

AUSTRALIAN CAPITAL TERRITORY

Health Authority Ordinance 1985

No. 69 of 1985

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AUSTRALIAN CAPITAL TERRITORY

Health Authority Ordinance 1985

No. 69 of 1985

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 12 December 1985.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

NEAL BLEWETT
Minister of State for Health

An Ordinance to establish the Australian Capital Territory Health Authority and for related purposes

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Health Authority Ordinance 1985*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for Territories by notice in the *Gazette*.

Repeal

3. The Ordinances specified in the Schedule are repealed.

Interpretation

4. (1) In this Ordinance, unless the contrary intention appears—

“Authority” means the Australian Capital Territory Health Authority established by this Ordinance;

“Board” means the Hospital Services Board or the Community Health Services Board;

“nurse” means a person registered as a nurse, or enrolled as a nursing aid, under the *Nurses Registration Ordinance 1933*;

“registered dentist” means a person registered as a dentist under the *Dentists Registration Ordinance 1931*;

“registered medical practitioner” means a person registered under the *Medical Practitioners Registration Ordinance 1930*.

(2) In this Ordinance, a reference to clinical privileges shall be read as a reference to—

- (a) the right to perform treatment and carry out other procedures that a visiting medical officer or visiting dental officer may perform or carry out at a hospital or other institution conducted by the Authority; and
- (b) the extent to which a visiting medical officer or visiting dental officer may use the equipment of such a hospital or other institution.

(3) A reference in a provision of this Ordinance to a determined fee or charge shall be read as a reference to the fee or charge determined under section 78 for the purposes of that provision.

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE AUTHORITY

Establishment of Authority

5. There is established by this Ordinance a body by the name of the Australian Capital Territory Health Authority.

Functions of Authority

6. (1) The functions of the Authority are—

- (a) to provide and conduct health services;

- (b) to provide, in accordance with agreements entered into by the Authority, financial or other assistance to persons or bodies, being persons or bodies approved by the Authority, for the provision or conduct by such persons or bodies of health services, including financial assistance for the provision and maintenance of buildings, equipment and facilities used, or to be used, in connection with the provision or conduct of health services;
- (c) to provide services in accordance with any agreement made between the Commonwealth and the State of New South Wales, or between the Authority and an authority of that State, for the co-ordination of the provision and conduct of health services in the Territory and the State; and
- (d) to provide and conduct veterinary laboratory services.

(2) Without limiting the generality of sub-section (1), the following services shall be taken to be health services for the purposes of this section:

- (a) diagnostic, treatment and rehabilitation services;
- (b) services for the prevention of illness;
- (c) information and education services for the preservation of health;
- (d) domiciliary health care services;
- (e) ambulance and other transport services, including arrangements for the provision, outside the Territory, of those services for prescribed residents of the Territory;
- (f) forensic laboratory services; and
- (g) services ancillary to the provision or conduct of services specified in this sub-section.

(3) Without limiting the generality of sub-section (1), the assistance that may be provided in the performance of the function described in paragraph (1) (b) includes—

- (a) the making available to a person or body of a building, or part of a building, occupied by the Authority, or made available to the Authority by the Commonwealth; and
- (b) the making available to a person or body of the services of staff of the Authority.

(4) The Authority shall perform its functions in accordance with any directions given by the Minister.

(5) The Authority shall—

- (a) furnish the Minister with such information relating to the operations of the Authority as the Minister may request; and
- (b) at the request of the Minister, submit to him or her proposals regarding the general nature and extent of the future operations of the Authority.

(6) An agreement made for the purposes of paragraph (1) (b)—

- (a) shall be writing;
- (b) shall specify the nature and extent of the health service, or each of the health services, as the case may be, to which it relates; and
- (c) may be subject to conditions relating to—
 - (i) the control of the incurring of expenditure in connection with the provision of a health service to which the agreement relates; and
 - (ii) the manner in which, and the purposes for which, moneys provided under the agreement may be expended.

Powers of the Authority

7. The Authority has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and, in particular, without limiting the generality of the foregoing—

- (a) to acquire, hold and dispose of real and personal property;
- (b) to enter into contracts;
- (c) to erect buildings;
- (d) to occupy and use land or buildings made available to the Authority by the Commonwealth;
- (e) to accept gifts, devises and bequests made to the Authority, whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Authority upon trust;
- (f) to let on hire plant and equipment of the Authority;

- (g) to enter into arrangements with persons or authorities outside the Territory for, or in connection with, the provision of medical treatment to a person, whether within or outside the Territory;
- (h) where the Authority is not able to use buildings, equipment or facilities of the Authority to the full extent of their capacity, to enter into arrangements, whether by lease or otherwise, for the use of the buildings, equipment or facilities by persons or bodies other than the Authority; and
- (i) to make the services of staff of the Authority available to persons providing or conducting health services.

Delegation

8. (1) The Authority may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate any of its powers under this Ordinance, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Ordinance, be deemed to have been exercised by the Authority.

(3) A delegation under this section does not prevent the exercise of a power by the Authority.

PART III—CONSTITUTION AND MEETINGS OF AUTHORITY

Interpretation

9. In this Part, “member” means a member of the Authority and includes the Chairperson.

Constitution of Authority

10. (1) The Authority—

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal; and
- (c) is capable of suing and being sued in its corporate name.

(2) All courts, judges and person acting judicially—

- (a) shall take judicial notice of the imprint of the common seal of the Authority appearing on a document and shall presume that the document was duly sealed; and

- (b) shall take judicial notice of the signature of a person who is or has been the Chairperson or General Manager and of the fact that the person is or was the Chairperson or General Manager, as the case may be.

Membership of Authority

11. (1) The Authority shall consist of—

- (a) the Chairperson;
- (b) the General Manager;
- (c) the Chairperson of the Hospital Services Board;
- (d) the Chairperson of the Community Health Services Board;
- (e) one member who is a registered medical practitioner; and
- (f) 2 other members.

(2) The members, other than the members referred to in paragraphs (1) (b), (c) and (d), shall be appointed by the Governor-General and shall hold office, subject to this Ordinance, on such terms and conditions as the Governor-General determines.

(3) The performance of the functions or the exercise of the powers of the Authority is not affected by reason only of there being a vacancy or vacancies in the membership of the Authority.

Term of office of members

12. (1) Subject to this Ordinance, a member other than a member referred to in paragraph 11 (1) (b), (c) or (d) holds office for such period, not exceeding 4 years, as is specified in the instrument of his or her appointment but, subject to this section, is eligible for re-appointment.

