

AUSTRALIAN CAPITAL TERRITORY

Health Authority (Amendment) Ordinance (No. 2) 1987

No. 62 of 1987

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AUSTRALIAN CAPITAL TERRITORY

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No. 62 of 1987

I, THE ADMINISTRATOR of the Government 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 29 October 1987.

J. A. ROWLAND
Administrator

By His Excellency's Command,

JOHN BROWN
Minister of State for the Arts, Sport, the
Environment, Tourism and Territories

An Ordinance to amend the *Health Authority Ordinance 1985*

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Health Authority (Amendment) Ordinance (No. 2) 1987*.¹

Commencement

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

Principal Ordinance

3. In this Ordinance, “Principal Ordinance” means the *Health Authority Ordinance 1985*.²

PART II—AMENDMENTS OF PRINCIPAL ORDINANCE**Repeal of section 3**

4. Section 3 of the Principal Ordinance is repealed.

Interpretation

5. Section 4 of the Principal Ordinance is amended by omitting from subsection (1) the definitions of “Authority” and “Board” and substituting the following definitions:

“ ‘appoint’ includes re-appoint;

‘Authority’ means the corporation sole established by section 5;

‘General Manager’ means the person holding the office of General Manager under section 9;”.

Part II—Part and Division headings

6. The heading to Part II of the Principal Ordinance is repealed and the following Part and Division headings are substituted:

**“PART II—AUSTRALIAN CAPITAL TERRITORY HEALTH
AUTHORITY*****Division 1—Establishment, functions and powers of the Authority*”.**

7. Section 5 of the Principal Ordinance is repealed and the following section substituted:

Establishment of Authority

“5. (1) There is hereby established an Australian Capital Territory Health Authority.

“(2) The Authority:

- (a) is a corporation sole by the name of the Australian Capital Territory Health Authority;
- (b) has perpetual succession;

- (c) shall have an official seal; and
 - (d) is capable of suing and being sued in its corporate name.
- “(3) All courts, judges and persons acting judicially:
- (a) shall take judicial notice of the seal of the Authority affixed to a document and shall presume that it was duly affixed; and
 - (b) shall take judicial notice of the signature of a person who is, or has been, the General Manager and of the fact that the person is, or was, the General Manager.”.

Functions of Authority

8. Section 6 of the Principal Ordinance is amended:

- (a) by omitting from paragraph (2) (e) “prescribed”; and
- (b) by inserting in paragraph (6) (a) “in” after “shall be”.

Delegation

9. Section 8 of the Principal Ordinance is amended by omitting from subsection (1) “common”.

10. After section 8 of the Principal Ordinance the following Division is inserted in Part II:

“Division 2—Administration

General Manager

“9. (1) The Authority shall be constituted by a General Manager.

“(2) The Minister may, by instrument in writing, appoint a person to be the General Manager.

“(3) “The General Manager holds office for such period, not exceeding 6 years, as is specified in the instrument of his or her appointment.

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

“(5) The General Manager holds office on such terms and conditions (if any), in respect of matters not provided for by this Ordinance, as are determined by the Minister by instrument in writing.

Remuneration and allowances

“10. (1) The General Manager shall be paid such remuneration and allowances as are prescribed.

“(2) Subsection (1) does not apply:

- (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the General Manager; or
- (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the General Manager.

“(3) In subsection (2), ‘determination’ means a determination of the Remuneration Tribunal.

Leave of absence

“11. 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

“12. The General Manager may resign the office of General Manager by writing signed by the General Manager and delivered to the Minister.

Termination of appointment

“13. (1) The Minister 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 creditors or makes an assignment of remuneration for their benefit;
- (b) fails without reasonable excuse to comply with the obligation under section 14;
- (c) engages in paid employment outside the duties of the office of General Manager 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 28 days in any period of 12 months; or

- (e) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer;

the Minister shall terminate the appointment of the General Manager.

Disclosure of interest

“14. The General Manager shall give 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

“15. (1) The Minister may appoint a person to act as the General Manager:

- (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 subsection (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 the 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 subsection (2), 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 the General Manager, the person has and may exercise all the powers, and shall perform all the functions, of the General Manager.

“(7) Anything done by or in relation to a person purporting to act under subsection (1) is not invalid on the ground that:

- (a) the occasion for the person’s appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person’s appointment;
- (c) the person’s appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.”.

Repeal of Parts III, IV and V

11. Parts III, IV and V of the Principal Ordinance are repealed.

Officers

12. Section 52 of the Principal Ordinance is amended by omitting from subsection (3) “, with the approval of the Public Service Board,”.

Temporary employees

13. Section 55 of the Principal Ordinance is amended by omitting from subsection (2) “, with the approval of the Public Service Board,”.

