

2007

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mrs Jacqui Burke)

Public Hospital Board Bill 2007

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Public Hospital Board Bill 2007

A Bill for

An Act to establish a Public Hospital Board

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Public Hospital Board Act 2007*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Dictionary**

9 The dictionary at the end of this Act is part of this Act.

10 *Note 1* The dictionary at the end of this Act defines certain terms used in this
11 Act, and includes references (*signpost definitions*) to other terms
12 defined elsewhere.

13 For example, the signpost definition '*VMO*—see the *Health Act 1993*,
14 section 100.' means that the term '*VMO*' is defined in that section and
15 the definition applies to this Act.

16 *Note 2* A definition in the dictionary (including a signpost definition) applies to
17 the entire Act unless the definition, or another provision of the Act,
18 provides otherwise or the contrary intention otherwise appears (see
19 Legislation Act, s 155 and s 156 (1)).

20 **4 Notes**

21 A note included in this Act is explanatory and is not part of this Act.

22 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
23 notes.

Part 2 Public Hospital Board

**Division 2.1 Establishment, functions and
membership**

5 Establishment

The Public Hospital Board is established.

6 Functions of board

The board has the following functions:

- (a) to oversee the application of the health budget in relation to public hospitals in the Territory;
- (b) to advise, and make recommendations to, the Minister on matters relating to the health budget in relation to public hospitals in the Territory;
- (c) to review public hospital services in the Territory;
- (d) to inquire into and report to the Minister on matters referred to the board by the Minister in relation to public hospital services in the Territory;
- (e) any other functions given to the board by the Minister.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

7 Membership

(1) The board is made up of—

- (a) the chief executive; and

- 1 (b) the following members appointed by the Minister:
- 2 (i) 1 VMO (visiting medical officer);
- 3 (ii) 1 member from the Royal Australian College of General
4 Practitioners, NSW and ACT Faculty;
- 5 (iii) 1 medical educator;
- 6 (iv) 1 member who the Minister is satisfied has substantial
7 qualifications in financial management to contribute to
8 the effective working of the board;
- 9 (v) 1 member who the Minister is satisfied has substantial
10 qualifications in business to contribute to the effective
11 working of the board;
- 12 (vi) 1 member who the Minister is satisfied has substantial
13 qualifications in law to contribute to the effective working
14 of the board;
- 15 (vii) 1 member from the Consumers' Health Forum of
16 Australia Inc;
- 17 (viii) 1 pastoral care worker.
- 18 (2) A member mentioned in subsection (1) (b) must be appointed for a
19 term not longer than 3 years.
- 20 *Note 1* For the making of appointments (including acting appointments), see
21 the Legislation Act, pt 19.3.
- 22 *Note 2* In particular, an appointment may be made by naming a person or
23 nominating the occupant of a position (see Legislation Act, s 207).
- 24 *Note 3* Certain Ministerial appointments require consultation with an Assembly
25 committee and are disallowable (see Legislation Act, div 19.3.3).

8 Chair of board

- (1) The Minister must appoint a member as chair of the board.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) However, the Minister must not appoint the chief executive officer as chair.

- (3) The chair must be appointed for a term not longer than 1 year.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

- (4) The chair may resign as chair by written notice given to the Minister.

9 Deputy chair of board

- (1) The board must, by majority vote, elect a member as deputy chair of the board.

- (2) However, the board must not elect the chief executive officer as deputy chair.

- (3) The deputy chair must be elected—

(a) at the first meeting of the board; and

(b) whenever the position of deputy chair becomes vacant.

- (4) The deputy chair is elected for 1 year, but may be re-elected for a further 1 year.

- (5) The deputy chair may resign as deputy chair by written notice given to the board.

