



Australian Capital Territory

Health Act 1993 No 13

Republication No 5

Effective: 31 December 2002

Republication date: 31 December 2002

Last amendment made by Act 2002 No 47

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Health Act 1993* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 31 December 2002. It also includes any amendment, repeal or expiry affecting the republished law to 31 December 2002.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Health Act 1993

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Australian Capital Territory

Health Act 1993

An Act relating to the provision of health services

Part 1 Preliminary

1 Name of Act

This Act is the *Health Act 1993*.

2 Dictionary

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

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

For example, the signpost definition '*prescribed body*, for part 4 (Private sector quality assurance committees)—see section 18.' means that the expression 'prescribed body' is defined in that section and the definition applies to part 4.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

3 Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

4 Declaration of quality assurance activity

(1) The Minister may, in writing, declare that a process is a quality assurance activity for section 8 (2) (a).

(2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Part 2 Health care principles

5 Objectives

In providing health services the Territory shall have regard to the following objectives:

- (a) to improve the efficiency, effectiveness and quality of health services;
- (b) to guarantee equitable access to and participation in health services and to ensure that language and cultural differences are not barriers to such access or participation;
- (c) to maintain a strong and viable public hospital system and a full range of community health services;
- (d) to support worker and community participation in the development of policies for the delivery of health services;
- (e) to ensure that the community is aware of the range of health services that is available and that patients have information that is sufficient to enable them to make informed choices;
- (f) to foster disease prevention and primary health care;
- (g) to cooperate with community groups in the provision of health services.

6 Medicare principles and commitments

- (1) The following guidelines govern the delivery of public hospital services to eligible persons in the ACT:

Note The guidelines focus on the provision of public hospital services to eligible persons, but operate in an environment where eligible persons have the right to choose private health care in public and private hospitals supported by private health insurance.

- (a) eligible persons must be given the choice to receive public hospital services free of charge as public patients;

Note 1 Hospital services include in-patient, outpatient, emergency services (including primary care where appropriate) and day patient services consistent with currently acceptable medical and health service standards.

Note 2 At the time of admission to a hospital, or as soon as practicable after that, an eligible person will be required to elect or confirm whether he or she wishes to be treated as a public or private patient.

- (b) access to public hospital services is to be on the basis of clinical need;

Note 1 None of the following factors are to be a determinant of an eligible person's priority for receiving hospital services:

- (a) whether or not an eligible person has health insurance;
- (b) an eligible person's financial status or place of residence;
- (c) whether or not an eligible person intends to elect, or elects, to be treated as a public or private patient.

Note 2 This guideline applies equally to waiting times for elective surgery.

- (c) to the maximum practicable extent, the Territory will ensure the provision of public hospital services equitably to all eligible persons, regardless of their geographical location;

Note 1 This guideline does not require a local hospital to be equipped to provide eligible persons with every hospital service they may need.

Note 2 In rural and remote areas, the Territory should ensure provision of reasonable public access to a basic range of hospital services which are in accord with clinical practices.

- (d) the Commonwealth and the Territory must make available information on the public hospital services eligible persons can expect to receive as public patients;

Note 1 The joint Commonwealth/Territory development of a Public Patients Hospital Charter for the Territory will be a vehicle for the public dissemination of this information.

Note 2 The Charter will set out the public hospital services available to public patients.

- (e) the Commonwealth and the Territory are committed to making improvements in the efficiency, effectiveness and quality of hospital service delivery.

Note This includes a commitment to quality improvement, outcome measurement, management efficiency and effort to integrate the delivery of hospital and other health and community services.

- (2) A word or expression used in the *Medicare Agreements Act 1992* (Cwlth) has the same meaning in subsection (1).

7 Legal effect

Nothing in this part is to be taken to create any legal rights not in existence before the enactment of this part or to affect any legal rights in existence before that enactment or that would, but for this part, have come into existence after that enactment.

