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Explanatory Statement

HEALTH PRACTITIONER REGULATION (NATIONAL UNIFORM LEGISLATION) AND OTHER LEGISLATION AMENDMENT BILL 2018

SERIAL NO. 64

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

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MINISTER FOR HEALTH

EXPLANATORY STATEMENT

GENERAL OUTLINE

This Bill amends the *Health Practitioner Regulation (National Uniform Legislation) Act* and Other Northern Territory legislation.

The purpose of this Bill is to make consequential amendments to Northern Territory legislation arising from enactment of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2017* (QLD). The consequential amendments, among other things, deal with provisions to end, shorten and amend prohibition orders made under the *Health Practitioner Regulation National Law NT*; definitions related to the nursing, midwifery and paramedicine professions; and authorisations granted to paramedics under the *Medicines, Poisons and Therapeutic Goods Act* and the *Mental Health and Related Services Act*.

NOTES ON CLAUSES

PART 1 PRELIMINARY MATTERS

Clause 1. Short Title.

This is a formal clause which provides for the citation of the Bill. The Bill when passed will be cited as the *Health Practitioner Regulation (National Uniform Legislation) and Other Legislation Amendment Act 2018*.

Clause 2. Commencement.

This clause sets out how the Amendment Act will be commenced. In this case this will be done on the day after the day on which the Administrator's assent to the Act is declared.

PART 2 AMENDMENT OF HEALTH PRACTITIONER REGULATION (NATIONAL UNIFORM LEGISLATION) ACT

Clause 3. Act amended

This clause cites the *Health Practitioner Regulation National (National Uniform Legislation) Act* as the Act amended by this Part of the Amendment Act.

Clause 4. Section 3 amended (Definitions)

Amends section 3(1) in providing a definition of *Tribunal*. In this case meaning the Civil and Administrative Tribunal.

Clause 5. Section 5 amended (Meaning of generic terms in Health Practitioner Regulation National Law for purposes of this jurisdiction)

Amends section 5(1) for the purpose of providing a reference in the *Health Practitioner Regulation National Law (NT)* to the Legislative Assembly where that Act refers to other descriptions of houses of Parliament.

Clause 6. Section 6 replaced

- a) Repeals section 6 of the Act and inserts a new section 6 declaring the Tribunal a responsible tribunal for the *Health Practitioner Regulation National Law (NT)*.
- b) Inserts a new section 6A permitting an application to the Tribunal to end, shorten or amend a prohibition order made by the Tribunal (subsection 1), providing that:
 - I. Subsection 2 prevents an application being made any earlier than five years after the date of the prohibition order, or while the terms of an order provide prevent an order being made.
 - II. Subsection 3 sets out the decision making powers of the Tribunal being to dismiss an application, or ending, shortening or amending the order.
 - III. Subsection 4 permits the Tribunal to make an order preventing the person from making a further application for a specified period of time.
 - IV. Subsection 5 sets out the matters the Tribunal must take into account when making its decision. These are; the time elapsed since the making of the order, any material change in circumstances of the applicant, any complaints made under the *Health Practitioner Regulation National Law (NT)*, and any other matter the Tribunal considers appropriate.
 - V. Subsection 6 automatically makes a relevant National Board (within the meaning of the *Health Practitioner Regulation National Law (NT)*) a party to the proceedings related to the application under this section.
 - VI. Subsection 7 makes clear that an application under these provisions is not a review of the Tribunal's original decision or any findings it made.
 - VII. Subsection 8 permits the Tribunal to make a costs order by excluding the provisions under section 131 of the *Northern Territory Civil and Administrative Tribunal Act* ("Parties bear own costs").
 - VIII. Subsection 9 prevents a subsequent review of the Tribunal's decision under these provisions by excluding section 140 of the *Northern Territory Civil and Administrative Tribunal Act* ("Review of original decision").
 - IX. Subsection 10 makes clear that a prohibition order under these provisions has the same meaning as section 5 of the *Health Practitioner Regulation National Law (NT)*.
- c) Inserts a new section 6B for making an application against an appellable decision, simplifying the process for applicants.

PART 3 CONSEQUENTIAL AMENDMENTS

Division 1 Amendment of Education Act

Clause 7. Act amended

This clause cites the *Education Act* as the Act amended by this Part of the Amendment Act.

Clause 8. Section 89 amended (Medical and dental inspections)

This clause permits the Minister to authorise a midwife to attend any government school for the purpose of medical examinations and advising the principal of the school on any matter relating to the health and welfare of students at the school.

Division 2 Amendment of Medicines, Poisons and Therapeutic Goods Act

Clause 9. Act amended

This clause cites the *Medicines, Poisons and Therapeutic Goods Act* as the Act amended by this Part of the Amendment Act.

