

**2009**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**HEALTH LEGISLATION AMENDMENT BILL 2009**

**EXPLANATORY STATEMENT**

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## EXPLANATORY STATEMENT

### OVERVIEW

The Health Legislation Amendment Bill 2009 intends to amend:

- (a) The *Drugs of Dependence Act 1989* to consolidate the laws regarding alcohol and drug rehabilitation; and
- (b) The *Health Records (Privacy and Access) Act 1997* to allow the destruction of health records when they are replaced by an electronic copy.

### DETAIL

#### Part 1 Preliminary

##### Clause 1 Name of Act

This clause is a technical clause and sets out the name of the proposed Act as the *Health Legislation Amendment Act 2009*.

##### Clause 2 Commencement

This clause is a technical clause setting out when commencement of the Act will occur. It is intended that commencement will occur on a day/or days fixed by the Minister by written notice.

#### Part 2 Drugs of Dependence Act 1989

##### Clause 3 Legislation amended—part 2

This clause identifies the first Act to be amended, namely the *Drugs of Dependence Act 1989*.

##### Clause 4 Treatment Part 9

This clause repeals Part 9 of the *Drugs of Dependence Act 1989* which deals with assessment and treatment orders, treatment assessment panels and approval of treatment centres.

It is intended that all matters relating to the treatment of drug and alcohol dependencies as prescribed under Part 9 of the *Drugs of Dependence Act 1989* be assumed or consolidated under Part 6.2 of the *Crimes (Sentencing) Act 2005*, which deals with good behaviour orders.

Where 'treatment' and all matters relating to 'treatment' are referred to in the *Drugs of Dependence Act 1989*, these references are now intended to be read consistently with rehabilitation programs (however named) as envisioned by section 93 of the *Crimes (Sentencing) Act 2005* and relevant Regulations.

It is the intention of the legislature that there should be a consolidated legislative authority to handle the rehabilitation of individuals captured within the criminal justice system as a result, either in whole or in part, of alcohol and/or drug dependencies. For this reason, there should not be duplication or repetition of laws, or inconsistencies in approach between two separate pieces of legislation dealing with the same or similar subject matters.

As such, to avoid confusion and unnecessary complication, it is the intention of the legislature that the treatment scheme under the *Drugs of Dependence Act 1989* be replaced entirely by the good behaviour orders scheme as envisioned in ACT crimes legislation, despite any residual appearance or implication that may be derived from the *Drugs of Dependence Act 1989*.

**Clause 5      Inspection**  
**Division 11.2**

This clause repeals Division 11.2 dealing with inspections of treatment centres which will become redundant following the commencement of Clause 4.

**Clause 6      Notification and review of decisions**  
**Part 12**

This clause repeals Part 12 dealing with the review of decisions relating to the approval of treatment centres which will become redundant following the commencement of Clause 4.

**Clause 7      Secrecy**  
**Section 201 (1)**

The clause removes reference to 'a treatment centre inspector' from section 201(1) which will become redundant following the commencement of Clause 4.

**Clause 8      Section 201(3)(a)**

This clause removes paragraph 201(3)(a) regarding the disclosure of information to a treatment centre which will become redundant following the commencement of Clause 4.

**Clause 9      Reviewable decisions**  
**Schedule 1**

This clause repeals Schedule 1 outlining reviewable decisions relating to the approval of treatment centres to remain consistent with Clause 6.

**Clause 10 Dictionary**

This clause removes definitions from the dictionary to remain consistent with Clause 4.

## **Part 3 Health Records (Privacy and Access) Act 1997**

**Clause 11 Legislation amended—pt 3**

This clause identifies the second Act to be amended, namely the *Health Records (Privacy and Access) Act 1997*.

### **Clause 12 The privacy principles Schedule 1, principle 4.1, new clause 3(c)**

This clause adds a new paragraph 3(c) to principle 4.1. It is the intention of the legislature that where an electronic copy of a health record has been generated in accordance with the *Electronic Transactions Act 2001* and has been done so to continue the life of a physical copy and/or original, then the physical copy and/or original can be destroyed without attracting sanction. The word 'physical' is intended to be read broadly, and may, but is not limited to the inclusion of x-rays, photographs, paper medical notes, assessments and histories, prescription forms etc. An alternative intention to generate an electronic copy of a health record other than to continue the life of a physical copy and/or original does not exclude the generation from the intended operation of this clause.

## **Schedule 1 Consequential amendments**

### **Part 1.1 Children and Young People Act 2008**

**[1.1] Dictionary, definition of *drug of dependence***

The clause corrects a previous referencing error to the definition of *drug of dependence*.

**[1.2] Rule 4700, definition of *sentence*, example 3**

This clause removes example 3 of Rule 4700 referring to treatment orders under the *Drugs of Dependence Act 1989* which will become incorrect following the commencement of Clause 4.

**[1.3] Rule 5000, definition of sentence, example 3**

This clause removes example 3 of Rule 5000 referring to treatment orders under the *Drugs of Dependence Act 1989* for the same reason as stated in Clause [1.2].

**Part 1.3 Crimes Sentencing Act 2005**

**[1.4] Section 13(3)(g), note 1**

This clause removes note 1 from paragraph 13(3)(g) referring to treatment orders under the *Drugs of Dependence Act 1989* for the same reason as stated in Clause [1.2].

**[1.5] Section 29(1)(i)**

This clause removes paragraph 29(1)(i) referring to treatment orders under the *Drugs of Dependence Act 1989* for the same reason as stated in Clause [1.2].