Part 3 Public sector quality assurance committees

Division 3.1 General

8 Approval of public sector committees

- (1) The Minister may, in writing, declare that a stated committee is established as an approved public sector quality assurance committee for a health facility or for a stated purpose.
- (2) A committee mentioned in subsection (1) may have all or any of the following functions decided by the Minister:
 - (a) to conduct quality assurance activities among health service providers for the purpose of assessing and evaluating the health services provided by the Territory, to report, and make recommendations, to the chief executive in relation to those services and to monitor the implementation of those recommendations;
 - (b) to conduct research or investigations into morbidity and mortality in the ACT and to report, and make recommendations, to the chief executive in relation to that research or those investigations;
 - (c) to investigate, assess, review and evaluate the clinical privileges provided to health service providers and to report, and make recommendations, to the chief executive in relation to whether those clinical privileges should be preserved, varied or withdrawn.
- (3) A declaration under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

9 Appointment of members

- (1) If an approved public sector committee established under section 8 is established for a health facility, the chief executive (however described) of the health facility may appoint members of the committee.
- (2) If an approved public sector committee established under section 8 is established for a stated purpose, the chief executive may appoint members of the committee.

Note 1 For the making of appointments generally, see *Legislation Act 2001*, div 19.3.

Note 2 A power to appoint a person to a position includes power to appoint a person to act in the position (see *Legislation Act 2001*, s 209).

10 Procedure and conduct of matters

- (1) The procedure of an approved public sector committee shall be as the committee determines.
- (2) An approved public sector committee may do whatever it considers necessary or expedient for the fair and expeditious conduct of a matter.
- (3) An approved public sector committee is to have regard to the rules of natural justice in so far as they are relevant to the performance of its functions.

11 Disclosure of interest

- (1) A member of an approved public sector committee who has a direct or indirect personal or financial interest in a matter being considered or about to be considered by the committee shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the committee.
- (2) A person acting under the direction of an approved public sector committee in relation to the performance of its functions who has a direct or indirect personal or financial interest in a matter in relation

to which he or she has been so directed to act shall, as soon as practicable after the relevant facts have come to the person's knowledge, disclose the nature of the interest to the committee.

12 Approval of Calvary Hospital committees

- (1) The Minister may, in writing, declare a committee appointed by the Board of Management of Calvary Hospital that corresponds to a committee of a kind referred to in section 8 (2) (a), (b) or (c) to be an approved public sector quality assurance committee.
- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Division 3.2 Confidentiality and evidentiary matters

13 Nondisclosure of identity

- (1) A member of an approved public sector committee shall not disclose the identity of a person to whom a health service was provided on behalf of the Territory without the written consent of that person.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Subsection (1) does not apply in relation to a disclosure made to a member of any approved public sector committee.

14 Admissibility of evidence

- (1) The following are not admissible as evidence in proceedings before a court, tribunal, board or person:
 - (a) an oral statement made in proceedings before an approved public sector committee;
 - (b) a document produced to an approved public sector committee, to the extent that it was prepared solely for the purposes of the committee;

- (c) a document prepared by an approved public sector committee.
- (2) In this section:
- document* includes—
- (a) any part of a document; and
 - (b) any copy, reproduction or duplicate of a document or of any part of a document; and
 - (c) any part of such a copy, reproduction or duplicate.

15 Members not compellable

A person who is or has been a member of an approved public sector committee is not compellable—

- (a) to produce before a court, tribunal, board or person any document in his or her possession or under his or her control that was created by, at the request of or solely for the purposes of such a committee; or
- (b) to divulge or communicate to a court, tribunal, board or person any matter or thing that came to the person's notice in his or her capacity as such a member.

16 Protection of members

- (1) A person who is or has been a member of an approved public sector committee is not liable to an action or other proceeding for or in relation to an act done or omitted to be done in good faith in the exercise or purported exercise of any function conferred on the person in his or her capacity as such a member.
- (2) Without limiting subsection (1), a person who is or has been a member of an approved public sector committee has qualified privilege in proceedings for defamation in respect of—
 - (a) any oral or written statement made by that person in the exercise of a function; or

- (b) the contents of a report or other information published by the committee.
- (3) A person who is or has been a member of an approved public sector committee is entitled to be indemnified by the Territory against any costs incurred by the person in contesting any action, claim or demand brought or made against the person in respect of any act done or omitted to be done in good faith by the person in the exercise or purported exercise of any function conferred on the person in his or her capacity as such a member.
- (4) Nothing in subsection (1) shall be taken to affect any liability that the Territory would, but for that subsection, have in respect of an act or omission referred to in that subsection.

