

HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) BILL 1999 – NOTES ON CLAUSES

CLAUSES 1 & 2	NOTES
<p>1. SHORT TITLE</p> <p>This Act may be cited as the Health Professionals (Special Events Exemption) Act 1999.</p>	<p>Clause 1</p> <p>Self-explanatory</p>
<p>2. COMMENCEMENT</p> <p>This Act comes into operation on the day on which it receives the Royal Assent.</p>	<p>Clause 2</p> <p>Clause 2 provides for commencement of the Bill on Royal Assent.</p> <p>A separate proclamation date is not needed because operation of the Bill's provisions is triggered by an order made by the Minister under clause 6.</p>

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CLAUSE 3	NOTES
<p>3. INTERPRETATION</p> <p>(1) In this Act, unless the contrary intention appears –</p> <p>“drug of addiction” means a substance included in Schedule 8 in Appendix A to the Poisons Act 1964;</p> <p>“exemption period”, in relation to a special event, means the period or periods specified in an order under section 6 that applies to the event;</p> <p>“health care services” means –</p> <ul style="list-style-type: none"> (a) services ordinarily provided by chiropractors, dental hygienists, dental therapists, dental prosthetists, dentists, medical practitioners, nurses, occupational therapists, optometrists, optical dispensers, osteopaths, pharmacists, physiotherapists, podiatrists and psychologists; or (b) any other prescribed health care service; 	<p>Clause 3</p> <p>Clause 3 defines certain terms used in the Bill.</p> <p>It establishes that the Bill applies to all health professions which are currently regulated by Acts of Parliament in Western Australia.</p>

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CLAUSE 3 (continued)	NOTES
<p>3. INTERPRETATION</p> <p>“Health Registration Act” means any of the following Acts –</p> <p>Chiropractors Act 1964; Dental Act 1939; Dental Prosthetists Act 1985; Medical Act 1894; Nurses Act 1992; Occupational Therapists Registration Act 1980; Optical Dispensers Act 1966; Optometrists Act 1940; Osteopaths Act 1997; Pharmacy Act 1964; Physiotherapists Act 1950; Podiatrists Registration Act 1984; Psychologists Registration Act 1976.</p> <p>“prepare” includes train, practise, rehearse and acclimatise;</p> <p>“registered” means registered, licensed or enrolled under a Health Registration Act, or deemed to be so registered, licensed or enrolled;</p> <p>“restricted substance” means a substance included in Schedule 4 in Appendix A to the Poisons Act 1964;</p>	<p>Clause 3</p>

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CLAUSE 3 (continued)	NOTES
<p>3. INTERPRETATION (continued)</p> <p>“special event” means an event, or class of event, that is declared to be a special event by order under section 6;</p> <p>“substance” has the meaning given by the Poisons Act 1964;</p> <p>“visiting health professional” has the meaning given by section 5;</p> <p>“visitor” has the meaning given by section 4.</p> <p>(2) An order made under this Act is subsidiary legislation within the meaning of the Interpretation Act 1984.</p>	<p>Clause 3</p>

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CLAUSE 4	NOTES
<p>4. DEFINITION OF “VISITOR”</p> <p>A person is a “visitor” for the purposes of this Act if –</p> <ul style="list-style-type: none"> (a) the person is a resident of another country who is in the State for the purpose of – <ul style="list-style-type: none"> (i) officially participating in a special event; or (ii) preparing for official participation in a special event; (b) the person is a resident of another country who is appointed, employed, contracted or otherwise engaged to manage, train or otherwise assist a person referred to in paragraph (a) and is in the State for that purpose; or (c) the person is a resident of Australia who is in the State for a purpose referred to in paragraph (a) or (b) and is a member of group the majority of members of which are persons referred to in paragraph (a) or (b) who are in the State for the same purpose. 	<p>Clause 4</p> <p>Clause 4 defines the persons to whom visiting health professionals are authorised to provide health care services.</p> <p>The definition covers:</p> <ul style="list-style-type: none"> (a) residents of another country who are visiting Western Australia to officially participate in, or to prepare for, a special event; (b) residents of another country who are visiting Western Australia to assist participants in a special event (eg trainers, coaches, etc); and (c) Australian residents who are members or assistants of a team a majority of whose members are residents of another country.

