

Australian Capital Territory

HEALTH PROFESSIONALS AMENDMENT REGULATION 2007 (No 1)

Explanatory Statement

Circulated with the authority of
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EXPLANATORY STATEMENT

Authority

This Regulation is authorised by section 134 of the *Health Professionals Act 2004*.

Outline

The amendments proposed in this Regulation are to provide for the transfer of the nine regulated allied health professions to the *Health Professionals Act 2004*. The Regulation contains the nine allied health profession schedules, which provide the profession specific registration requirements for the regulated allied health professions in the ACT. The schedules are the result of extensive consultation with members of the nine regulated allied health professions and key stakeholders. From the 9 January 2007 the Regulation will apply the provisions of the *Health Professional Act 2004* to the nine regulated allied health professions in the ACT. In addition there have been some consequential changes to maintain consistency in respect of the regulation of all health professions in the ACT

Revenue/Cost Implications

There is no additional cost involved in this Regulation.

Formal Clauses

Clause 1 – Name of Regulation – states the title of the Regulation, which is the *Health Professionals Amendment Regulation 2007 (No 1)*.

Clause 2 – Commencement – states when the Regulation commences. Section 41 commences on 7 January 2007 and the remaining provisions commence on 9 January 2007.

Clause 3 – Legislation amended – provides that this Regulation amends the *Health Professionals Regulation 2004*.

Clause 4 – New section 3A – inserts a new provision to cover the application of the Criminal code to the offences included in the Regulation. It includes two drafters notes referring the reader to the Criminal Code and to the *Legislation Act 2001*.

Clause 5 – New section 21(2) – inserts a new subsection to make it clear that the executive officer of a health professional board may delegate a function given to that officer under a territory law to a public servant including a registrar of the board.

Clause 6 – Section 112 – substitutes a new section 112 which incorporates all application requirement matters that are common across all health professions regulated in the ACT. Matters that are required for applications for registration that are peculiar to a particular health profession are included in the respective health profession schedule.

Clause 7 – Section 114 – substitutes a new section 114 which includes a drafters note regarding the application of mutual recognition laws and a new subsection to make it clear that a corporation is suitable to practise a profession in the ACT if each director of the corporation is suitable to practise the profession.

Clause 8 – New section 115(1) (aa) – inserts a new subsection to make it clear that general competence to practise includes the requirement that the person has the communication skills that allow the person to practise the profession effectively without endangering patients.

Clause 9 – New section 115(1A) – inserts a new subsection to make it clear that in assessing whether a corporation is generally competent to practise a profession the health professional board must consider the matters in subsection (1) (a) to (d) in relation to each director of the corporation.

Clause 10 – New section 115A – inserts a new section dealing with short term registration which was a feature of all the schedules and has now been moved to the main body of the regulation for consistency.

Clause 11 – New section 129(2) – inserts a new provision as a consequential amendment to the provisions relating to suitability to practise requirements relating to corporations which requires that in the case of corporations all directors are required to maintain their suitability to practise if the corporation is to be allowed to continue to practise.

Clause 12 – Schedule 1 – substitutes a new schedule 1 which lists the regulated professions under the Act.

Clause 13 – Schedule 2, new note – substitutes a new drafters note into schedule 2 to explain that the Act and Regulation contain general provisions that are applicable to all professions. This note is to assist users of the schedules to access other provisions of the Act and regulation that may be applicable.

Clause 14 – Schedule 2, New section 2.1A – inserts a new section before section 2.1 to include the definitions for board, medical practitioner and regulatory authority that are relevant to this schedule.

Clause 15 – Schedule 2, Section 2.2 (1) (b) – substitutes a new section to remove the term writing which is already made a requirement under section 4(3) which incorporates all application requirement matters that are common across all health professions regulated in the ACT. Matters that are required for applications for registration that are peculiar to a particular health profession are included in the respective health profession schedule.

Clause 16 – Schedule 2, section 2.3 – is omitted to account for the fact that these requirements are already required under other parts of the Act section 37(1) (b) and the regulation.

Clause 17 – Schedule 2, section 2.4, table 2.4, item 7 – substitutes a new qualification for the specialty of general practice.

Clause 18 – Schedule 2, section 2.4, table 2.4, item 11 – substitutes a new qualification for the specialty of ophthalmology.

Clause 19 – Schedule 2, section 2.4, table 2.4, new item 11B – inserts a new specialty area of palliative medicine and the relevant qualification.

Clause 20 – Schedule 2, section 2.5 – substitutes a new section to incorporate the definition of professional development activity and to reduce for the purpose of establishing recency of practise the number of hours worked each week from ten to eight.

Clause 21 – Schedule 2, Section 2.7 (2) – substitutes a new subsection to clarify the meaning of the other insurance referred to in the subsection.

Clause 22 – Schedule 2, sections 2.8 to 2.10 – substitutes a new section for 2.8 consequential on the amendment made to section 112 above regarding application requirements common to all health professions that have now been moved up into the body of the Regulation. Substitutes a new section 2.9 to make it clear in subparagraph (1) (b) that the clinical placement may or may not be for the completion of a course accredited by the AMC. Omits current section 2.10 which has now been moved up into the body of the Regulation.