Creation and abolition of positions

14. Section 57 of the Principal Ordinance is amended:

- (a) by omitting from subsection (2) “Subject to sub-section (3), the Authority” and substituting “The Authority”; and
- (b) by omitting subsection (3).

Reclassification

15. Section 58 of the Principal Ordinance is amended:

- (a) by omitting from subsection (1) “Subject to sub-section (2), the Authority” and substituting “The Authority”; and
- (b) by omitting subsection (2).

Promotions Appeal Boards

16. Section 62 of the Principal Ordinance is amended by omitting subsection (5) and substituting the following subsection:

“(5) The Minister shall not appoint the General Manager or a member of the staff of the Authority to be the chairperson of a Promotions Appeal Board.”.

Disciplinary action for misconduct

17. Section 66 of the Principal Ordinance is amended by omitting from subsection (9) “General Manager” and substituting “Authority”.

Staff Appeals Boards

18. Section 68 of the Principal Ordinance is amended by omitting subsection (5) and substituting the following subsection:

“(5) The Minister shall not appoint the General Manager or a member of the staff of the Authority to be the chairperson of a Staff Appeals Board.”.

Complaints by officers

19. Section 69 of the Principal Ordinance is amended:

- (a) by omitting from subsection (1) “General Manager” and substituting “Authority”;
- (b) by omitting from subsection (3) “General Manager” and substituting “Authority”; and
- (c) by omitting subsection (4), (5) and (6) and substituting the following subsections:

“(4) The Authority shall investigate each complaint received by it and give the complainant notice in writing of the results of the investigation.

“(5) The notice shall be given to the complainant not later than 28 days after the completion of the investigation.

“(6) A complainant who is dissatisfied with a decision of the Authority in respect of a complaint may, within 21 days after notice under subsection (4) in respect of the complaint is given to the complainant, appeal against the decision to a Staff Appeals Board.”.

Repeal of section 78A

20. Section 78A of the Principal Ordinance is repealed.

Secrecy

21. Section 81 of the Principal Ordinance is amended by omitting from subsection (1) “a member of the Authority or” and substituting “the General Manager or a member”.

Committees

22. Section 82 of the Principal Ordinance is amended by omitting subsection (3).

Repeal of section 83

23. Section 83 of the Principal Ordinance is repealed.

Repeal of Part X

24. Part X of the Principal Ordinance is repealed.

Repeal of Schedule

25. The Schedule to the Principal Ordinance is repealed.

PART III—TRANSITIONAL**Interpretation**

26. In this Part, unless the contrary intention appears:

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

“former Authority” means the body corporate by the name of the Australian Capital Territory Health Authority in existence under the Principal Ordinance before the commencement date.

Legal proceedings etc.

27. (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, such proceedings may be instituted by or against the Authority.

(2) Where, before the commencement date, there were proceedings by or against the former Authority 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 under 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 instituted or continued by or against the former Authority.

Bank accounts

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

Rights and liabilities

29. 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

30. 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

31. (1) 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.

(2) A contract or agreement continued in force before the commencement date by virtue of section 91 of the Principal Ordinance and in force immediately before that 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 that, by virtue of section 91, was to be taken to be a reference to the former Authority were (except in relation to matters that occurred before the commencement date) a reference to the Authority.

Instruments

32. (1) An instrument made, granted or issued under the Principal Ordinance 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 the Principal Ordinance on the commencement date; and
- (b) any reference in the instrument to the former Authority were (except in relation to matters that occurred before the commencement date) a reference to the Authority.

(2) An instrument that:

- (a) had effect before the commencement date by virtue of section 93 of the Principal Ordinance; and
- (b) was in force immediately before that date;

has effect on and after that date as if:

- (c) the instrument had been made, granted or issued under the Principal Ordinance on that date; and
- (d) any reference in the instrument that, by virtue of section 93, was to have been taken to be a reference to the former Authority were (except in relation to matters that occurred before that date) a reference to the Authority.

Acts of former Authority

33. An Act or thing done by or on behalf of the former Authority shall, for the purposes of the operation of the Principal Ordinance on and after the commencement date, be deemed to have been done by or on behalf of the Authority.

Secrecy

34. Notwithstanding the amendments made by this Ordinance, section 81 of the Principal Ordinance, as in force before the commencement date, continues to apply on and after that date to each person who, at any time,

ceased to be a member of the former Authority or of the staff of the former Authority.

Staff

35. A person, who immediately before the commencement date was an officer or temporary employee of the former Authority, shall, on and after that date, be an officer or temporary employee of the Authority and shall be deemed 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.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 4 November 1987.
2. No. 69, 1985 as amended to date. For previous amendments *see* Note 2 to No. 23, 1987 and *see also* No. 23, 1987.