17 Protection of people assisting committee

- (1) A person—
 - (a) who is acting or has acted under the direction of an approved public sector committee in relation to the performance of its functions; and
 - (b) to whom no fee or reward has been paid or is payable for so acting;is not liable to an action or other proceedings for or in relation to an act done or omitted to be done in good faith when acting, or purporting to act, under the direction of the committee.
- (2) Without limiting subsection (1), a person referred to in that subsection has qualified privilege in proceedings for defamation in respect of—
 - (a) any oral or written statement made by the person when acting, or purporting to act, under the direction of the committee; or
 - (b) the contents of a report or other information provided by the person to the committee.

- (3) A person referred to in subsection (1) is entitled to be indemnified by the Territory against any costs incurred by the person in contesting any action, claim or demand brought or made against the person in respect of any act done or omitted to be done in good faith by the person when acting, or purporting to act, under the direction of the committee.
- (4) Nothing in subsection (1) shall be taken to affect any liability that the Territory would, but for that subsection, have in respect of an act or omission referred to in that subsection.

Part 4 Private sector quality assurance committees

Division 4.1 General

18 Definitions for pt 4

In this part:

prescribed body means—

- (a) a private hospital; or
- (b) a private day hospital facility.

private day hospital facility means premises where a person is admitted, for surgical or medical treatment, and discharged on the same day, but does not include a public or private hospital.

19 Committee to be approved

- (1) The Minister may, on the written application of a prescribed body, declare in writing that a stated committee established by a prescribed body is an approved private sector quality assurance committee for this part.
- (2) The Minister shall not make a declaration under subsection (1) unless satisfied that—
 - (a) the committee is established by the relevant prescribed body in accordance with the rules or official procedures of the body; and
 - (b) the committee's functions are—
 - (i) to assess and evaluate the health services provided by the relevant prescribed body, to report and make recommendations to the body concerning those services

and to monitor the implementation of its recommendations; or

- (ii) to conduct research or investigations into morbidity and mortality in the relevant prescribed body and to report and make recommendations to the body in relation to that research or those investigations; and
 - (c) members of the committee will be appointed from time to time by the relevant prescribed body; and
 - (d) the exercise of the committee's functions would be facilitated by the provision of immunities and protections afforded by this part; and
 - (e) it is in the public interest to restrict the disclosure of information compiled by the committee in the performance of its functions.
- (3) A declaration under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

20 Procedure and conduct of matters

- (1) The procedure of an approved private sector committee shall be as the committee determines.
- (2) An approved private sector committee may do whatever it considers necessary or expedient for the fair and expeditious conduct of a matter.
- (3) An approved private sector committee is to have regard to the rules of natural justice in so far as they are relevant to the performance of its functions.

21 Disclosure of interest

- (1) A member of an approved private sector committee who has a direct or indirect personal or financial interest in a matter being considered or about to be considered by the committee shall, as soon as

practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the committee.

- (2) A person acting under the direction of an approved private sector committee in relation to the performance of its functions who has a direct or indirect personal or financial interest in a matter in relation to which he or she has been so directed to act shall, as soon as practicable after the relevant facts have come to the person's knowledge, disclose the nature of the interest to the committee.

Division 4.2 Confidentiality and evidentiary matters

22 Nondisclosure of identity

A member of an approved private sector committee shall not disclose the identity of a person to whom a health service was provided by the prescribed body which established the committee without the written consent of that person.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

23 Admissibility of evidence

- (1) The following are not admissible as evidence in proceedings before a court, tribunal, board or person:
- (a) an oral statement made in proceedings before an approved private sector committee;
 - (b) a document produced to an approved private sector committee, to the extent that it was prepared solely for the purposes of the committee;
 - (c) a document prepared by an approved private sector committee.