Clause 23 – Schedule 2, further amendments, mentions of medical board – substitutes the word board for medical board in various section consequential on the inclusion of the definition of board in the dictionary section at section 2.1.

Clause 24 – Schedule 3, new note – substitutes a new drafters note into schedule 3 to explain that the Act and Regulation contain general provisions that are applicable to all professions. This note is to assist users of the schedules to access other provisions of the Act and regulation that may be applicable.

Clause 25 – Schedule 3, Section 3.1, definition of enrolled nurse – inserts a new definition of enrolled nurse.

Clause 26 – Schedule 3, Section 3.1, definition of nurse practitioner – inserts a new definition of nurse practitioner to make it clear that a nurse practitioner is a nurse registered in the specialist area of nurse practitioner.

Clause 27 – Schedule 3, section 3.6 – is omitted to account for the fact that these requirements are already required under other parts of the Act section 37(1) (b) and the regulation.

Clause 28 – Schedule 3, section 3.7(2) and (4) – substitutes the word specialist for the word specialty in this section for consistency of wording within the schedule.

Clause 29 – Schedule 3, section 3.8 – substitutes a new section to improve the drafting and layout of the section and to make it clear that the board has a discretion in respect of approving recency of practice and professional development requirements.

Clause 30 – Schedule 3, section 3.10 and 3.11 – omits these two sections which have now been moved up into the body of the Regulation at section 112 and section 115A.

Clause 31 – Schedule 3, Sections 3.12 (2) (a) and 3.13(4) (b) – inserts the requirement that where a registered nurse is required to supervise an enrolled nurse or a nurse on a refresher course then the registered nurse undertaking the supervision must be entitled to practice nursing without supervision.

Clause 32 – Schedule 4, new note – substitutes a new drafters note into schedule 4 to explain that the Act and Regulation contain general provisions that are applicable to all professions. This note is to assist users of the schedules to access other provisions of the Act and regulation that may be applicable.

Clause 33 – Schedule 4, Section 4.1, new definition of midwife – inserts a definition of midwife into the dictionary for this schedule.

Clause 34 – Schedule 4, section 4.5 and 4.6 – omits current section 4.5 which is now required under other parts of the Act section 37(1) (b) and the regulation and substitutes a new section 4.5 old 4.6 to improve the drafting and layout of that section and to make it clear that the board has a discretion in respect of approving recency of practice and professional development requirements.

Clause 35 – Schedule 4, section 4.8 and 4.9 – omits these two sections which have now been moved up into the body of the Regulation at section 112 and section 115A.

Clause 36 – Schedule 4, Sections 4.10 (2) (a) and 4.11(2) (b) – inserts the requirement that where a midwife is required to supervise an overseas midwife or a midwife on a refresher course then the registered midwife undertaking the supervision must be entitled to practice midwifery without supervision.

Clause 37 – New Schedules 5 to 12 – inserts new Schedules 5 to 12.

Schedule 5 covers the pharmacy profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of

pharmacists. The Schedule is comprehensive and covers definitions used in the schedule (section 5.1) restrictions on pharmacy premises (section 5.2 and 5.3) the general area of practice of the pharmacy profession (section 5.4), qualifications for registration (section 5.5), qualifications to practice as a corporate pharmacist (section 5.6), maintenance of continued competence, recency of practice and professional development (section 5.7). In addition, Schedule 5 includes details regarding Board membership (section 5.8), required insurance policy (section 5.9), conditional registration overseas pharmacists (section 5.10), conditional registration for pharmacists who want to teach (section 5.11), conditional registration for non practising pharmacists (section 5.12) and the continued operation of a pharmacy business on the death of a pharmacist (section 5.14). The registration renewal date for pharmacists is set by section 5.15 to be 31 October of each year.

Schedule 6 covers dentists, dental hygienists and dental therapist profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of these professions. The Schedule is comprehensive and covers definitions used in the schedule (section 6.1) the general area of practice of the dentist profession (section 6.2), the general area of practice of the dental hygienist profession (section 6.3), the general area of practice of the dental therapist profession (section 6.4), qualifications for registration (section 6.5), transitional arrangements for qualifications to practice as a dental therapists (section 6.6), specialist area requirements for dentists (section 6.7), maintenance of continued competence, recency of practice and professional development (section 6.8). In addition, Schedule 6 includes details regarding Board membership (section 6.9), required insurance policy (section 6.10), conditional registration of students (section 6.11), conditional registration of dentists with unapproved qualifications (section 6.12), conditional registration for dentists who want to teach (section 6.13), conditional registration for non practising dentists (section 6.14). The registration renewal date for dentists is set by section 6.16 to be 30 June of each year.

Schedule 7 covers the psychology profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of psychologists. The Schedule is comprehensive and covers definitions used in the schedule (section 7.1), the general area of practice of the psychology profession (section 7.2), qualifications for registration (section 7.3), maintenance of continued competence, recency of practice and professional development (section 7.4). In addition, Schedule 7 includes details regarding Board membership (section 7.5), required insurance policy (section 7.6), conditional registration of student psychologists (section 7.7), conditional registration for non practising psychologists (section 7.8). The registration renewal date for psychologists is set by section 7.10 to be 31 July of each year.