(2) A person who has attained the age of 70 years shall not be appointed as a member and a person shall not be appointed as a member for a period that extends beyond the date on which the person will attain the age of 70 years.

(3) A person shall not be reappointed as a member if the consecutive periods for which the person would be a member would in the aggregate exceed 8 years.

Fees and allowances

13. The Authority is a prescribed authority for the purposes of the *Remuneration Ordinance 1976*.

Leave of absence

14. The Minister may grant leave of absence to a member on such terms and conditions as to remuneration and otherwise as the Minister determines.

Resignation

15. A member, other than a member referred to in paragraph 11 (1) (b), (c) or (d), may resign the office of member by writing signed by the member and delivered to the Governor-General.

Termination of appointment

16. (1) The Governor-General may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

(2) If a member—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) fails, without reasonable excuse, to comply with his or her obligations under section 17;
- (c) is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Authority;
- (d) being a member referred to in paragraph 11 (1) (e), ceases to be a registered medical practitioner; or
- (e) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for one year or longer,

the Governor-General shall terminate the appointment of the member.

Disclosure of interest

17. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority shall, as soon as practicable after the relevant facts have come to the knowledge of the member, disclose the nature of the member's interest at a meeting of the Authority.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Authority, and the member shall not—

- (a) be present during any deliberation of the Authority with respect to that matter; or
- (b) take part in any decision of the Authority with respect to that matter.

Acting appointments

18. (1) The Minister may appoint a person, including another member, to act as Chairperson of the Authority—

- (a) during a vacancy in that office, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when the person holding that office is absent from duty or from Australia or is, for any other reason, unable to perform the functions of that office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) The Minister may appoint a person to act as a member, other than as the Chairperson—

- (a) during a vacancy in an office of member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when a member is absent from duty or from Australia or is, for any other reason (including the reason that the member is acting as Chairperson), unable to perform the functions of a member,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(3) An appointment of a person under this section may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(4) While a person is acting in an office under this section, the person has and may exercise all the powers, and shall perform all the functions, of the office.

(5) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting under this section; and
- (b) terminate such an appointment at any time.

(6) Where a person is acting in an office under paragraph (1) (b) or (2) (b) and the office becomes vacant while the person is so acting, then, subject to sub-sections (1) and (2), the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(7) The appointment of a person under this section ceases to have effect if the person resigns the appointment by written instrument delivered to the Minister.

(8) A person shall not be appointed to act in the office of the member referred to in paragraph 11 (1) (e) unless the person is a registered medical practitioner.

Meetings

19. (1) The Authority shall hold such meetings as are necessary for the efficient performance of its functions.

(2) The Chairperson—

- (a) may, at any time, convene a meeting of the Authority; and
- (b) shall, when requested by the Minister, or on receipt of a written request signed by not less than 3 other members, convene a meeting of the Authority.

(3) The Chairperson shall preside at all meetings of the Authority at which he or she is present.

(4) The members of the Authority shall, from time to time as occasion arises, elect one of their number, being a member referred to in paragraph 11 (1) (e) or (f), to be the Deputy Chairperson of the Authority.

(5) The Deputy Chairperson shall hold office for one year.

(6) Where the Chairperson is not present at a meeting of the Authority the Deputy Chairperson shall preside at the meeting.

(7) At a meeting of the Authority, 4 members, of whom one is the Chairperson or Deputy Chairperson, constitute a quorum.

(8) Questions arising at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting.

(9) The person presiding at a meeting of the Authority has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(10) Where a person is acting as Chairperson or as a member, a reference in this section to the Chairperson or to a member, as the case may be, shall be read as including a reference to that person.

PART IV—GENERAL MANAGER

General Manager

20. (1) There shall be a General Manager of the Authority, who shall be the chief executive officer of the Authority.

(2) Subject to the directions of the Authority, the General Manager shall manage the affairs of the Authority.

Appointment and term of office

21. (1) The General Manager shall be appointed by the Governor-General.

(2) A person appointed as General Manager shall hold office for such period, not exceeding 6 years, as is specified in the instrument of appointment but is eligible for re-appointment.

(3) A person who has attained the age of 65 years shall not be appointed as General Manager and a person shall not be appointed as General Manager for a period that extends beyond the date on which the person will attain the age of 65 years.

(4) Subject to this Ordinance, the General Manager holds office on such terms and conditions as are determined by the Governor-General.

Remuneration and allowances

22. (1) The General Manager shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in force, the General Manager shall be paid such remuneration as is prescribed.

(2) The General Manager shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

Leave of absence

23. The Minister may grant leave of absence to the General Manager on such terms and conditions as to remuneration and otherwise as the Minister determines.

Resignation

24. The General Manager may resign the office of General Manager by writing signed by him or her and delivered to the Governor-General.

Termination of appointment

25. (1) The Governor-General may terminate the appointment of the General Manager for misbehaviour or physical or mental incapacity.

(2) If the General Manager—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) fails, without reasonable excuse, to comply with his or her obligations under section 26;
- (c) engages in paid employment outside the duties of his or her office without the approval of the Minister;
- (d) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for a total of 28 days in any period of 12 months; or
- (e) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for one year or longer,

the Governor-General shall terminate the appointment of the General Manager.

Disclosure of interest

26. The General Manager shall give a written notice to the Minister of all direct or indirect pecuniary interests that the General Manager has or acquires in any business.

Acting General Manager

27. (1) The Minister may appoint a person to act as General Manager of the Authority—

- (a) during a vacancy in the office of General Manager, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the General Manager is absent from duty or from Australia or is, for any other reason, unable to perform the functions of that office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed under this section; and
- (b) terminate such an appointment at any time.

(4) Where a person is acting as General Manager in accordance with paragraph (1) (b) and the office of General Manager becomes vacant while the person is so acting, then, subject to sub-section (3), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(5) The appointment of a person under this section ceases to have effect if the person resigns the appointment by written instrument delivered to the Minister.

(6) While a person is acting as General Manager, the person has and may exercise all the powers, and shall perform all the functions, of the General Manager.

(7) The validity of anything done by a person purporting to act under this section shall not be called in question on the ground that the occasion for the person to act had not arisen or had ceased.

