

**MEDICINES, POISONS AND THERAPEUTIC GOODS
AMENDMENT BILL 2013
SERIAL NO. 66**

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

MINISTER FOR HEALTH

EXPLANATORY STATEMENT

GENERAL OUTLINE

The overall aim of the amendment is to address identified anomalies; amend references to Aboriginal Health Workers to be in alignment with the amendments to the *Health Practitioner Regulation National Law* which facilitated the inclusion of this group of health practitioner into the National Registration and Accreditation Scheme (NRAS) changes under the *NT Health Practitioner Act 2012*; and to provide the framework to implement initiatives under the 5th Community Pharmacy Agreement between the Commonwealth and the Pharmacy Guild that have been agreed to nationally.

NOTES ON CLAUSES

Clause 1 Short Title

This is a formal clause which provides for the citation of the Bill. The Bill when passed may be cited as the *Medicines, Poisons and Therapeutic Goods Amendment Act 2013*.

Clause 2 Act amended

This clause amends the *Medicines, Poisons and Therapeutic Goods Act*

Clause 3 Section 5 amended

Clause 3 amends several definitions that were in the *Medicines, Poisons and*

Therapeutic Goods Act 2012 namely, ***Aboriginal health worker, approved Aboriginal health worker, pharmacy, record, sign*** and ***written***.

Aboriginal Health Workers had a title change when they joined the NRAS because they included two groups of health workers and wanted their title to reflect this. To maintain consistency with other health professions' definitions, the new definition links the definition of ***Aboriginal and Torres Strait Islander health practitioner*** to the one used in the Health Practitioner Regulation National Law.

With the commencement of the National Registration and Accreditation Scheme (NRAS), the Northern Territory *Health Practitioners Act* was amended resulting in a renumbering of the Schedules attached to that Act. Schedule 8 was renumbered Schedule 7. The *Medicines, Poisons and Therapeutic Goods Act 2012* used the Schedule 8 definition of ***pharmacy***. This definition has been amended to Schedule 7 of the *Health Practitioners Act*.

Section 5 definitions for ***record, sign*** and ***written*** are being repealed as it was identified that the definitions used were not consistent with the ones used in the *Electronic Transactions (Northern Territory) Act* and could potentially create a conflict in interpretation.

Section 5, definition ***prohibited circumstance***, paragraph (a) is repeated. The second occurrence has been renumbered as paragraph (b).

Clause 4 Section 19 amended

This clause amends the section 19 note regarding the issuing a prescription electronically so that reference is made to 'in accordance with the *Electronic Transactions Act*'.

Clause 5 Section 26 amended

This clause amends section 26 to provide definitions for ***dental hygienist*** and ***oral health therapist*** which relate to the registration of these dental professionals under NRAS.

Clause 6 Section 28 replaced

This clause amends section 28 to define ***Aboriginal and Torres Strait Islander health practitioner*** and ***approved Aboriginal and Torres Strait Islander health practitioner***. It also moves the definition of an ***approved ambulance officer*** to section 28A.

Clause 7 Section 34 amended

National agreement by the Council of Australian Governments following acceptance of the recommendations from the Galbally Review commissioned by the Productivity Commission was to abolish licences for Schedule 5 and 6 substances. Clause 7 amends section 34 to exclude them from the requirement for a manufacturer to be licensed.

Clause 8 Section 35 amended

National agreement by the Council of Australian Governments following acceptance of the recommendations from the Galbally Review commissioned by the Productivity Commission was to abolish licences for Schedule 5 and 6 substances. Clause 8 amends section 35 to exclude these substances from the requirement for a wholesaler to be licensed.

Clause 9 Section 59A inserted

Clause 9 adds a new section to the Act which will allow *pharmacists* to supply unrestricted Schedule 4 substances provided the supply of those substances is permitted under section 89A (1) of the *National Health Act 1953* (Commonwealth). This clause provides the framework to implement the ‘Continued Dispensing’ initiative as agreed to under the 5th Community Pharmacy Agreement between the Pharmacy Guild and the Commonwealth.

Clause 10 Section 62 replaced

Clause 10 amends section 62 to allow the Chief Health Officer by *Gazette* notice to approve *pharmacist* qualifications to administer Schedule 4 vaccines.

Clause 11 Section 63 replaced

Clause 11 amends section 63 to exclude the administration of a Schedule 4 vaccine unless the *Aboriginal and Torres Strait Islander health practitioner* has completed qualifications approved by the Chief Health Officer and published in the *Gazette*.