Schedule 8 covers dental technicians and dental prosthetists profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of these professions. The Schedule is comprehensive and covers definitions used in the schedule (section 8.1) the general area of practice of the dental technician profession (section 8.2), the general area of practice of the dental prosthetists profession (section 8.3), qualifications for registration (section 8.4), qualifications for registration as corporate dental prosthetists and corporate dental technician profession (section 8.5), maintenance of continued competence, recency of practice and professional development (section 8.6). In addition, Schedule 8 includes details regarding Board membership (section 8.7), required insurance policy for dental technicians (section 8.8), required insurance policy for dental prosthetists (section 8.9), conditional registration of dental prosthetists with unapproved qualifications (section 8.10), conditional registration of dental technicians with unapproved qualifications (section 8.11), conditional registration for dental prosthetists and dental technicians who want to teach (section 8.12), conditional registration for non practising dental prosthetists and dental technicians (section 8.13). The registration renewal date for dental technicians and dental prosthetists is set by section 8.15 to be 1 September of each year.

Schedule 9 covers the podiatrists profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of podiatrists. The Schedule is comprehensive and covers definitions used in the schedule (section 9.1), the general area of practice of the podiatry profession (section 9.2), qualifications for registration (section 9.3), maintenance of continued competence, recency of practice and professional development (section 9.4). In addition, Schedule 9 includes details regarding Board membership

(section 9.5), required insurance policy (section 9.6), conditional registration for non practising podiatrists (section 9.7). The registration renewal date for podiatrists is set by section 9.9 to be 28 February of each year.

Schedule 10 covers the physiotherapist's profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of physiotherapists. The Schedule is comprehensive and covers definitions used in the schedule (section 10.1), the general area of practice of the physiotherapists profession (section 10.2), qualifications for registration (section 10.3), maintenance of continued competence, recency of practice and professional development (section 10.4). In addition, Schedule 10 includes details regarding Board membership (section 10.5), required insurance policy (section 10.6), conditional registration for physiotherapists on work programs (section 10.7), conditional registration for non practising physiotherapists (section 10.8). The registration renewal date for physiotherapists is set by section 10.10 to be 31 August of each year.

Schedule 11 covers the optometrist's profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of optometrists. The Schedule is comprehensive and covers definitions used in the schedule (section 11.1), the general area of practice of the optometry profession (section 11.2), qualifications for registration (section 11.3), maintenance of continued competence, recency of practice and professional development (section 11.4). In addition, Schedule 11 includes details regarding Board membership (section 11.5), required insurance policy (section 11.6), conditional registration for non practising optometrists (section 11.7). The registration renewal date for optometrists is set by section 11.9 to be 30 June of each year.

Schedule 12 covers the veterinary surgeon's profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of veterinary surgeons. The Schedule is comprehensive and covers definitions used in the schedule (section 12.1), the general area of practice of the veterinary surgeon's profession (section 12.2), qualifications for registration (section 12.3), specialist area requirements for veterinary surgeons (section 12.4), maintenance of continued competence, recency of practice and professional development (section 12.5). In addition, Schedule 12 includes details regarding Board membership (section 12.6), required insurance policy (section 12.7). The registration renewal date for veterinary surgeons is set by section 12.9 to be 30 June of each year.

Clause 38 –Schedules 13 – inserts Schedule 13.

Schedule 13 covers the chiropractor's profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of chiropractors. The Schedule is comprehensive and covers definitions used in the schedule (section 13.1), the general area of practice of the chiropractor's profession (section 13.2), qualifications for registration (section 13.3), maintenance of continued competence, recency of practice and professional development (section 13.4). In addition, Schedule 13 includes details regarding Board membership (section 13.5), required insurance policy (section 13.6), conditional registration for non practising chiropractors (section 13.7). The registration renewal date for chiropractors is set by section 13.9 to be 31 August of each year.

Clause 39 –Schedules 14 – inserts Schedule 14.

Schedule 14 covers the osteopath's profession and has been developed following extensive consultation with members of the profession, key stakeholders and organisations that represent the interests of osteopaths. The Schedule is comprehensive and covers definitions used in the schedule (section 14.1), the general area of practice of the osteopath's profession (section 14.2), qualifications for registration (section 14.3), maintenance of continued competence, recency of practice and professional development (section 14.4). In addition, Schedule 14 includes details regarding Board membership (section 14.5), required insurance policy (section 14.6), conditional registration for non practising osteopaths (section 14.7). The registration renewal date for osteopaths is set by section 14.9 to be 31 August of each year.

Clause 40 – Dictionary, note 2— inserts new drafters note in the dictionary to refer readers to the definitions contained in the *Legislation Act 2001*.

Clause 41 –Health Professionals Amendment Regulation 2005 (No 1) Section 24 (so far as it inserts schedules 1, items 2to 11, and schedules 5 to 12) – is omitted to avoid duplication of provisions now inserted as a result of the amendment in clause 2.