PART V—HOSPITAL SERVICES BOARD AND COMMUNITY HEALTH SERVICES BOARD

Interpretation

28. In this Part, “member”, in relation to a Board, means a member of the Board.

Establishment of Boards

29. There is established by this Ordinance a Hospital Services Board and a Community Health Services Board.

Function of Boards

30. (1) The functions of the Hospital Services Board are:

- (a) to be responsible for the conduct and clinical administration of hospitals run by the Authority;
- (b) to manage the Authority's centralised service facility known as the Health Services Supply Centre;
- (c) to be responsible for the administration, on behalf of the Authority, of—
 - (i) pathology services; and
 - (ii) ambulance and other transport services;
- (d) to be responsible for the conduct and administration of clinics established by the Authority in accordance with agreements entered into by the Authority with other health authorities;
- (e) to advise the Authority on policy development and planning for hospital services; and
- (f) to provide services ancillary to the functions referred to in paragraphs (a) to (e) (inclusive).

(2) The functions of the Community Health Services Board are:

- (a) to be responsible for the administration of community health services, including those provided in accordance with agreements entered into by the Authority with other health authorities;
- (b) to be responsible for the conduct and administration of nursing homes and hostels of the Authority;
- (c) to advise the Authority on policy development and planning for community health services; and

- (d) to provide services ancillary to the functions referred to in paragraphs (a), (b) and (c).

(3) Without limiting the generality of sub-section (2), a reference in that sub-section to community health services shall be read as including a reference to services in respect of mental health, rehabilitation, geriatrics, child health, and to alcohol and drug services.

(4) Each Board shall perform its functions in accordance with any directions given from time to time by the Authority.

(5) Each Board shall—

- (a) furnish the Authority with such information relating to the operations of the Board as the Authority may request;
- (b) at the request of the Authority, submit to the authority proposals regarding the general nature and extent of the future operations of the Board; and
- (c) as soon as is reasonably practicable after each meeting of the Board, furnish to the Authority a copy of the record of proceedings at that meeting.

Powers of Boards

31. Each Board has power to do all things that are necessary or convenient to be done for of in connection with the performance of its functions.

Membership of Boards

32. (1) Each Board shall consist of 7 members, of whom—

- (a) 3 shall be members of the staff of the Authority;
- (b) one, not being a member referred to in paragraph (a), shall be a person who is a registered chiropractor, dentist, medical practitioner, optometrist, pharmacist, physiotherapist or veterinary surgeon; and
- (c) one, being a member referred to in paragraph (a), shall be a person who is a nurse.

(2) The members of the Board shall be appointed by the Minister.

(3) The performance of the functions or the exercise of the powers of a Board is not affected by reason only of there being a vacancy or vacancies in the membership of the Board.

Term of office of members

33. (1) Subject to this Ordinance, a member holds office for such period, not exceeding 4 years, as is specified in the instrument of his or her appointment but, subject to this section, is eligible for re-appointment.

(2) A person who has attained the age of 70 years shall not be appointed as a member and a person shall not be appointed as a member for a period that extends beyond the date on which the person will attain the age of 70 years.

(3) A person shall not be re-appointed as a member if the consecutive periods for which the person would be a member would in the aggregate exceed 8 years.

Fees and allowances

34. Each Board is a prescribed authority for the purposes of the *Remuneration Ordinance 1976*.

Leave of absence

35. The Minister may grant leave of absence to a member on such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation

36. A member may resign the office of member by writing signed by the member and delivered to the Minister.

Termination of appointment

37. (1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

(2) If a member—

- (a)** becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b)** fails, without reasonable excuse, to comply with his or her obligations under section 38;
- (c)** is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Board of which he or she is a member;

- (d) being a member referred to in paragraph 32 (1) (b) or (c), ceases to hold the qualification by reason of which the member was appointed; or
- (e) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for one year or longer,

the Minister shall terminate the appointment of the member.

Disclosure of interest

38. (1) A member of a Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as practicable after the relevant facts have come to the knowledge of the member, disclose the nature of the member's interest at a meeting of the Board.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Board, and the member shall not—

- (a) be present during any deliberation of the Board with respect to that matter; or
- (b) take part in any decision of the Board with respect to that matter.

Acting appointments

39. (1) The Minister may appoint a person to act as a member—

- (a) during a vacancy in an office of member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when a member is absent from duty or from Australia or is, for any other reason, unable to perform the functions of a member,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under this section may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) While a person is acting in an office under this section, the person has and may exercise all the powers, and shall perform all the functions, of the office.

(4) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting under this section; and
- (b) terminate such an appointment at any time.

(5) Where a person is acting in an office under paragraph (1) (b) and the office becomes vacant while the person is so acting, then, subject to sub-section (1), the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(6) The appointment of a person under this section ceases to have effect if the person resigns the appointment by written instrument delivered to the Minister.

(7) Where an office in respect of which an appointment under this section may be made is the office of a member of the kind referred to in paragraph 32 (1) (a), (b) or (c), a person is not eligible to be appointed under this section to act in that office unless the person is a person of the kind referred to in paragraph 32 (1) (a), (b) or (c), as the case requires.

Chairperson

40. (1) The members of each Board shall, from time to time as occasion arises—

- (a) elect one of their number to be the Chairperson of the Board; and
- (b) elect one of their number to be the Deputy Chairperson of the Board.

(2) The Chairperson and the Deputy Chairperson shall be elected from the members of the Board who are not members of the staff of the Authority.

(3) The Chairperson and Deputy Chairperson shall each hold office for one year.

(4) The Minister shall appoint a member of each Board to act as Chairperson pending the election of a Chairperson in pursuance of this section.

Meetings

41. (1) Each Board shall hold such meetings as are necessary for the efficient performance of its functions, but so that not more than 6 weeks elapses between each meeting.

(2) The Minister shall convene the first meeting of each Board.

(3) The Chairperson of a Board—

- (a) may, at any time, convene a meeting of the Board; and
- (b) shall, when requested by the Minister or the Authority, or on receipt of a written request signed by not less than 3 other members, convene a meeting of the Board.

(4) The Chairperson of a Board shall preside at all meetings of the Board at which he or she is present.

(5) Where the Chairperson of a Board is not present at a meeting of the Board, the Deputy Chairperson of the Board shall preside at the meeting.

(6) At a meeting of a Board, 4 members, of whom one is the Chairperson or Deputy Chairperson, constitute a quorum.

(7) Questions arising at a meeting of a Board shall be determined by a majority of the votes of the members present and voting.

(8) The person presiding at a meeting of a Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9) Where a person is acting as a member of a Board, a reference in this section to a member shall be read as including a reference to that person.

Attendance of Chairpersons at meetings of other Board

42. (1) The Chairperson of a Board may attend the meetings of the Board of which the person is not Chairperson.

(2) If the Chairperson of a Board is unable to attend a meeting of the Board of which he or she is not Chairperson, the Deputy Chairperson of the first-mentioned Board may attend in his or her place.