(2) In this section:

document includes—

- (a) any part of a document; and
- (b) any copy, reproduction or duplicate of a document or of any part of a document; and
- (c) any part of such a copy, reproduction or duplicate.

24 Members not compellable

A person who is or has been a member of an approved private sector committee is not compellable—

- (a) to produce before a court, tribunal, board or person any document in his or her possession or under his or her control that was created by, or at the request of or solely for the purposes of, such a committee; or
- (b) to divulge or communicate to a court, tribunal, board or person any matter or thing that came to the person's notice in his or her capacity as such a member.

25 Protection of members

- (1) A person who is or has been a member of an approved private sector committee is not liable to an action or other proceedings for or in relation to an act done or omitted to be done in good faith in the exercise or purported exercise of any function conferred on the person in his or her capacity as such a member.
- (2) Without limiting subsection (1), a person referred to in that subsection has qualified privilege in proceedings for defamation in respect of—
 - (a) any oral or written statement made by that person in the exercise of a function; or
 - (b) the contents of a report or other information published by the committee.

- (3) A person referred to in subsection (1) is entitled to be indemnified by the prescribed body which established the committee against any costs incurred by the person in contesting any action, claim or demand brought or made against the person in respect of any act done or omitted to be done in good faith by the person in the exercise or purported exercise of any function conferred on the person in his or her capacity as such a member.
- (4) Nothing in subsection (1) shall be taken to affect any liability that the relevant prescribed body would, but for that subsection, have in respect of an act or omission referred to in that subsection.

26 Protection of people assisting committee

- (1) A person—
 - (a) who is acting or has acted under the direction of an approved private sector committee in relation to the performance of its functions; and
 - (b) to whom no fee or reward has been paid or is payable for so acting;is not liable to an action or other proceedings for or in relation to an act done or omitted to be done in good faith when acting, or purporting to act, under the direction of the committee.
- (2) Without limiting subsection (1), a person referred to in that subsection has qualified privilege in proceedings for defamation in respect of—
 - (a) any oral or written statement made by the person when acting, or purporting to act, under the direction of the committee; or
 - (b) the contents of a report or other information provided by the person to the committee.
- (3) A person referred to in subsection (1) is entitled to be indemnified by the prescribed body which established the committee against any costs incurred by the person in contesting any action, claim or demand brought or made against the person in respect of any act

done or omitted to be done in good faith by the person when acting, or purporting to act, under the direction of the committee.

- (4) Nothing in subsection (1) shall be taken to affect any liability that the relevant prescribed body would, but for that subsection, have in respect of an act or omission referred to in that subsection.

Part 5 Clinical privileges

27 Interpretation for pt 5

A reference in sections 28 (1) and (2) to the chief executive includes, where clinical privileges are provided, or a health service provider is engaged, by a Territory authority, a reference to the person having overall responsibility for the control of the facility in which the clinical privileges were provided or the health service provider was engaged.

28 Clinical privileges and engagements

- (1) If an approved public sector committee makes a recommendation to the chief executive that the clinical privileges of a health service provider should be preserved, varied or withdrawn, the chief executive shall consider the committee's recommendation and may make a decision (whether or not in accordance with that recommendation)—
 - (a) preserving; or
 - (b) varying; or
 - (c) withdrawing;those privileges.
- (2) If an approved public sector committee makes a recommendation to the chief executive that the engagement of a health service provider should be varied, suspended or terminated, the chief executive shall consider the committee's recommendation and may make a decision (whether or not in accordance with that recommendation)—
 - (a) varying the terms and conditions of the engagement; or
 - (b) suspending the engagement for the period the chief executive thinks fit; or

- (c) terminating the engagement.

29 Effect of variation etc

- (1) A decision under section 28 takes effect—
 - (a) on the date specified in the notice under section 33 (1); or
 - (b) if a date is not so specified—on the day after the health service provider is given the notice.
- (2) An engagement—
 - (a) is suspended for the period specified in the notice under section 33 (1); and
 - (b) shall not be in force during the period for which it is suspended.