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CLAUSE 5	NOTES
<p>5. DEFINITION OF “VISITING HEALTH PROFESSIONAL”</p> <p>A person is a visiting health professional for the purposes of this Act if –</p> <ul style="list-style-type: none"> (a) the person is an individual who is a resident of another country; (b) the person is appointed, employed, contracted or otherwise engaged to provide health care services to a visitor; (c) the person is not registered; and (d) notice is given of the person’s intention to provide health care services in the State to a visitor in accordance with the procedure specified in the order under section 6 declaring the special event. 	<p>Clause 5</p> <p>Clause 5 defines who are visiting health professionals for the purposes of the Bill.</p> <p>To be a visiting health professional, a person must:</p> <ul style="list-style-type: none"> (a) be a resident of another country; (b) have been engaged to provide health care services to visitors; (c) not be registered under a Western Australian health practitioner registration Act; and (d) have given notice of his or her intention to provide services to visitors in accordance with the procedure set down in the order declaring the special event.

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CLAUSE 6	NOTES
<p>6. SPECIAL EVENTS</p> <p>(1) The Minister may, by order published in the Gazette, declare an event, or class of events, specified in the order to be a special event for the purposes of this Act.</p> <p>(2) An order may be made in relation to –</p> <p style="padding-left: 20px;">(a) any sporting, cultural or other event that is to take place or is taking place in the State and that, in the opinion of the Minister, will attract a significant number of participants from other countries; or</p> <p style="padding-left: 20px;">(b) any sporting, cultural or other event that –</p> <p style="padding-left: 40px;">(i) is declared to be a special event under a law of another State or Territory that corresponds to this Act; and</p> <p style="padding-left: 40px;">(ii) in the opinion of the Minister, will attract visitors to the State.</p> <p>(3) The order is to specify:</p> <p style="padding-left: 20px;">(a) the period or periods in which the exemptions under this Act have effect in respect of the special event; and</p> <p style="padding-left: 20px;">(b) the procedure by which notice is to be given of a person's intention to provide health care services in the State to a visitor.</p> <p>(4) The exemption period for a special event may include any period or periods before or after the special event takes place.</p>	<p>Clause 6</p> <p>Clause 6 provides for the Minister to declare special events by order published in the Government Gazette.</p> <p>The clause proposes that any sporting, cultural or other event in Western Australia which is expected to attract a significant number of participants from other countries can be declared to be a special event.</p> <p>Special events declared in other jurisdictions that will attract visitors to the State can also be declared to be special events in Western Australia.</p> <p>The Minister's special events order is to be used to determine:</p> <ul style="list-style-type: none"> ▪ the periods of time during which the exemptions from committing offences under certain Western Australian laws will apply (clause 11 defines the offences which are exempted during these periods); ▪ the notification procedure to be followed by persons wishing to be visiting health professionals.

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CLAUSE 7	NOTES
<p>7. PROVISION OF HEALTH CARE SERVICES BY VISITING HEALTH PROFESSIONALS AUTHORIZED</p> <p>A visiting health professional is authorized to provide health care services to a visitor for whom the health professional has been appointed, employed, contracted or otherwise engaged to provide those services.</p>	<p>Clause 7</p> <p>Clause 7 authorises the provision of health care services to visitors by visiting health professionals during periods specified in the Minister's special events order.</p> <p>Clause 7 should be read in conjunction with clause 12 which limits the operation of authorisations granted under the Bill.</p>

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CLAUSE 8	NOTES
<p>8. CONDITIONS ON PRACTICE BY VISITING HEALTH PROFESSIONALS</p> <p>(1) It is a condition on the provision of health care services by each visiting health professional that the visiting health professional is not to provide health care services other than health care services that may be lawfully provided in this State by a registered health professional of the like profession.</p> <p>(2) It is a condition on the provision of health care services by each visiting health professional that the visiting health professional is not to possess, use or supply a substance in the course of providing health care services authorized under this Act other than a substance that may be lawfully possessed, used or supplied in this State by a registered health professional of the like profession.</p> <p>(3) The Minister may, by an order under section 6, do one or more of the following:</p> <p style="margin-left: 40px;">(a) impose further conditions on the provision of health care services by a visiting health professional;</p> <p style="margin-left: 40px;">(b) exempt a visiting health professional from the condition referred to in subsection (1);</p> <p style="margin-left: 40px;">(c) exempt a visiting health professional from the condition referred to in subsection (2).</p> <p>(4) A condition or exemption may apply generally or apply to a particular special event or to a particular person or class of persons specified in the order.</p>	<p>Clause 8</p> <p>Clause 8 enables conditions to be placed on the provision of health care services by visiting health professionals.</p> <p>Two conditions are universally applied by subclauses 8(1) and 8(2):</p> <ul style="list-style-type: none"> ▪ First, that a visiting health professional can only provide health care services that may be lawfully provided by a registered health professional of the like profession in Western Australia (ie, a visiting physiotherapist cannot practise medicine); ▪ Second, that a visiting health professional can only possess, use or supply substances which may be lawfully possessed, used or supplied by a registered health professional of the like profession in WA. <p>The latter condition effectively limits the possession, use and supply of substances to visiting doctors, dentists, and pharmacists.</p> <p>Clause 8(3) enables the Minister to impose further conditions on the practice of visiting health professionals and – in order to retain flexibility – to exempt a visiting health professional from either or both of the above-mentioned universally applied conditions.</p>