(3) Where a Chairperson or Deputy Chairperson attends a meeting of a Board in pursuance of this section—

- (a) the Chairperson or Deputy Chairperson so attending may, at the request of the person presiding at the meeting, address the meeting; and
- (b) the Chairperson or Deputy Chairperson so attending is not entitled to vote at the meeting.

PART VI—VISITING MEDICAL AND DENTAL OFFICERS

Applications for appointment as visiting medical officer or visiting dental officer

43. (1) A registered medical practitioner may apply in writing to the Authority to be appointed a visiting medical officer.

(2) A registered dentist may apply in writing to the Authority to be appointed a visiting dental officer.

(3) An application under sub-section (1) or (2) shall state—

- (a) the professional qualifications and experience of the applicant; and
- (b) the clinical privileges the applicant seeks.

Appointment of visiting medical officers and visiting dental officers

44. (1) Where an application has been made in accordance with section 43, the Authority may, by instrument in writing, appoint the applicant to be a visiting medical officer or visiting dental officer, as the case requires.

(2) Subject to section 47, a person appointed under sub-section (1) has such clinical privileges as are specified in the instrument of appointment at such hospital or other institution as is specified in the instrument of appointment.

(3) Where the Authority refuses to appoint a person to be a visiting medical officer or visiting dental officer, as the case may be, the Authority shall notify the person in writing of the refusal.

Refusal of appointment of visiting medical officer, &c.

45. The Authority shall not appoint a person to be a visiting medical officer or visiting dental officer where—

- (a) in the case of a person who is applying for appointment as a visiting medical officer—there are sufficient visiting medical officers in the area of medicine in which the person practices;
- (b) in the case of a person who is applying for appointment as a visiting dental officer—there are sufficient visiting dental officers;
- (c) the person's registration as a medical practitioner or as a dentist was obtained by fraud or misrepresentation;
- (d) the person's qualification as a medical practitioner or as a dentist has been withdrawn or cancelled by the body that granted it;

- (e) the person's registration in a State or another Territory has been cancelled, suspended or otherwise withdrawn on a ground other than the non-payment of a fee;
- (f) the person has been convicted in the Territory or elsewhere of an offence punishable by imprisonment for one year or longer or of any other offence that, in the opinion of the Authority, renders the person unfit to be a visiting medical officer or visiting dental officer, as the case may be;
- (g) the person has, in the opinion of the Authority, been guilty of unprofessional conduct;
- (h) the person is, in the opinion of the Authority, guilty of habitual drunkenness or addition to a drug;
- (i) the person is not mentally or physically fit to perform the duties of a visiting medical officer or visiting dental officer; or
- (j) the person's standard of practice in his or her profession, or in the branch of his or her profession in which the person intends to practise as a visiting medical officer or visiting dental officer, as the case requires, is inadequate.

Resignation

46. A visiting medical officer or visiting dental officer may resign his or her appointment by written instrument delivered to the Authority.

Suspension or cancellation of appointment and variation of clinical privileges

47. (1) Where, in respect of a person who has been appointed a visiting medical officer or visiting dental officer—

- (a) the person's registration as a medical practitioner or dentist—
 - (i) is suspended or cancelled; or
 - (ii) is restricted on health grounds; or

(b) any of paragraphs 45 (c) to (j) (inclusive) is applicable to the person, the Authority may, by notice in writing given to the person—

- (c) suspend or cancel the person's appointment as a visiting medical officer or visiting dental officer, as the case requires; or

(d) vary the clinical privileges of the person.

(2) Where the Authority—

- (a) suspends or cancels a person's appointment as a visiting medical officer or visiting dental officer; or
- (b) varies a person's clinical privileges,

the Authority shall cause a notice containing particulars of the decision to be published in the *Gazette*.

Review of decisions

48. Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Authority—

- (a) refusing under section 45 to appoint a person to be a visiting medical officer or visiting dental officer, as the case may be; or
- (b) under section 47—
 - (i) suspending or cancelling a person's appointment as a visiting medical officer or visiting dental officer, as the case may be; or
 - (ii) varying a person's clinical privileges.

Notification of decisions

49. (1) A notice given to a person under sub-section 44 (3) shall include a statement setting out the decision refusing to appoint the person to be a visiting medical officer or visiting dental officer, as the case requires, and giving the reasons for the decision.

(2) A notice given to a person under section 47 shall include a statement setting out the decision suspending or cancelling the person's appointment, or varying the person's clinical privileges, as the case requires, and giving the reasons for the decision.

(3) A statement under sub-section (1) or (2) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, a person whose interests are adversely affected by the decision to which the statement relates is entitled to apply to the Tribunal for a review of the decision.

(4) The validity of a decision referred to in sub-section (1) shall not be taken to be affected by a failure to comply with that sub-section.

PART VII—STAFF

Division 1—General

Interpretation

50. (1) In this Part, “organisation” means an organisation that is registered under the *Conciliation and Arbitration Act 1904*.

(2) For the purposes of this Part, an organisation is the appropriate organisation in relation to a position if the rules of the organisation provide that an officer who occupies that position is eligible for membership of that organisation.

(3) Where, but for this sub-section, 2 or more organisations would each be the appropriate organisation in relation to a position, the appropriate organisation is—

- (a) where the need to determine the appropriate organisation arises by reason of an appeal to a Staff Appeals Board—
 - (i) the organisation of which the officer appealing is a member; or
 - (ii) where the officer is not a member of an organisation—the organisation chosen by the officer; and
- (b) where the need to determine the appropriate organisation arises by reason of an appeal to a Promotions Appeal Board in respect of a promotion to that position—the organisation the membership of which includes the larger or largest number of officers employed by the Authority occupying positions of the same kind as that position.

Division 2—Staff of the Authority

Authority to have staff

51. The Authority shall have a staff consisting of the persons appointed as officers or engaged as temporary employees in accordance with this Part.

Officers

52. (1) The Authority shall appoint such officers as it considers necessary for the purposes of this Ordinance.

(2) A person shall not be appointed as an officer unless—

- (a) the person possesses such educational qualifications, and such other qualifications (if any), as are determined by the Authority;

- (b) the Authority is satisfied as to the person's health and physical fitness; and
- (c) the Authority is satisfied that the person is a fit and proper person to be an officer.

(3) Subject to this Part, an officer holds office on such terms and conditions as the Authority, with the approval of the Public Service Board, determines.

(4) An officer shall perform duties as directed by the Authority.