Clause 12 Section 65 amended

Clause 12 amends section 65 to exclude the administration of a Schedule 4 vaccine unless the *registered nurse* or *midwife* has completed qualifications approved by the Chief Health Officer and published in the *Gazette*.

Clause 13 Section 67 amended

Clause 13 amends section 67 so that *dental hygienists* and *oral health therapists* may in the course of practice in their respective professions, possess and

administer an unrestricted Schedule 4 substance in accordance with conditions declared under section 249.

Clause 14 Chapter 2, Part 2.3, Division 1, Subdivision 4 heading amended

Clause 14 amends this heading so that the term *practitioners* is used instead of the term *professionals*.

Clause 15 Section 70 repealed

Clause 15 repeals section 70 because the definitions of health profession and health professional are no longer required for sections 71, 72, 92 and 99.

Clause 16 Section 71 amended

Clause 16 amends section 71 by changing the term *professional* to *practitioner*. This change will then capture *Aboriginal and Torres Strait Islander health practitioners* under the definition of health practitioner.

Clause 17 Section 72 amended

Clause 17 amends section 72 by changing the term *professional* to *practitioner* because this term will capture *Aboriginal and Torres Strait Islander health practitioners* under the definition of health practitioner.

Clause 18 Section 92 amended

Clause 18 amends section 92 by changing the term *Aboriginal Health Worker* to *Aboriginal and Torres Strait Islander health practitioner*.

Clause 19 Section 99 amended

Clause 19 amends section 99 by clarifying the wording of section 99(1)(b) and by changing the term *professional* to *practitioner* because this term will capture *Aboriginal and Torres Strait Islander health practitioners* under the definition of health practitioner.

Clause 20 Section 100 amended

Clause 20 amends section 100 to provide clarity without changing the original intent of this section. A health practitioner commits an offence if they do not have a witness when they supply or administer a Schedule 8 substance to a patient, a resident of a residential facility or a person at a declared place and they do not record the supply or administration in the record prescribed by regulation for this purpose and do not ensure that the witness signs the register as prescribed in the regulations.

Sub-clause (2) (a) provides exemptions to this offence for health practitioners if they are unable to have the supply or administration of the substance witnessed by someone else because of the remote location, or other special circumstance, and they follow a Schedule substance treatment protocol. However, they are required to record in the person's clinical record the reason why there was no witness. Sub-clause (2) (b) provides an exemption for a pharmacist who supplies or administers restricted Schedule 8 substances to patients in a pharmacotherapy program.

Clause 21 Section 109 repealed

Clause 21 repeals section 109 because under the Poisons Standard paint containing 0.1% or greater of lead is banned and so this section is redundant.

Clause 22 Section 110 amended

Clause 22 amends section 110 because it is an offence to manufacture, supply or use a banned 3rd Schedule paint thus a regulation to this effect is not required.

Clause 23 Section 129 amended

Clause 23 amends section 129 by inserting '7' because it was identified that 'Schedule 7' substances should be included under a research authority to provide an approval process for the use of these substances for research purposes.

Clause 24 Section 144 amended

Clause 24 amends a typographic error in section 144 (a) (i) of the *Medicines, Poisons and Therapeutic Goods Act 2012*.

Clause 25 Section 249 amended

Clause 25 amends section 249 to allow the Chief Health Officer by notice in the Gazette to declare conditions for a *dental hygienist* or *oral health therapist* to possess or administer an unrestricted Schedule 4 substance.

Clause 26 Section 250 amended

Clause 26 amends section 250 by changing the term *Aboriginal Health Worker* to *Aboriginal and Torres Strait Islander health practitioner*.

Clause 27 Section 254 amended

Clause 27 amends section 254 by changing the term *Aboriginal Health Worker* to *Aboriginal and Torres Strait Islander health practitioner*.

Clause 28 Section 261 amended

Clause 28 amends section 261 by changing ‘Schedule 8’ to ‘scheduled’ thus allowing the Committee to advise the Chief Health Officer on the use or supply of medicines in all schedules.

Clause 29 Section 281 amended

Clause 29 amends section 281 to specify that a regulation can be made for the storage, transportation and destruction of regulated substances, and to clarify the regulation making power in relation to offences, and deleting an unnecessary reference to the maximum penalty of 100 penalty units as this is already provided for in the *Interpretation Act*.

Clause 30 Schedule 1 amended

Clause 30 amends a typographic error in Schedule 1.

Clause 31 Expiry of Act

Clause 31 specifies that this Act expires the day after it commences.