30 Application of pt 5 and 6

This part and part 6 apply in relation to a health service provider notwithstanding any term or condition of the provider's engagement to the contrary.

Part 6 Administrative review

31 Interpretation for pt 6

A reference in this part to the chief executive includes, where clinical privileges are provided, or a health service provider is engaged, by a Territory authority, a reference to the person having overall responsibility for the control of the facility in which the clinical privileges were provided or the health service provider was engaged.

32 Review

Application may be made to the administrative appeals tribunal for a review of the following decisions:

- (a) a decision of the Minister—
 - (i) refusing to make a declaration under section 19 (1); or
 - (ii) revoking a declaration made under section 19 (1);
- (b) a decision of the chief executive—
 - (i) varying or withdrawing the clinical privileges of a health service provider under section 28 (1); or
 - (ii) varying, suspending or terminating the engagement of a health service provider under section 28 (2).

33 Notification

- (1) Where the Minister makes a decision of a kind referred to in section 32 (a), the Minister shall give notice in writing of the decision to the prescribed body concerned.
- (2) Where the chief executive makes a decision of a kind referred to in section 32 (b), the chief executive shall give notice in writing of the decision to the health service provider concerned.

- (3) The notice shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Part 7 Miscellaneous

34 Release of confidential information

- (1) The person responsible for the day-to-day control of a health facility, or another person authorised in writing by him or her for the purpose, may release confidential information only to the Health Insurance Commission established by the *Health Insurance Commission Act 1973* (Cwlth) or the auditor-general—
 - (a) if satisfied that the release will assist in the prevention or detection of fraud; and
 - (b) if the Minister consents in writing to the release.

- (2) In this section:

confidential information means information relating to the provision of health services by a health service provider at a health facility.

35 References to Health and Community Care Service

- (1) In any Act, instrument made under an Act, contract or other document, a reference to the Health and Community Care Service is, for the application of that Act, instrument, contract or other document after the commencement of this section, a reference to the Territory.
- (2) In this section:

Health and Community Care Service means the Australian Capital Territory Health and Community Care Service established by the *Health and Community Care Services Act 1996* (repealed).

36 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3)

- (2) Without limiting subsection (1), the Minister may determine fees in relation to the provision of health and community care services.

- (3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) A determination may adopt a Commonwealth law or a health benefits agreement (or a provision of a Commonwealth law or health benefits agreement) as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

- (5) In this section:

Commonwealth law means a Commonwealth Act, or any regulations, rules, ordinance or disallowable instrument under a Commonwealth Act.

disallowable instrument, for a Commonwealth Act, means a disallowable instrument under the *Acts Interpretation Act 1901* (Cwlth), section 46A.

health benefits agreement means an agreement between the Territory and an entity that provides health benefits to contributors of a health benefits fund conducted by the entity.

37 Payment of fees and interest

- (1) A fee is payable to the Territory on or before the payment date.

(2) If an amount for a fee remains unpaid after the payment date, in addition to that amount, interest calculated on the aggregate amount at the rate determined in writing by the Minister is payable to the Territory in relation to every month or part of a month that the aggregate amount remains unpaid.

(3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(4) In this section:

aggregate amount, for a month, means the total of—

- (a) the amount of the fee; and
- (b) the amount of interest;

remaining unpaid at the end of the previous month.

payment date, for a fee, means the 28th day after the day when the account for the fee was issued.

38 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Part 8

Transitional provisions for repeal of Health and Community Care Services Act 1996

39 Definitions for pt 8

In this part:

repealed Act means the *Health and Community Care Services Act 1996* (repealed).

service means the Australian Capital Territory Health and Community Care Service established under the repealed Act.

40 Transfer of assets, rights and liabilities

On the commencement of this part, all assets, rights and liabilities of the service vest in the Territory.

41 Registration of changes in ownership of certain assets

- (1) This section applies if—
 - (a) an asset, including an interest in land, vests in the Territory under section 40; and
 - (b) information about ownership of the asset may be entered in a statutory property register.
- (2) On application by the chief executive, a person responsible for the statutory property register must make the entries in the register and do anything else that is necessary or desirable to reflect the operation of section 40.
- (3) The evidentiary value of a statutory property register is not affected by—
 - (a) the making of an entry under this section; or

- (b) the failure to make an entry under this section; or
- (c) the failure by the chief executive to make an application under this section.