Recruitment

53. (1) The Authority may, from time to time, by advertisement in the *Gazette*, in newspapers or elsewhere, invite persons to apply for appointment as officers.

(2) Nothing in this section prevents the appointment of a qualified person who has applied for appointment otherwise than in pursuance of an advertisement under this section.

Appointment on probation

54. (1) Unless the Authority, in a particular case, otherwise directs, the appointment of an officer shall be on probation for a period of 6 months commencing on the date on which the person commences duties in pursuance of his or her appointment.

(2) A person appointed as an officer on probation remains a probationer until his or her appointment is confirmed or terminated in accordance with this section.

(3) The Authority may, at any time, terminate the appointment of a person who is a probationer.

(4) As soon as possible after the expiration of the period referred to in subsection (1), the Authority shall—

- (a) confirm the appointment;
- (b) terminate the appointment; or
- (c) direct that the probationer continue on probation for such further period, not exceeding 6 months, as the Authority thinks fit.

(5) Where the Authority directs that a probationer continue on probation for a further period, it may confirm or terminate the appointment of the probationer

at any time during that further period and, if it has not confirmed or terminated the appointment before the expiration of that period, shall do so as soon as practicable after the expiration of that period.

(6) Where the appointment of a probationer is terminated, the Authority shall notify the probationer in writing of the reasons for the termination.

Temporary employees

55. (1) The Authority may engage persons as temporary employees.

(2) A temporary employee shall be engaged on such terms and conditions as the Authority, with the approval of the Public Service Board, determines.

Leave of absence for service with State or elsewhere

56. (1) Where the Authority makes an officer available to a State, another Territory, the government of a country other than Australia or an authority of a State or of such a Territory or government, the Authority may grant to the person leave of absence without pay for the period for which he or she is so made available.

(2) A period during which an officer is absent on leave granted under subsection (1) forms part of his or her period of service as an officer.

Division 3—Classifications and Promotions

Creation and abolition of positions

57. (1) The Authority may create positions on the staff of the Authority and may abolish positions on that staff.

(2) Subject to sub-section (3), the Authority may determine the classification and salary, or the range of salary, applicable to a position on the staff of the Authority.

(3) The Authority shall not determine a classification and salary, or range of salary, to be applicable to a position unless—

- (a) the Public Service Board has previously approved of that classification and salary, or range of salary, as being applicable to another position on the staff of the Authority or elsewhere; or
- (b) the Public Service Board approves the determination.

Reclassification

58. (1) Subject to sub-section (2), the Authority may, from time to time, alter the classification of a position on the staff of the Authority by raising or lowering the salary, or the range of salary, applicable to the position.

(2) The Authority shall not raise or lower the salary, or range of salary, applicable to a position unless—

- (a)** the Public Service Board has previously approved the altered salary, or range of salary, as being applicable to another position on the staff of the Authority or elsewhere having the same classification; or
- (b)** the Public Service Board approves the alteration.

(3) Whenever the classification of a position is altered, the position shall be deemed to be vacant.

(4) Where the Authority makes the same alteration of the classification of all positions having the same classification, the Authority may direct that sub-section (3) shall not apply and, in that case, that sub-section does not apply.

(5) Where—

- (a)** the Authority makes an alteration of the classification of a position in a case where there is no other position having the same classification as that position; and
- (b)** that alteration is related to an alteration in respect of which a direction has been given under sub-section (4),

the Authority may direct in writing that sub-section (3) shall not apply in relation to the alteration referred to in paragraph (a) and, in that case, sub-section (3) does not apply.

(6) A direction given by the Authority under sub-section (4) or (5) shall be made known to the officers affected by the direction as prescribed.

Filling of vacant positions

59. (1) The Authority may appoint a person as an officer to fill a vacant position on the staff of the Authority.

(2) Where the Authority has determined that a position, or every position included in a class of positions, on the staff of the Authority is to be filled only by an officer who possesses qualifications specified in the determination, a person shall not be appointed as an officer, and an officer shall not be

transferred or promoted, to fill that position or a position included in that class of positions, as the case may be, unless the person possesses those qualifications.

Selection of officers for promotion

60. (1) In the selection of an officer for promotion to a vacant position, consideration shall be given only to the relative efficiency of the officers available for promotion to the position.

(2) For the purposes of this section—

- (a) “efficiency”, in relation to an officer, means the suitability of the officer for the discharge of duties of the kind to be performed in the position concerned, having regard to the following matters:
- (i) the capability of the officer to discharge those duties;
 - (ii) the standard of the work performed by the officer in other positions;
 - (iii) any experience possessed by the officer relevant to the discharge of those duties;
 - (iv) the training and educational qualifications of the officer;
 - (v) in a case where the vacant office concerned is a part-time office—the willingness of the officer to undertake the duties of the office on the basis that the hours of attendance applicable to him or her will be those specified by the Authority in relation to the office;
 - (vi) in a case where the vacant office concerned is a full-time office—the willingness of the officer to undertake the duties of the office on a full-time basis; and
 - (vii) any personal qualities of the officer relevant to the discharge of those duties,

and, in the case of an officer who is a returned soldier or is or has been absent on specified defence service, includes such efficiency as, in the opinion of the Authority or the Promotions Appeal Board, as the case requires, the officer would have had but for the absence of the officer on active service or on specified defence service; and

- (b) “returned soldier” and “specified defence service” have the same respective meanings as in the *Public Service Act 1922*.

Appeals against promotions

61. (1) The promotion of an officer to a vacant position—

- (a) is provisional and without increased salary pending confirmation of the promotion;
- (b) shall be made known to the officers as prescribed; and
- (c) is subject to appeal as provided by this section.

(2) An officer who considers that he or she should have been promoted to a vacant position in preference to the officer provisionally promoted may appeal, as prescribed, against the provisional promotion on the ground that he or she is more efficient than the officer provisionally promoted.

(3) Upon an appeal or appeals being made against a provisional promotion, the Authority shall arrange for a Promotions Appeal Board to make an inquiry into the claims of the appellant or appellants and the claims of the officer provisionally promoted and determine the appeal or appeals.

(4) Where an appeal is allowed, the Authority shall cancel the provisional promotion and promote the appellant to the vacant position.

(5) Where, in respect of a provisional promotion, no appeal is duly made or an appeal has, or appeals have, been duly made but the appeal, or each of the appeals, has been disallowed or has become inoperative, the Authority shall confirm the provisional promotion.

(6) If, after notification has been made of a provisional promotion to a vacant position but before the promotion has been confirmed, the Authority is satisfied that the position is unnecessary or can be filled by the transfer of an excess officer, or that the notification or further notification of the vacancy in the position is desirable, the Authority may cancel the provisional promotion.