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CLAUSE 8 (continued)	NOTES
<p>8. CONDITIONS ON PRACTICE BY VISITING HEALTH PROFESSIONALS</p> <p>(5) The regulations may make provision for or with respect to conditions to be imposed on the provision of health care services by a visiting health professional.</p> <p>(6) If there is conflict or inconsistency between a regulation referred to in subsection (5) and a condition imposed under subsection (3), the regulation, to the extent of the conflict or inconsistency, prevails.</p>	<p>Clause 8</p> <p>Regulations may be made placing further conditions on the practice of visiting health professionals.</p> <p>Where there is inconsistency between a condition imposed by the regulations and a condition imposed by the Minister's special events order, the condition imposed by the regulations has precedence.</p>

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CLAUSE 9	NOTES
<p>9. ISSUE OF PRESCRIPTIONS AND SUPPLY OF CERTAIN SUBSTANCES AUTHORIZED</p> <p>(1) A visiting health professional may issue a written prescription for a restricted substance or a drug of addiction only if authorized to do so by an order under section 6.</p> <p>(2) The Minister may, by an order under section 6 –</p> <ul style="list-style-type: none"> (a) authorize a visiting health professional or a class of visiting health professionals to issue written prescriptions for a restricted substance or a drug of addiction, or restricted substances or drugs of addiction of a class specified in the order, in the course of providing health care services in accordance with this Act; (b) authorize any person or class of persons to sell or supply a restricted substance or drug of addiction on such a prescription, but only if the person or class of persons is licensed or otherwise authorized under the Poisons Act 1964 to sell or supply the substance on prescription; (c) authorize a visiting health professional, all visiting health professionals or a class of visiting health professionals to be sold any substance by wholesale; and (d) authorize any person or class of persons to sell any substance by wholesale to any visiting health professional authorized as referred to in paragraph (c), but only if the person or class of persons is licensed or otherwise authorized under the Poisons Act 1964 to sell the substance by wholesale to a medical practitioner. 	<p>Clause 9</p> <p>Clause 9 deals with access to restricted substances and drugs of addiction and other therapeutic substances for use in providing authorised health care services under the Bill.</p> <p>The clause acknowledges that there may be situations in which it may be appropriate to authorise visiting health professionals to issue prescriptions for therapeutic substances that can only be accessed by members of the public in Western Australia by prescriptions issued by registered medical practitioners or dentists.</p> <p>The granting of such authorisation is expected to be the exception rather than the rule.</p> <p>Subclause 9(3) provides that the Minister is not to grant an authorisation enabling a visiting health professional to prescribe restricted substances or drugs of addiction unless satisfied that adequate arrangements are in place in relation to the use of such substances.</p> <p>Clause 9 also enables visiting health professionals to be authorised to obtain therapeutic substances by wholesale.</p> <p>This authorisation would enable supplies of therapeutic substances which are readily available over the counter at pharmacies to be replenished by wholesale supply.</p>

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<p align="center">CLAUSE 9 (continued)</p>	<p align="center">NOTES</p>
<p>9. ISSUE OF PRESCRIPTIONS AND SUPPLY OF CERTAIN SUBSTANCES AUTHORIZED</p> <p>(3) The Minister is not to make an order containing an authorization referred to in subsection (2) unless the Minister is satisfied that adequate arrangements are in place to ensure that the substances concerned will only be prescribed for, sold or supplied to, and used by, persons to whom visiting health professionals are authorized to provide health care services under this Act.</p> <p>(4) The Minister is not to make an order containing an authorization referred to in subsection (2)(a) in respect of a visiting health professional or class of visiting health professionals unless registered health professionals of the like profession in this State may lawfully issue written prescriptions for the restricted substance or drug of addiction of the type or class specified in the order.</p> <p>(5) An order under section 6 may impose conditions on any authorization referred to in this section that is conferred by the order.</p>	<p>Clause 9</p> <p>Subclause 9(4) has the effect of limiting who may be authorised to issue written prescriptions for restricted substances or drugs of addiction to visiting doctors and dentists.</p>

