 October 2022 and received Royal Assent on 21 October 2022. It 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*.

### *Proclamation*

The overall purpose of the amendments commenced by this Proclamation is to strengthen public protection and increase public confidence in health services provided by practitioners registered under the National Law. The amendments to be commenced also improve the

governance and administration of the National Scheme and ensure that the National Law remains up to date and fit for purpose.

The provisions that will commence on 15 May 2023 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).

The remaining provisions of the Amendment Act that have not yet commenced will be commenced in a later Proclamation.

## Human Rights Issues

### Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The Amendment Act engages and limits human rights. The Statement of Compatibility that accompanied the Amendment Act details how the provisions of that Act are reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom under section 13 of the Human Rights Act.

The Proclamation itself does not engage any human rights. There are no human rights limited by the Proclamation commencing the remaining amendments of the National Law, Health Ombudsman Act and *Health Practitioner Regulation National Law Act 2009* later than the other provisions of the Amendment Act.

## Conclusion

I consider that the Proclamation - *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

**YVETTE D'ATH MP**  
MINISTER FOR HEALTH and AMBULANCE SERVICES  
and LEADER OF THE HOUSE

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