(7) The Authority may cancel a provisional promotion in accordance with sub-section (6), whether or not there has been an appeal against the provisional promotion, and, where the Authority so cancels a provisional promotion, any appeal proceedings in respect of the promotion shall, by force of this section, be discontinued.

(8) For the purposes of this section, an appeal shall be taken to become inoperative if—

- (a) the appeal is withdrawn;
- (b) the appellant ceases to be an officer; or
- (c) the appellant ceases, by reason of the confirmation of his or her promotion to another position or for any other reason, to be eligible for promotion to the position concerned.

Promotions Appeal Boards

62. (1) For the purposes of this Division, the Authority shall, from time to time, arrange for the constitution of such Promotions Appeal Boards as are required.

(2) A Promotions Appeal Board shall consist of—

- (a) a chairperson appointed by the Minister;
- (b) an officer appointed by the Authority; and
- (c) an officer nominated by, and who is a member of, the organisation that is, in relation to the position to which the appeal relates, the appropriate organisation.

(3) The chairperson of a Promotions Appeal Board shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, the chairperson shall be paid such remuneration as is prescribed.

(4) Where, at a meeting of a Promotions Appeal Board, the members are divided in opinion on a question, that question shall be decided according to the decision of the majority.

(5) A person shall not be appointed as chairperson of a Promotions Appeal Board if the person is a member of the Authority or of the staff of the Authority.

Division 4—Tenure of Office

Tenure of office

63. (1) An officer who has attained the age of 60 years is entitled to retire if he or she desires to do so, but may, subject to this Part, continue as an officer until he or she attains the age of 65 years.

(2) If a person continues as an officer after he or she has attained the age of 60 years, the officer may at any time before attaining the age of 65 years be retired by the Authority.

- (3) An officer who attains the age of 65 years ceases to be an officer.

Excess officers

64. (1) If, at any time, the Authority considers that a greater number of officers occupying positions of a particular classification is employed than is necessary for the efficient performance of the Authority's functions, an officer whom the Authority finds to be in excess may be transferred to such other position of equal classification as the officer is competent to fill or, if no such position is available, the officer may be transferred to a position of lower classification.

(2) If no position is available for the officer, the officer may be retired by the Authority.

Division 5—Dismissals, Punishments and Complaints

Retirement, &c., on grounds of inefficiency, incapacity, &c.

65. If it appears to the Authority that an officer is inefficient or incompetent, or unfit to discharge or incapable of discharging his or her duties, the Authority may—

- (a) if the officer occupies a position to which a range of salary is applicable and the officer is in receipt of a salary other than the minimum salary of that range—reduce the officer's salary to a lower salary within that range;
- (b) if the officer occupies a position to which a range of salary is applicable and the officer is in receipt of a salary other than the maximum salary of that range—determine that the officer be not granted, or be not granted until the expiration of a specified period, the whole, or such part as the Authority specifies, of a specified increase in salary within that range that would otherwise be granted to the officer;
- (c) reduce the officer to a lower position and salary; or
- (d) retire the officer.

Disciplinary action for misconduct

66. (1) Where, after inquiry as directed by the Authority, it is found that an officer has been guilty of misconduct, the Authority may—

- (a) caution or reprimand the officer;

- (b) if the officer occupies a position to which a range of salary is applicable and the officer is in receipt of a salary other than the minimum salary of that range—reduce the officer's salary to a lower salary within that range;
- (c) if the officer occupies a position to which a range of salary is applicable and the officer is in receipt of a salary other than the maximum salary of that range determine that the officer be not granted, or be not granted until the expiration of a specified period, the whole, or such part as the Authority specifies, of a specified increase in salary within that range that would otherwise be granted to the officer;
- (d) reduce the officer to a lower position and salary; or
- (e) dismiss the officer.

(2) In an inquiry for the purposes of sub-section (1), a formal hearing is not required but the officer shall be informed of the nature of the alleged misconduct and given an opportunity of furnishing a statement in relation to the matters alleged to constitute the misconduct.

(3) Where—

- (a) an inquiry is being held into alleged misconduct by an officer; or
- (b) an officer has been charged with having committed an offence against a law of the Commonwealth, of a State or of a Territory, punishable either on indictment or on summary conviction, and it appears to the Authority that the act or omission alleged to constitute the offence is such as to constitute misconduct by the officer,

the Authority may suspend the officer from duty.

(4) Subject to sub-sections (5) and (8), where the Authority suspends an officer from duty under sub-section (3), the officer shall not be paid his or her salary in respect of the period of the suspension.

(5) The Authority may, in its discretion, determine that the officer—

- (a) be paid his or her salary in respect of the period of the suspension;
- (b) be paid his or her salary in respect of such part of the period of the suspension as the Authority specifies; or

- (c) be paid such part of his or her salary as the Authority specifies in respect of the period of the suspension or in respect of such part of that period as the Authority specifies.

(6) Where the Authority has suspended an officer from duty under sub-section (3), the Authority may at any time revoke the suspension.

(7) Where—

- (a) after an inquiry has been held into alleged misconduct by an officer who has been suspended from duty under sub-section (3), the Authority is not satisfied that the officer has been guilty of misconduct; or
- (b) upon the hearing by a court of the charge against an officer referred to in paragraph (3) (b) who has been suspended from duty under sub-section (3)—
 - (i) the officer does not plead guilty, and is not found guilty, of the offence with which he or she was charged or of another offence that appears to the Authority to be such as to constitute misconduct by the officer; or
 - (ii) the charge against the officer is not proceeded with,

the Authority shall, if it has not already done so, revoke the suspension.

(8) Where—

- (a) an officer has been suspended from duty under sub-section (3);
- (b) an amount of salary that would otherwise have been paid to the officer in respect of the period of the suspension was not paid to the officer; and
- (c) the Authority revokes the suspension,

the officer shall, subject to sub-section (9), be paid that amount of salary.

(9) Where the General Manager is satisfied that an officer to whom sub-section (8) applies has engaged in paid employment or work during the period of his or her suspension, the amount payable to the officer under that sub-section shall be reduced by an amount equal to the total of the amounts of the earnings that the Authority is satisfied were received or are receivable by the officer in respect of that employment or work.