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CLAUSE 10	NOTES
<p>10. REQUEST FOR USE OF IRRADIATING APPARATUS ETC. AUTHORIZED</p> <p>(1) A visiting health professional may request the holder of a licence under section 26(1)(a) of the Radiation Safety Act 1975 to undertake diagnosis or therapy referred to in that section only if the visiting health professional is authorized to do so by an order under section 6.</p> <p>(2) The Minister may, by an order under section 6 authorize a visiting health professional or a class of visiting health professionals, in the course of providing health care services in accordance with this Act, to request the holder of a licence under section 26(1)(a) of the Radiation Safety Act 1975 to undertake diagnosis or therapy referred to in that section.</p> <p>(3) An order under section 6 may impose conditions on any authorization referred to in this section that is conferred by the order.</p>	<p>Clause 10</p> <p>Clause 10 provides for the Minister to authorise visiting health professionals (either individually or as a class) to refer visitors to persons who are licensed to operate irradiating equipment for diagnosis or therapy.</p> <p>Subclause 10(3) provides that conditions may be imposed on the visiting health professional's authorisation.</p>

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CLAUSE 11	NOTES
<p>11. EXEMPTIONS</p> <p>(1) A visiting health professional does not commit an offence under a Health Registration Act, the Poisons Act 1964, the Radiation Safety Act 1975 or the Misuse of Drugs Act 1981 for –</p> <ul style="list-style-type: none"> (a) providing health care services as authorised under this Act; (b) possessing, using or supplying a substance in the course of providing those authorized health care services where the substance is – <ul style="list-style-type: none"> (i) lawfully imported or lawfully obtained in Australia by the visiting health professional; and (ii) a substance that may be lawfully possessed, used or supplied by a registered health professional of the like profession; (c) prescribing a substance in the course of providing those authorized health care services; (d) requesting the holder of a licence under the Radiation Safety Act 1975 to undertake diagnosis or therapy in the course of providing those authorized health care services; (e) holding himself or herself out as being able to provide those authorized health care services; or (f) using any name, initials, description, word, symbol, addition or title that the visiting health professional ordinarily uses. 	<p>Clause 11</p> <p>Clause 11 sets out exemptions from committing offences under certain Western Australian laws.</p> <p>These exemptions are consequential upon the authorisations given by or under the Bill to visiting health professionals and others.</p> <p>The exemption provided from committing an offence under the Poisons Act 1964 and the Misuse of Drugs Act 1981 is necessary to accommodate the possession, use and supply of substances by visiting health professionals. The exemption:</p> <ul style="list-style-type: none"> ▪ accommodates the lawful importation of therapeutic substances into Australia under the Commonwealth's Therapeutic Goods Regulations by overseas teams attending major sporting events; ▪ accommodates the lawful obtaining of substances whilst in Australia by visiting health professionals whether under an authorisation given by the Minister under clause 9 or otherwise; and ▪ applies only to substances that may be lawfully possessed, used or supplied by a registered health professional in Western Australia.

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CLAUSE 11 (continued)	NOTES
<p>11. EXEMPTIONS</p> <p>(2) A visitor does not commit an offence under the Poisons Act 1964 or the Misuse of Drugs Act 1981 for using or possessing any substance as a result of being provided with health care services in accordance with this Act.</p> <p>(3) A person does not commit an offence under the Poisons Act 1964 or the Misuse of Drugs Act 1981 for –</p> <p style="padding-left: 40px;">(a) Selling or supplying a restricted substance or drug of addiction in accordance with a written prescription issued by a visiting health professional if –</p> <p style="padding-left: 80px;">(i) the visiting health profession is authorized under this Act to issue the prescription;</p> <p style="padding-left: 80px;">(ii) the person is authorized under this Act to sell or supply the substance on such a prescription; and</p> <p style="padding-left: 80px;">(iii) the person is complying with any conditions to which the person’s authorization under the Poisons Act 1964 is subject;</p> <p style="padding-left: 40px;">or</p>	<p>Clause 11</p> <p>Subclause 11(2) exempts visitors from committing an offence against the Poisons Act 1964 and the Misuse of Drugs Act 1981 for possessing or using any substance supplied by a visiting health professional in the course of providing authorised health care services.</p> <p>Subclause 11(3) exempts from committing an offence under the Poisons Act 1964 or Misuse of Drugs Act 1981 persons who are authorised by the Minister under clause 9 to supply substances on a prescription issued by a visiting health professional or to sell substances wholesale to a visiting health professional.</p>