(4) In this section:

statutory property register means a register kept under a Territory law, or a law of the Commonwealth, a State or another Territory, for recording ownership of property (including interests in property) if—

- (a) title to the property is passed by registration in the register of ownership of the property; or
- (b) the owner of an interest in the property may lose the interest if the interest is not registered in the register.

Examples

- 1 the register of land titles kept under the *Land Titles Act 1925*, section 43
- 2 the register of interests in goods mentioned in the *Sale of Motor Vehicles Act 1977*, part 4A

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

42 Proceedings and evidence

- (1) For a proceeding begun before the commencement of this part and to which the service is a party, the Territory is substituted as a party.
- (2) If, before the commencement of this part—
 - (a) a cause of action had accrued against the service; and
 - (b) proceedings had not begun in relation to the cause of action; and
 - (c) the limitation period for the cause of action had not ended;proceedings may be brought against the Territory.

- (3) The *Limitation Act 1985*, part 3 applies to the beginning of a proceeding by or against the Territory as if the cause of action had been accrued by, or had accrued against, the Territory.
- (4) The court or other entity in which, or before which, a proceeding has been begun or continued under this section may give directions about the proceeding.
- (5) Any evidence that, apart from the repeal of the *Health and Community Care Services Act 1996*, would have been admissible for or against the service is admissible for or against the Territory.
- (6) In this section:

proceeding includes a proceeding by way of appeal or review (including review under the *Ombudsman Act 1989*) or any other civil proceeding in relation to an asset, right or liability vested in the Territory under section 40.

43 Continuation of determinations

- (1) The determination in effect under the repealed Act, section 32 (Fees and charges for health and community care services) immediately before the commencement of this part has effect as if it were a determination made under this Act, section 36 (Determination of fees) until the earlier of—
 - (a) the commencement of a determination made under this Act, section 36; and
 - (b) the end of 3 months after the commencement of this part.
- (2) The determination in effect under the repealed Act, section 33 (Payment of fees, charges and interest) immediately before the commencement of this part has effect as if it were a determination made under this Act, section 37 (Payment of fees and interest) until the earlier of—
 - (a) the commencement of a determination made under this Act, section 37; and

- (b) the end of 3 months after the commencement of this part.

44 Transitional regulations

- (1) The regulations may prescribe savings or transitional matters necessary or convenient to be prescribed because of the enactment of the *Health and Community Care Services (Repeal and Consequential Amendments) Act 2002*.
- (2) Regulations made for this section must not be taken to be inconsistent with this Act so far as they can operate concurrently with this Act.
- (3) This section is additional to, and does not limit, section 45.

45 Modification of pt 8's operation

The regulations may modify this part to make provision in relation to any matter that, in the Executive's opinion, is not adequately dealt with in this part.

46 Expiry of pt 8

- (1) This part expires 1 year after the day it commences.
- (2) To prevent doubt, this part is declared to be a law to which the *Legislation Act 2001*, section 88 (Repeal does not end transitional or validating effect etc) applies.

Dictionary

(see s 2)

approved private sector committee means a committee declared to be an approved private sector quality assurance committee under section 19.

approved public sector committee means a committee established as an approved public sector quality assurance committee under section 8 (Approval of public sector committees) or 12 (Approval of Calvary Hospital committees).

clinical privileges means—

- (a) the extent to which a health service provider has the right to perform treatment or carry out other procedures at a health facility; or
- (b) the extent to which a health service provider may use the equipment or other facilities of a health facility.

health facility means an institution at which health services are provided by the Territory.

health service provider means a person who provides health services at a health facility or uses the equipment or other facilities of a health facility for the purpose of providing health services elsewhere and includes the following persons:

- (a) a person registered under the *Chiropractors and Osteopaths Act 1983*;
- (b) a person registered under the *Dental Technicians and Dental Prosthetists Registration Act 1988*;
- (c) a person registered under the *Dentists Act 1931*;
- (d) a person registered under the *Medical Practitioners Registration Act 1930*;

