

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**Health Professions Boards (Procedures)
(Amendment) Bill (No.2) 1997**

EXPLANATORY MEMORANDUM

Circulated by Authority of
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Minister for Health and Community Care

Outline

The *Health Professions Boards (Procedures) (Amendment) Bill (No. 2) 1997*, amends the *Health Professions Boards (Procedures) Act 1981* (the Procedures Act) by adding a provision which will entitle a members of a board to receive remuneration for time spent sitting on board Inquiries.

The Procedures Act outlines the manner in which health professions boards are required to conduct their activities in administering their respective Acts and the manner in which proceedings before boards are to be conducted by:

- Chiropractors and Osteopaths Board,
- Dental Board;
- Medical Board;
- Nurses Board;
- Optometrists Board;
- Pharmacy Board;
- Physiotherapists Board;
- Podiatrists Board;
- Psychologists Board; and the
- Veterinary Surgeons Board.

A proceeding under section 3 of the Procedures Act is defined as an Inquiry held pursuant to section 32 of the *Chiropractors and Osteopaths Act 1983*, section 67 of the *Dentists Act 1931*, section 42 of the *Medical Practitioners Act 1930*, section 66 of the *Nurses Act 1988*, section 40 of the *Optometrists Act 1956*, section 41 of the *Pharmacy Act 1931*, section 38 of the *Physiotherapists Act 1977*, section 38 of the *Podiatrists Act 1994*, section 38 of the *Psychologists Act 1994* and section 45 of the *Veterinary Surgeons Act 1965*.

Before a board can take any disciplinary action against a practitioner registered under any of the respective Acts it must first hold an Inquiry. Persons appointed or elected to health professions boards provide their time and expertise on a voluntary basis.

Section 13 of the Procedures Act provides that a member of a board is not entitled to be paid in respect of any duties or functions performed by him or her in his or her capacity as a member.

Inquiries into complex matters relating to the conduct of a practitioner have the potential to be lengthy and the boards are compromised in carrying out their legislated disciplinary responsibilities through members, because of commitments to their practice or employment, not being available to sit on Inquiries for protracted periods of time.

The insertion of a provision into Section 13 of the Procedures Act will entitle Board members to remuneration for time spent sitting on Inquiries.

Determinations in relation to remuneration will be made by the Remuneration Tribunal. An interim determination will be made by the Minister while awaiting the final Determination by the Remuneration Tribunal.

The *Health Professions Board (Procedures) (Amendment) Bill (No.2) 1997* also amends subsection 23(1) of the Procedures Act by inserting a provision which will allow a member of a Board who is a legal practitioner to preside at and Inquiry in the absence of the Chairperson. In any other case the legal practitioner will be able to assist the Board in its deliberations and on technical legal matters.

This will ensure that Board Inquiries are conducted in accordance with natural justice principles and will minimise the likelihood of Board decisions being overturned by Tribunals or Courts of Appeal.

Financial Implications

There are financial implications arising from this Bill.

Historical data suggests that there are approximately 10 Inquiries held each year across all health profession registration boards, with most Inquiries taking about one full day. Based on the rate paid to members of the Professional Standards Tribunal of the ACT Law Society, the cost per day for an Inquiry would be about \$2,200. This would result in an annual cost for the remuneration of members of around \$22,000.

The cost of providing remuneration for board members sitting on inquiries will be met from within the total budget allocation provided to the Department of Health and Community Care.

Detail of the Bill

Short Title

This is a formal requirement which provides the short title by which the Bill may be cited once passed, being the *Health Professions Board (Procedures) (Amendment) Act (No.2) 1997*.

Clause 2

Commencement

This is a formal requirement which states the procedure for commencement of the clauses of the Bill. All clauses of the Bill will take effect from the date on which the Bill is notified in the *Gazette*.

Clause 3

Principal Act

This clause defines the term 'Principal Act', as referred to in the Bill, as the *Health Professions Board (Procedures) Act 1981*.

**Clause 4
Remuneration**

This Clause amends Section 13 of the Principal Act to provide for remuneration for members for time spent sitting on board inquiries. This does not provide for remuneration for Board meetings or other duties performed by members in their capacity as a Board member.

**Clause 5
Conduct of Proceedings**

This Clause amends Section 23 of the Act by enabling a member of a health professions registration board, who is a legal practitioner, to preside over an Inquiry of Board in the absence of the Chairperson of the Board.