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CLAUSE 11 (continued)	NOTES
<p>11. EXEMPTIONS</p> <p>(b) selling any substance by wholesale to a visiting health professional if –</p> <p style="padding-left: 40px;">(i) the person is authorized under this Act to supply the substance by wholesale;</p> <p style="padding-left: 40px;">(ii) the visiting health professional is authorized under this Act to be sold the substance by wholesale; and</p> <p style="padding-left: 40px;">(iii) the person is complying with any conditions to which the person’s authorization under the Poisons Act 1964 is subject.</p> <p>(4) The regulations may prescribe other offences to which subsection (1), (2) or (3) applies.</p>	<p>Clause 11</p> <p>Subclause 11(4) allows the regulations to prescribe other offences that may be exempted.</p>

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CLAUSES 12 & 13	NOTES
<p>12. OPERATION OF AUTHORIZATIONS</p> <p>(1) Section 7 and any authorization referred to in section 9 or 10 operate in relation to a visiting health professional during the exemption period for the special event in respect of which notice is given by or on behalf of that visiting health professional under section 5(d) and at no other time.</p> <p>(2) Section 7 and any authorization referred to in section 9 and 10 do not operate in relation to a visiting health professional if the visiting health professional fails to comply with the provisions of this Act, the regulations or any relevant conditions imposed by or under this Act.</p>	<p>Clause 12</p> <p>Clause 12 limits the operation of the authorisations granted by or under the Bill to exemption periods identified in the Minister’s special events order.</p> <p>It also makes clear that an authorisation granted by or under the Bill does not have effect if a visiting health professional fails to comply with the provisions of the Bill, regulations or any condition imposed on the visiting health professional under the Bill.</p>
<p>13. COMPLAINTS ABOUT VISITING HEALTH PROFESSIONALS</p> <p>(1) A complaint may not be made about a visiting health professional under the Health Services (Conciliation and Review) Act 1995 or a Health Registration Act and no disciplinary action may be taken against a visiting health professional under those Acts.</p> <p>(2) This section does not prevent the bringing of proceedings for an offence under an Act referred to in subsection (1).</p>	<p>Clause 13</p> <p>Clause 13 provides that complaint mechanisms and disciplinary powers available in relation to registered health professionals under Western Australian law do not apply to visiting health professionals.</p> <p>However, proceedings under a Health Registration Act can still be brought against a visiting health professional. This makes clear that a prosecution can proceed against a visiting health professional who attempts to provide a health care service to a member of the public.</p>

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CLAUSES 14 & 15	NOTES
<p>14. APPLICATION OF ACT TO PARTICULAR PERSONS</p> <p>The Minister may at any time, by order published in the Gazette, declare that this Act, or a specified provision of this Act, does not apply to or in respect of a specified person or class of persons, and that order has effect according to its terms.</p>	<p>Clause 14</p> <p>Clause 14 enables the Minister to determine that the Bill does not apply to specified individuals or classes.</p> <p>The clause is intended to deal with situations where there may be concern about allowing an individual or particular group to provide health care services in Western Australia as visiting health professionals, notwithstanding that the individual or group concerned would not be providing care to members of the public.</p>
<p>15. ACT DOES NOT LIMIT THE PRACTICE OF REGISTERED HEALTH PROFESSIONALS</p> <p>This Act does not prejudice or affect the lawful occupation, trade or business of any person who is registered.</p>	<p>Clause 15</p> <p>Clause 15 contemplates that locally registered health professionals may be engaged to provide health care services to visitors.</p> <p>The clause provides that the involvement of locally registered practitioners in this capacity is to be in accordance with their own registration legislation.</p>

HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) BILL 1999 – NOTES ON CLAUSES

CLAUSES 16 & 17	NOTES
<p>16. REGULATIONS</p> <p>(1) The Governor may make regulations prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out this Act.</p> <p>(2) A regulation may create an offence punishable by a penalty not exceeding \$1,000.</p>	<p>Clause 16</p> <p>Clause 16 provides for the making of regulations to facilitate implementation of the Bill.</p>
<p>17. REVIEW OF ACT</p> <p>(1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 5 years from its commencement.</p> <p>(2) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, is to cause the report to be laid before each House of Parliament.</p>	<p>Clause 17</p> <p>Clause 17 requires the Minister to conduct a review of the Bill after 5 years and to report the results to Parliament.</p>