- 1 **10 Ending board member appointments**
- 2 (1) The Minister may end a member's appointment—
- 3 (a) if the member contravenes a territory law; or
- 4 (b) for misbehaviour; or
- 5 (c) if the member becomes bankrupt or executes a personal
- 6 insolvency agreement; or
- 7 (d) if the member is convicted, or found guilty, in Australia of an
- 8 offence punishable by imprisonment for at least 1 year; or
- 9 (e) if the member is convicted, or found guilty, outside Australia
- 10 of an offence that, if it had been committed in the ACT, would
- 11 be punishable by imprisonment for at least 1 year; or
- 12 (f) if the member fails to take all reasonable steps to avoid being
- 13 placed in a position where a conflict of interest arises during
- 14 the exercise of the member's functions; or
- 15 (g) if the member contravenes section 11 (Disclosure of interests
- 16 by board members); or
- 17 (h) if the member is absent from 3 consecutive meetings of the
- 18 board, otherwise than on approved leave; or
- 19 (i) for physical or mental incapacity, if the incapacity substantially
- 20 affects the exercise of the member's functions.
- 21 *Note* A person's appointment also ends if the person resigns (see Legislation
- 22 Act, s 210).
- 23 (2) The Minister may also end the appointment of a member (the
- 24 ***member concerned***) if the board tells the Minister in writing that it
- 25 has resolved, by a majority of at least $\frac{2}{3}$ of the members, to
- 26 recommend to the Minister that the member's appointment be
- 27 ended.

- 1 (3) The board may pass a resolution mentioned in subsection (2) only
2 if—
- 3 (a) at least 3 weeks written notice of the intention to consider the
4 proposed resolution has been given to the member concerned;
5 and
- 6 (b) the member concerned has been given an opportunity to make
7 submissions and present documents to a meeting of the board;
8 and
- 9 (c) if the member concerned has used the opportunity mentioned
10 in paragraph (b)—a summary of the member's submissions is
11 recorded in the board's minutes and a copy of any documents
12 presented is included in the minutes.

13 **11 Disclosure of interests by board members**

- 14 (1) If a board member has a material interest in an issue being
15 considered, or about to be considered, by the board, the member
16 must disclose the nature of the interest at a board meeting as soon as
17 practicable after the relevant facts come to the member's
18 knowledge.

19 *Note* **Material interest** is defined in s (4). The definition of *indirect interest*
20 in s (4) applies to the definition of **material interest**.

- 21 (2) The disclosure must be recorded in the board's minutes and, unless
22 the board otherwise decides, the member must not—
- 23 (a) be present when the board considers the issue; or
24 (b) take part in a decision of the board on the issue.
- 25 (3) Any other board member who also has a material interest in the
26 issue must not be present when the board is considering its decision
27 under subsection (2).

- 1 (4) In this section:
- 2 *associate*, of a person, means—
- 3 (a) a business partner of the person; or
- 4 (b) a close friend of the person; or
- 5 (c) a family member of the person.
- 6 *executive officer*, of a corporation, means a person (however
- 7 described) who is concerned with, or takes part in, the corporation's
- 8 management, whether or not the person is a director of the
- 9 corporation.
- 10 *indirect interest*—without limiting the kinds of indirect interests a
- 11 person may have, a person has an *indirect interest* in an issue if any
- 12 of the following has an interest in the issue:
- 13 (a) an associate of the person;
- 14 (b) a corporation, if the corporation has not more than
- 15 100 members and the person, or an associate of the person, is a
- 16 member of the corporation;
- 17 (c) a subsidiary of a corporation mentioned in paragraph (b);
- 18 (d) a corporation, if the person, or an associate of the person, is an
- 19 executive officer of the corporation;
- 20 (e) the trustee of a trust, if the person, or an associate of the
- 21 person, is a beneficiary of the trust;
- 22 (f) a member of a firm or partnership, if the person, or an associate
- 23 of the person, is a member of the firm or partnership;
- 24 (g) someone else carrying on a business, if the person, or an
- 25 associate of the person, has a direct or indirect right to
- 26 participate in the profits of the business.

material interest—a board member has a *material interest* in an issue if the member has—

- (a) a direct or indirect financial interest in the issue; or
- (b) a direct or indirect interest of any other kind if the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of the issue.