(10) For the purposes of this section, an officer shall be taken to have been guilty of misconduct if, and only if—

- (a) the officer wilfully disobeyed or disregarded a direction, applicable to him or her as an officer and given by a person having authority to give the direction;
- (b) the officer was negligent or careless in the discharge of his or her duties;
- (c) the officer was inefficient or incompetent by reason of causes within his or her own control;
- (d) the officer used intoxicating liquor or drugs to excess;
- (e) the officer was guilty of any disgraceful or improper conduct, whether as an officer or otherwise;
- (f) the officer committed a breach of the terms and conditions upon which he or she holds office; or
- (g) whether before or after becoming an officer, he or she wilfully supplied to the Authority, to an officer or to some other person acting on behalf of the Authority incorrect or misleading information in connection with his or her appointment as an officer.

Appeals

67. (1) Where, under section 65 or 66—

- (a) an officer has his or her salary or position reduced or is retired or dismissed; or
- (b) a determination is made that an officer be not granted, or be not granted until the expiration of a specified period, the whole or a part of an increase in salary,

the officer may appeal to the Staff Appeals Board.

(2) On the hearing of an appeal under this section, the Staff Appeals Board may take evidence on oath or affirmation.

(3) The regulations may prescribe the manner in which, and the time within which, appeals may be made under this section and the manner in which the hearing of appeals so made shall be conducted, and may include provision for or in relation to the summoning of witnesses, the production of documents, the

taking of evidence on oath or affirmation and the administering of oaths or affirmations.

(4) The Staff Appeals Board shall hear each appeal submitted to it under this section and may confirm, vary or set aside the decision against which the appeal is made.

(5) The decision of the Staff Appeals Board is final and the Authority shall take such action as is necessary to give effect to the decision.

Staff Appeals Boards

68. (1) For the purposes of this Division, the Authority shall, from time to time, arrange for the constitution of such Staff Appeals Boards as are required.

(2) For the purpose of hearing and determining an appeal, a Staff Appeals Board shall consist of—

- (a) a chairperson appointed by the Minister;
- (b) an officer appointed by the Authority; and
- (c) an officer nominated by, and who is a member of, the organisation that is, in relation to the position occupied by the appellant, the appropriate organisation.

(3) The chairperson of a Staff Appeals Board shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, the chairperson shall be paid such remuneration as is prescribed.

(4) Where, at a meeting of a Staff Appeals Board, the members are divided in opinion on a question, that question shall be decided according to the opinion of the majority.

(5) A person shall not be appointed chairperson of a Staff Appeals Board if the person is a member of the Authority or of the staff of the Authority.

Complaints by officers

69. (1) An officer who considers that he or she has ground for complaint in relation to any matter relating to his or her employment, not being a matter relating to a promotion, may make a complaint to the General Manager.

(2) An officer may make a complaint by giving to his or her immediately superior officer a notice in writing setting forth particulars of the subject-matter of the complaint.

(3) An officer to whom a notice is given in pursuance of sub-section (2) shall cause the notice to be delivered to the General Manager.

(4) Where a notice has been delivered to the General Manager in accordance with sub-section (3), the General Manager shall investigate, or cause to be investigated, the subject-matter of the notice and shall report the results of the investigation to the Authority.

(5) The Authority shall cause notice in writing of the results of the investigation to be given to the officer who made the complaint.

(6) An officer who is dissatisfied with the decision of the Authority in relation to a notice given by the officer in pursuance of sub-section (2) may, within 21 days after the date on which notice in writing of the decision is given to the officer, appeal against the decision to a Staff Appeals Board.

(7) On an appeal under this section, the Staff Appeals Board may—

- (a) recommend to the Authority that it take such action in relation to the subject matter of the appeal as is specified by the Board; or
- (b) dismiss the appeal.

(8) The Authority shall give effect to a recommendation of the Staff Appeals Board made in pursuance of sub-section (7).

PART VIII—FINANCE

Moneys of Authority

70. The moneys of the Authority shall consist of—

- (a) such amounts as are appropriated by the Parliament for the purposes of the Authority;
- (b) amounts paid to the Authority in accordance with the provisions of an Ordinance or regulations made under an Ordinance;
- (c) payments received for or in connection with treatment and services provided by the Authority or the leasing of premises, or hiring of plant or equipment, of the Authority;
- (d) moneys given or bequeathed to the Authority;
- (e) amounts received from the disposal of assets of the Authority; and

- (f) any other money received by the Authority for the purposes of the Authority.

Expenditure by Authority

71. (1) Subject to this section, the Authority may apply the moneys referred to in section 70 for any of the following purposes—

- (a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Authority in, or in connection with the performance of its functions and the exercise of its powers;
- (b) in payment of any remuneration and allowances payable under this Ordinance; and
- (c) in making any other payments that the Authority is authorised or required to make by or under this or any other Ordinance or by regulations made under any Ordinance.

(2) Notwithstanding anything contained in this Ordinance, where a gift or bequest made to the Authority is subject to conditions in relation to the purposes for which it is to be applied, the moneys paid the the Authority as a result of the gift or bequest, and any income derived from the investment of those moneys, may be applied for those purposes and subject to those conditions, but not otherwise.

Estimates

72. (1) The Authority shall prepare estimates, in such form as the Minister directs, of its expenditure and receipts for each financial year and, if so directed by the Minister, for any other period and shall submit those estimates to the Minister not later than such date as the Minister directs.

(2) Moneys shall not be expended by the Authority otherwise than in accordance with estimates of expenditure approved by the Minister.

Borrowing prohibited

73. The Authority has no power to borrow money.

Approval of certain transactions by Minister

74. The Authority shall not, except with the approval in writing of the Minister, enter into a contract for the acquisition or sale of capital assets where the contract involves the payment or receipt of an amount exceeding \$500,000.

Charges for certain services

75. (1) This section applies to the following services—

- (a) the provision of accommodation in a hospital, nursing home or hostel conducted by the Authority;
- (b) a professional service provided by a person employed or engaged by the Authority to provide therapeutic, diagnostic or rehabilitation services or services for the prevention of illness; and
- (c) an ambulance service.

(2) The amount of a fee or charge that was, at the time when the provision of the relevant service commenced, the determined fee or charge for that service is payable to the Authority.

(3) The Minister may, by instrument in writing, declare that a fee or part of a fee is not payable by a person included in a class of persons specified in the instrument for the provision by the Authority of a service specified, or included in a class of services specified, in the instrument.

(4) A fee is not payable by a person included in a class of persons specified in an instrument under sub-section (3) for the provision by the Authority of a service specified, or included in a class of services specified, in that instrument.

Elections by patient

76. (1) A patient at a hospital may, by notice in writing given to the Chairman of the Authority, elect to receive medical treatment services exclusively from persons who are not employed by the Authority or acting at the request of the Authority.