Clause 10. Section 28A replaced

This clause repeals section 28A removing the definition of **approved ambulance officer** and inserts definitions of **paramedic** and **approved paramedic**. This amendment will enable these health practitioners to be authorised to deal with Scheduled medicines.

Clause 11. Section 254 amended

This clause enables the Chief Health Officer to approve a protocol for Scheduled substances for ambulance stations and ambulance vehicles. Ambulance vehicle is defined.

Clause 12. Act further amended

This clause references Schedule 1 in which the remaining consequential amendments to the *Medicines, Poisons and Therapeutic Goods Act* are set out.

Division 3 Amendment of Mental Health and Related Services Act

Clause 13. Act amended

This clause cites the *Mental Health and Related Services Act* as the Act amended by this Part of the Amendment Act.

Clause 14. Section 4 amended (Definitions)

This clause amends the definition of **registered nurse** to reflect the separation of the nursing and midwifery professions. The clause also repeals the definition of **ambulance officer** and inserts a definition of a paramedic in this section of the Act.

Clause 15. Section 23 amended (Designated mental health practitioners)

This clause replaces ambulance officer with paramedic for the purposes of appointing a designated mental health practitioner.

Clause 16. Section 24 repealed

This clause repeals section 24 of the Act which permitted the Chief Health Officer to appoint a person as an ambulance officer for the purposes of the Act. The section is no longer required due to the inclusion of paramedics in the Act.

Clause 17. Section 31 amended (Detention by ambulance officer)

This clause enables a paramedic to detain a person in accordance with section 31 of the Act under the same conditions previously applying to an ambulance officer.

Clause 18. Section 34 amended (Recommendation for a psychiatric examination)

This clause enables a paramedic appointed as a designated mental health practitioner to make a recommendation for a psychiatric examination of a person under the same conditions previously applying to an ambulance officer so appointed.

Clause 19. 35 amended (Emergency treatment)

This clause enables a paramedic to administer emergency treatment in accordance with section 35 under the same conditions previously applying to an ambulance officer.

Division 4 Amendment of Youth Justice Act

Clause 20. Act amended

This clause cites the *Youth Justice Act* as the Act amended by this Part of the Amendment Act.

Clause 21. Section 5 amended (Interpretation)

This clause amends the definitions of *nurse* and *midwife* to reflect the separation of the nursing and midwifery professions.

Clause 22. Section 154 amended (Use of force)

This clause amends section 154 enabling a midwife to conduct an examination in relation to the use of force on a detainee.

Clause 23. Section 160 amended (Detainee may be tested for alcohol or illicit drug)

Section 160(5) is amended to authorise a midwife to take a sample of a detainee's blood for alcohol or illicit drug testing.

Clause 24. Section 175 amended (Taking of medical sample)

Section 175 is amended to permit a midwife to take a medical sample for the purpose of determining a detainee's medical condition.

Division 5 Other laws amended

Clause 25. Other laws amended

This clause references Schedule 2 in which the remaining consequential amendments to the named legislation are set out.

Division 6 Repeal of Act

Clause 26. Repeal of Act

This clause repeals the Act on the day after it commences.

SCHEDULE 1 MEDICINES, POISONS AND THERAPEUTIC GOODS ACT FURTHER AMENDED

This Schedule replaces definitions of **approved ambulance officer** and **ambulance officer(s)** with **approved paramedic** and **paramedic(s)**. The Schedule amends the definitions of **nurse** and **midwife** to reflect the separation of the nursing and midwifery professions.

SCHEDULE 2 OTHER LAWS AMENDED

This Schedule amends the definitions of **nurse** and **midwife** to reflect the separation of the nursing and midwifery professions. The legislation amended is as follows:

- i. *Alcohol Harm Reduction Act 2017*
- ii. *Alcohol Harm Reduction Regulations*
- iii. *Criminal Code*
- iv. *Domestic and Family Violence Act*
- v. *Evidence Act*
- vi. *Meat Industries Act*
- vii. *Medical Services Act*
- viii. *Misuse of Drugs Act*
- ix. *Motor Accidents (Compensation) Act*
- x. *Police Administration Act*
- xi. *Private Hospitals Act*
- xii. *Public and Environmental Health Act*
- xiii. *Public and Environmental Health Regulations*
- xiv. *Rail Safety (National Uniform Legislation) Act*
- xv. *Return to Work Act*
- xvi. *Return to Work Regulations*
- xvii. *Termination of Pregnancy Law Reform Act*
- xviii. *Transplantation and Anatomy Act*
- xix. *Volatile Substance Abuse Prevention Act*

xx. Youth Justice Regulations

This clause amends regulation 32 to permit a midwife to attend at a detention centre. Regulation 38 is amended to define a midwife as a **health professional** in relation to a detainee who is at risk of self-harm. Regulation 57 is amended to enable a midwife to undertake an interim assessment of a detainee.