

Health Services Legislation Amendment Bill 2008

Introduction Print

EXPLANATORY MEMORANDUM

General

This Bill makes amendments to the **Health Services (Conciliation and Review) Act 1987** and the **Health Services Act 1988** and various consequential amendments to other Acts.

The amendments to the **Health Services (Conciliation and Review) Act 1987** will provide that members of the Health Services Review Council are appointed for a term of up to three years, and can serve a maximum of 9 consecutive years on the Council.

The amendments to the **Health Services Act 1988** provide a new regulatory framework for community health centres and provide for the annual general meeting of a multi purpose service to be held at any time between 1 July and 31 December.

PART 1—PRELIMINARY

Clause Notes

- Clause 1 sets out the main purposes of the Act.
- Clause 2 is the commencement provision. It provides for all clauses of the Bill except those dealing with community health centres to come into operation on the day after the day on which the Bill receives the Royal Assent.

The clauses dealing with community health centres will come into operation on a day to be proclaimed, or if not proclaimed before 1 July 2009, on that day.

**PART 2—HEALTH SERVICES (CONCILIATION AND
REVIEW) ACT 1987**

- Clause 3 makes a consequential amendment to the definition of *provider* in the **Health Services (Conciliation and Review Act) 1987** to reflect the new regulatory framework for community health centres.
- Clause 4 inserts 2 new subsections into the **Health Services (Conciliation and Review Act) 1987**. New section 12(6) provides that the Minister may appoint a member of the Health Services Review Council for a specified term of office not exceeding three years, and that the member may be reappointed.
- New section 12(6A) provides that a member cannot serve more than 9 consecutive years on the Council.
- Clause 5 is a transitional provision to allow existing members of the Health Services Review Council to serve the full term of office specified in their current instrument of appointment irrespective of the operation of the new section 12(6A).
- Clause 6 amends definitions and other sections of the **Health Services Act 1988** such that community health centres are no longer "registered funded agencies" under the Act.
- Clause 7 removes community health centres from the operation of a further provision in the **Health Services Act 1988** applicable to registered funded agencies.
- Clause 8 substitutes the existing Division 6 of Part 3 of the **Health Services Act 1988** with a new regulatory framework for community health centres.
- New section 45 provides that a company limited by guarantee may apply to the Secretary for registration as a registered community health centre, and sets out the information and documentation that must be provided by an applicant.
- New section 46 allows the Secretary to require an applicant to provide further information and to refuse the application if the information is not provided within a reasonable time.
- New section 47 sets out the criteria to which the Secretary must have regard when considering an application for registration as a registered community health centre.

New section 48 provides that the Secretary may register the applicant if the application meets the requirements and the applicant is able to satisfy the registration criteria. If registration is granted, it remains current until it is cancelled at the request of the registered community health centre or revoked by the Secretary

New section 49 provides that Secretary may impose conditions on the registration of a community health centre.

New section 50 provides that the Secretary may refuse an application for registration of a community health centre if not satisfied that the registration criteria have been met. The Secretary must give a statement of reasons for the refusal to the applicant within 28 days of the decision to refuse the application. New section 57C provides that an applicant may appeal to the Victorian Civil and Administrative Tribunal against the decision to refuse the application for registration.

New section 51 provides that the Minister may determine performance standards to be met by registered community health centres. The performance standards must be published in the Government Gazette and may be amended or revoked.

New section 52 sets out the matters relating to the operation of registered community health centres that may be subject to performance standards.

New section 53 provides that a registered community health centre must comply with the performance standards determined by the Minister.

New section 54 sets out the circumstances in which the Secretary may direct a registered community health centre to comply with requirements under the Act or an agreement for public funding or with a condition of registration.

New section 55 specifies the action that may be taken by the Secretary if a registered community health centre fails to comply with a direction given under section 54.

New section 56 sets out the procedure to be followed if the Secretary intends to revoke the registration of a registered community health centre. New section 57C provides that a registered community health centre may appeal to the Victorian Civil and Administrative Tribunal against the decision to revoke the registration.

New section 57 provides that in the case of the appointment of an administrator under section 57A, the relevant provisions of the Corporations Act are displaced.

New section 57A empowers the Minister to recommend to the Governor in Council that an administrator be appointed in relation to the provision of community health services by a registered community health centre. The section sets out the grounds on which the Minister may make the recommendation.

The section provides for a process by which the registered community health centre must be notified of a decision by the Minister to recommend the appointment of an administrator. New section 57C provides that a registered community health centre may appeal to the Victorian Civil and Administrative Tribunal against the decision by the Minister to recommend the appointment of an administrator.

The section provides that on the recommendation of the Minister, the Governor in Council may appoint an administrator by Order published in the Government Gazette. The appointment may be extended.

The section sets out the powers of the administrator in relation to the provision of community health services by the registered community health centre, and the relationship between the administrator and the board of the registered community health centre.

The Governor in Council may declare by Order published in the Government Gazette that on a specified day the board of directors is re-instated or re-established as the case may be, and that the administrator ceases to be the administrator of the registered community health centre.

New section 57B provides that the Secretary must cancel the registration of a registered community health centre if requested in writing to do so by the centre.

New section 57C allows for application to the Victorian Civil and Administrative Tribunal for review of a decision by the Secretary to refuse or revoke registration, or a decision by the Minister to recommend the appointment of an administrator, and sets out the process for making an application to VCAT.

New section 57D provides that the Secretary must keep a register of registered community health centres, and sets out what information must be included on the register. The section also makes provision for changes to the register, and for some of the information on the register to be made available to the public.

Clause 9 inserts a new provision into the **Health Services Act 1988** to allow for voluntary amalgamations between registered community health centres and registered funded agencies.

- Clause 10 amends section 115H of the **Health Services Act 1988** to provide that a multi purpose service, as defined in that Act, must hold an annual general meeting between 1 July and 31 December each year.
- Clause 11 makes consequential amendments to section 141 of the **Health Services Act 1988** dealing with confidentiality.
- Clause 12 removes from the **Health Services Act 1988** regulation making powers no longer required.
- Clause 13 is a transitional provision deeming a body that was a community health centre as defined by the **Health Services Act 1988** immediately before the commencement of section 8 of the **Health Services Amendment Act 2008** to be a registered community health centre for a period of 90 days from that date of commencement.
- This clause also provides that any amount payable immediately before the commencement of section 8 of the **Health Services Amendment Act 2008** by a community health centre as a result of or in connection with the provision to the community health centre of financial accommodation to which section 30(2) of the **Health Services Act 1988** applied, continues to be guaranteed by the Government of Victoria under section 30(3) of that Act.

PART 4—CONSEQUENTIAL AMENDMENTS

- Clause 14 repeals Division 3 of Part 9 of the HSA as it contains spent transitional provisions.
- Clause 15 to 21 these clauses make consequential amendments to other legislation as a result of the repeal of the definition of *community health centre* in the **Health Services Act 1988** and the insertion of the definition of *registered community health centre* in that Act.

PART 5—REPEAL

- Clause 22 is a standard provision providing for the repeal of the amending Act.