(2) An election made under sub-section (1) may be revoked by notice in writing given to the Chairman of the Authority.

Refunds, remissions, &c.

77. (1) The Authority may remit or postpone, either in whole or in part, the payment of a fee payable to the Authority in respect of a service of the kind referred to in section 75.

(2) Where—

- (a) a fee has been paid to the Authority by a person;
- (b) the fee was not payable to the Authority by the person, or the fee payable was less than the amount so paid,

there is payable by the Authority to the person an amount equal to—

- (c) the amount of the fee so paid; or
- (d) the difference between the amount payable and the amount so paid,

as the case requires.

Power of Minister to determine fees

78. The Minister may, by notice in writing published in the *Gazette*, determine fees and charges for the purposes of this Ordinance.

PART IX—MISCELLANEOUS

Power of entry

79. The Minister, or a person authorised by him or her in writing, may, at any reasonable time, enter and inspect any premises occupied or used by the Authority.

Control of traffic on Authority premises

80. Notwithstanding sub-section 109 (6) of the *Motor Traffic Ordinance 1936*, the provisions of that Ordinance, other than sub-section 109 (6), apply to, and in relation to—

- (a) every carriageway on land occupied by the Authority that is available for use by the public;
- (b) every area of land occupied by the Authority that is available for use by the public for parking of motor vehicles; and
- (c) every entrance to, or exit from, such a carriageway or area of land,

as if the carriageway, area of land, entrance or exit were an off-street parking area and a public place within the meaning of the *Motor Traffic Ordinance 1936*.

Secrecy

81. (1) This section applies to every person who is or has been a member of the Authority or of the staff of the Authority.

(2) Subject to this section, a person to whom this section applies shall not, either directly or indirectly, except in the performance of a duty under or in connection with this Ordinance—

- (a) make a record of, or divulge or communicate to any person, any information concerning the affairs of any other person acquired by him or her by reason of his or her office or employment under or for the purposes of this Ordinance; or
- (b) produce to any person a document furnished to the first-mentioned person by reason of his or her office.

Penalty: \$1,000 or imprisonment for 3 months, or both.

(3) Nothing in this section applies in relation to—

- (a) the giving of information in relation to a person where the giving of the information is necessary to remove a threat to the life or health of the person;
- (b) the giving of information to a police officer in answer to a lawful request by the police officer while acting in the course of his or her duty; or
- (c) the giving of information, or the production of a document, to a court in accordance with a summons or a subpoena.

Committees

82. (1) The Authority may appoint a Committee to assist the Authority in relation to a matter.

(2) A Committee appointed under this section shall consist of such person or persons, whether a member of the Authority or not, as the Authority thinks fit.

(3) A Committee appointed under this section is a prescribed authority for the purposes of the *Remuneration Ordinance 1976*.

Application of Officers' Rights Declaration Act

83. Where a member of the Authority or a person appointed as an officer under this Ordinance, was, immediately before his or her appointment as a member or an officer, as the case requires, an officer of the Australian Public Service or a person to whom the *Officers Rights Declaration Act 1928* applied—

- (a) the member or person retains his or her existing and accruing rights; and

- (b) for the purpose of determining those rights, his or her service under this Ordinance shall be taken into account as if it were service in the Australian Public Service.

Giving of notices

84. Subject to this Ordinance, a notice or document that is required to be given or sent to a person may be given or sent to that person by post addressed to the person at his or her place of residence or business last known to the person sending or giving the notice or document.

Regulations

85. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters required or permitted by this Ordinance to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance and, without limiting the generality of the foregoing, prescribing penalties not exceeding \$100 for offences against the regulations.

PART X—TRANSITIONAL

Interpretation

86. In this Part, unless the contrary intention appears—

“commencement date” means the date of commencement of this Ordinance; and

“former Authority” means the Australian Capital Territory Health Authority as in existence immediately before the commencement date.

Legal proceedings

87. (1) Where, before the commencement date, a cause of action by or against the former Authority had arisen but proceedings in respect of that cause of action had not been instituted before that date, proceedings in respect of that cause of action may be instituted by or against the Authority.

(2) Where, before the commencement date, proceedings by or against the former Authority had been instituted in a court, tribunal, commission or other body but those proceedings had not been completed before that date, those proceedings may be continued by or against the Authority.

(3) In proceedings instituted or continued pursuant to this section, each party to the proceedings has the same rights, and is subject to the same

obligations, as if the Authority were the former Authority and the proceedings had been continued by or against the former Authority.

Bank accounts

88. A bank account maintained, immediately before the commencement date, by and in the name of the former Authority shall, on and after that date, be deemed to be an account maintained by and in the name of the Authority.

Rights and liabilities

89. The rights, privileges, obligations and liabilities of the former Authority immediately before the commencement date are, on and after that date, the rights, privileges, obligations and liabilities of the Authority.

Vesting of property

90. All property, whether real or personal, moneys and other assets vested in the former Authority immediately before the commencement date are, on that date, vested in the Authority on the same terms and conditions and subject to the same rights and liabilities.

Contracts and agreements

91. A contract or agreement entered into by the former Authority and in force immediately before the commencement date continues in force and has effect, on and after that date, as if—

- (a) the Authority were substituted for the former Authority as a party to the contract or agreement; and
- (b) any reference in the contract or agreement to the former Authority were (except in relation to matters that occurred before that date) a reference to the Authority.

Staff

92. A person who was an officer or a temporary employee of the former Authority immediately before the commencement date, shall, on and after that date, be deemed to be an officer or employee of the Authority and to have been appointed or engaged on terms and conditions that are the same as the terms and conditions applicable to the person immediately before that date.

Regulations and other instruments

93. An instrument (including regulations) made, granted or issued under the *Health Services Ordinance 1975* as in force immediately before the

commencement date and in force immediately before that date has effect on and after that date as if—

- (a) the instrument had been made, granted or issued under this Ordinance; and
- (b) a reference in the instrument to the former Authority were a reference to the Authority.

SCHEDULE

Section 3

Health Commission Ordinance 1975

Health Commission (Amendment) Ordinance 1978

Health Commission (Amendment) Ordinance 1981

Health Commission (Amendment) Ordinance (No. 2) 1981

Health Commission (Amendment) Ordinance 1983

Health Commission (Amendment) Ordinance 1984

Health Commission (Amendment) Ordinance (No. 2) 1984

Health Commission (Amendment) Ordinance (No. 3) 1984

Health Services Ordinance 1985

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 19 December 1985.