12 Reporting of disclosed board interests to Minister

- (1) Within 3 months after the day a material interest is disclosed under section 11 (1), the chair of the board must report to the Minister in writing about—

- (a) the disclosure; and
- (b) the nature of the interest disclosed; and
- (c) any decision by the board under section 11 (2).

- (2) The chair must also give the Minister, not later than 31 days after the end of each financial year, a statement that sets out the information given to the Minister in reports under subsection (1) that relate to disclosures made during the previous financial year.

- (3) The Minister must give a copy of the statement to the relevant committee of the Legislative Assembly within 31 days after the day the Minister receives the statement.

- (4) In this section:

relevant committee means—

- (a) a standing committee of the Legislative Assembly nominated by the Speaker for subsection (3); or
- (b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for public accounts.

13 Protection of board members from liability

- (1) A board member is not civilly liable for anything done or omitted to be done honestly and without recklessness—
- (a) in the exercise of a function under a territory law; or
- (b) in the reasonable belief that the act or omission was in the exercise of a function under a territory law.
- (2) Any liability that would, apart from this section, attach to a board member attaches instead to the Territory.

Division 2.2 Board meetings

14 Time and place of board meetings

- (1) Meetings of the board are to be held when and where it decides.
- (2) However, the board must meet at least once every 2 months.
- (3) The chair—
- (a) may at any time call a meeting of the board; and
- (b) must call a meeting if asked by at least 2 members.
- (4) The chair must give the other members reasonable notice of the time and place of a meeting called by the chair.

15 Presiding member at board meetings

- (1) The chair presides at all meetings at which the chair is present.
- (2) If the chair is absent, the deputy chair presides.
- (3) If the chair and the deputy chair are absent, the member chosen by the members present presides.
- (4) However, the members must not choose the chief executive officer to preside.

1 **16 Quorum at board meetings**

2 Business may be carried on at a meeting of the board only if at
3 least $\frac{1}{2}$ the number of members are present.

4 **17 Voting at board meetings**

5 (1) At a meeting of the board, each member has a vote on each question
6 to be decided.

7 (2) A question is decided by a majority of the votes of the members
8 present and voting but, if the votes are equal, the member presiding
9 has a deciding vote.

10 **18 Conduct of board meetings etc**

11 (1) The board may conduct its proceedings (including its meetings) as it
12 considers appropriate.

13 (2) A meeting may be held using a method of communication, or a
14 combination of methods of communication, that allows a member
15 taking part to hear, or otherwise to know, what each other member
16 taking part says without the members being in each other's
17 presence.

18 **Examples**

19 a phone link, a satellite link, an internet or intranet link

20 *Note* An example is part of the Act, is not exhaustive and may extend, but
21 does not limit, the meaning of the provision in which it appears (see
22 Legislation Act, s 126 and s 132).

23 (3) A member who takes part in a meeting conducted under
24 subsection (2) is taken, for all purposes, to be present at the meeting.

- 1 (4) A resolution is a valid resolution of the board, even if it is not
2 passed at a meeting of the board, if all members agree to the
3 proposed resolution in writing or by electronic communication.

4 **Example of electronic communication**
5 email

- 6 (5) The board must keep minutes of its meetings.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- appoint
- corporation
- establish
- function
- Legislative Assembly.

board means the Public Hospital Board.

chair means the chair of the board.

deputy chair means the deputy chair of the board.

health budget, for a financial year, means the budget for ACT Health presented to the Legislative Assembly under the *Financial Management Act 1996*, s 10 (b) (Budget papers) for the year.

member means a member of the board.

VMO—see the *Health Act 1993*, section 100.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2007.

2 Notification

Notified under the Legislation Act on 2007.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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