

LEGISLATION

LEGISLATION ADMINISTERED BY THE
DEPARTMENT AS AT 30 JUNE 2004

The Agency administers a wide range of legislation as assigned by the current Administrative Arrangements Order made under the *Administration Arrangements Act 1990*. An Administrative Arrangements Order assigns to each Minister departments and enactments for which the Minister has portfolio responsibility. Each department is responsible to the Minister for the administration of the enactments specified in that order.

Reflecting changes in Ministerial portfolios, there were a number of Administrative Arrangements Orders made in 2003-04. At 31 July 2004, the Department administered over 40 pieces of legislation detailed in the *Administrative Arrangements Order 2004 (No. 5)*:

Adoption Act 1988

Alcohol and Drug Dependency Act 1968

Ambulance Service Act 1982

Anatomy Act 1964

Blood Transfusion (Limitation of Liability) Act 1986

Child Protection (International Measures) Act 2003

Children, Young Persons and Their Families

(Transitional and Savings Provisions) Act 1998

Children, Young Persons and Their Families Act 1997

Chiropractors and Osteopaths Registration Act 1997

Dental Practitioners Registration Act 2001

Dental Prosthetists Registration Act 1996

Disability Services Act 1992

Fire Damage Relief Act 1967 in so far as it relates to the erection of dwellings for renting to eligible persons under the *Homes Act 1935* (otherwise see *Department of Economic Development under the Minister for Economic Development*)

Fluoridation Act 1968

Food Act 2003

Fox and Dexter Trusts Act 1987

Guide Dogs and Hearing Dogs Act 1967

Health Act 1997

Health Professionals (Special Events Exemption) Act 1998

Health Services Act 1960

HIV/AIDS Preventive Measures Act 1993

Homes Act 1935 except in so far as it relates to the lending of funds for home ownership (see *Department of Treasury and Finance under the Minister for Finance*)

Hospitals Act 1918

Human Cloning and Other Prohibited Practices Act 2003

Human Embryonic Research Regulation Act 2003

Human Tissue Act 1985

Medical Practitioners Registration Act 1996

Medical Radiation Science Professionals Registration Act 2000

Mental Health Act 1996 except in so far as it relates to the appointment, functions and operation of the Mental Health Tribunal and the appointment of the registrar and other officers of that Tribunal (see *Department of Justice under the Minister for Justice and Industrial Relations*)

Nursing Act 1995

Optometrists Registration Act 1994

Pensioners (Heating Allowances) Act 1971

Perinatal Registry Act 1994

Pharmacists Registration Act 2001

Physiotherapists Registration Act 1999

Podiatrists Registration Act 1995

Poisons Act 1971

Psychologists Registration Act 2000

Public Health Act 1997

Radiation Control Act 1977

Royal Derwent Hospital (Sale of Land) Act 1995

Substandard Housing Control Act 1973

Surrogacy Contracts Act 1993

Therapeutic Goods Act 2001

Youth Justice Act 1997 except in so far as it relates to the establishment and operation of the Magistrates Court (Youth Justice Division) (see *Department of Justice under the Minister for Justice and Industrial Relations*)

Tasmania Fire Service

Fire Service Act 1979

State Fire Commission Superannuation Scheme Act 1994

CHANGES TO LEGISLATION IN 2003-04

The new *Human Cloning and Other Prohibited Practices Act 2003* and *Human Embryonic Research Regulation Act 2003* commenced in September 2003. These *Acts* essentially mirror the corresponding federal legislation that imposes heavy sanctions on those who attempt to clone a human, and strictly regulates the potential use of human embryos for research purposes.

A new *Food Act* commenced on 15 October 2003 replacing the *Food Act 1998*. The new *Act* introduced a nationally consistent framework for regulation of food safety in Australia.

A Bill to extend the smoke free areas provisions of the *Public Health Act 1997* was tabled in Parliament in December 2003. The Bill aims to eliminate or reduce environmental tobacco smoke from enclosed work places and public places and resulted from a public review of the legislation undertaken by the Department of Health and Human Services. The Bill includes some of the recommendations from the review and is expected to be debated by Parliament during the 2004 Spring Parliamentary sittings.

During 2003-2004 work progressed towards the completion of National Competition Policy (NCP) agreement obligations to review legislation falling with the Health and Human Services portfolio. The purpose of the NCP amendments is to ensure that an appropriate balance is struck between necessary regulation of a profession and industry that provides important health services, and the removal of unnecessary market restrictions on business operations.

Work continued towards developing the new Poisons Bill to update and replace the current *Poisons Act 1971*. The new *Act* will reflect the recommendations of the *National Review of Drugs and Poisons* (the Galbally Report).

Work continued around the development of a nationally uniform radiation protection legislation to replace the *Radiation Control Act 1977*. A final version of the Bill is expected to be ready for introduction into Parliament in late 2004.

The *Medical Practitioners Act 1996* was amended to address NCP issues. The *Medical Practitioners Registration Amendment Bill 2004* made a number of changes to the *Medical Practitioners Registration Act 1996*.

The *Medical Practitioners Registration Act 1996* had been reviewed under National Competition Policy Guidelines. The NCP amendments related to the removal of advertising restrictions and changes to allow persons who are not medical practitioners to own and operate medical practices with the safeguard that they must employ registered medical practitioners to provide clinical services. This change has occurred in the majority of health professions in most Australian jurisdictions.

In developing the amendment Bill the Medical Council proposed a number of changes to assist the administration of the Act, and in some cases to ease the impact of some provisions of the Act on practitioners without affecting the interests of the community. These included changes enabling the partial suspension of practicing rights so that a medical practitioner could continue to work in a restricted manner where that is in the overall interests of the public, and the appointment of alternate members of the Medical Complaints Tribunal so there are fewer delays in constituting a Tribunal where a permanent member is unable to participate due to illness, absence or conflict of interest.

Another significant inclusion was the requirement for medical practitioners to satisfy the Medical Council that they have appropriate professional indemnity cover when they register or renew their registration. This provision brings medical practitioners into line

with the bulk of the other health professionals but does not impose a significant burden, as most would already have cover provided through policies arranged through their professional and industrial organisations or their employers.

The *Optometrists Registration Act 1994* was also amended during 2004. The *Optometrists Registration Amendment Bill 2004* implemented the outcomes of a National Competition Policy review of the *Optometrists Registration Act 1994*.

The *Optometrists Registration Amendment Bill 2004* made a number of amendments to implement the NCP review outcomes, including the removal of restrictions on the ownership of optometry practices, and new

provisions covering undue influence in the practice of optometry to protect consumers' health and interests.

Throughout 2004, development of the *Pharmacists Registration Amendment Bill 2004* was progressed to implement the outcomes of a National Competition Policy review of the *Pharmacists Registration Act 2001*. A number of issues arising from the review had already been addressed in the *Pharmacists Registration Act 2001*.

It is expected that the *Pharmacists Registration Amendment Bill 2004* will be introduced to Parliament in the Spring 2004 sittings.