- (e) a person registered under the *Nurses Act 1988*;
- (f) a person registered under the *Optometrists Act 1956*;
- (g) a person registered under the *Pharmacy Act 1931*;
- (h) a person registered under the *Physiotherapists Act 1977*.

prescribed body, for part 4 (Private sector quality assurance committees)—see section 18.

private day hospital facility, for part 4 (Private sector quality assurance committees)—see section 18.

quality assurance activity means a process declared by the Minister under section 4 to be a quality assurance activity for section 8 (2) (a).

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Health Act 1993 No 13

notified 1 March 1993 (Gaz 1993 No S23)
commenced 1 March 1993 (s 2)

as amended by

Health (Amendment) Act 1994 No 23

notified 20 May 1994 (Gaz 1994 No S87)
commenced 20 May 1994 (s 2)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 44

notified 30 June 1994 (Gaz 1994 No S121)
s 1, s 2 commenced 30 June 1994 (s 2 (1))
sch 1 pt 44 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994 (s 2 (1))
sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994 No S250)

Health and Community Care Services (Consequential Provisions) Act 1996 No 35 sch

notified 1 July 1996 (Gaz 1996 No S130)
commenced 1 July 1996 (s 2)

Health (Amendment) Act 1998 No 50

notified 16 November 1998 (Gaz 1998 No S205)
commenced 16 November 1998 (s 2)

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Legislation (Consequential Amendments) Act 2001 No 44 pt 175

notified 26 July 2001 (Gaz 2001 No 30)
 s 1, s 2 commenced 26 July 2001 (IA s 10B)
 pt 175 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 1.3

notified 5 September 2001 (Gaz 2001 No S65)
 s 1, s 2 commenced 5 September 2001 (IA s 10B)
 amdts 1.3-1.8, 1.10-1.13, 1.15, 1.16, 1.17, 1.35 commenced 12 September 2001 (s 2 (2))
 pt 1.3 remainder commenced 5 September 2001 (s 2 (1))

Health and Community Care Services (Repeal and Consequential Amendments) Act 2002 No 47 pt 1.2

notified LR 20 December 2002
 s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
 pt 1.2 commenced 31 December 2002 (s 2)

4 Amendment history**Title**

title sub 1998 No 50 s 4
 am 2002 No 47 amdt 1.10

Name of Act

s 1 sub 2001 No 56 amdt 1.3

Dictionary

s 2 om 2001 No 44 amdt 1.2022
 ins 2001 No 56 amdt 1.3

Notes

s 3 defs reloc to dict 2001 No 56 amdt 1.6
 sub 2001 No 56 amdt 1.7

Declaration of quality assurance activity

s 4 (prev s 3A) ins 2001 No 56 amdt 1.8
 renum R4 LA (see 2001 No 56 amdt 1.36)

Objectives

s 5 (prev s 4) am 1996 No 35 sch
 renum R4 LA (see 2001 No 56 amdt 1.36)
 am 2002 No 47 amdt 1.11

Endnotes

4 Amendment history

Medicare principles and commitments

s 6 (prev s 5) am 1994 No 23 s 4; 2001 No 56 amdt 1.9
renum R4 LA (see 2001 No 56 amdt 1.36)

Legal effect

s 7 (prev s 6) renum R4 LA (see 2001 No 56 amdt 1.36)

Public sector quality assurance committees

pt 3 hdg sub 1998 No 50 s 6

General

div 3.1 hdg (prev pt 3 div 1 hdg) renum R4 LA (see 2001 No 56 amdt 1.36)

Approval of public sector committees

s 8 hdg (prev s 7 hdg) sub 2001 No 56 amdt 1.10
s 8 (prev s 7) am 1994 No 38 sch 1 pt 44; 1996 No 35 sch; 2001 No
56 amdts 1.10-1.12
renum R4 LA (see 2001 No 56 amdt 1.36)
am 2002 No 47 amdt 1.12, amdt 1.13

Appointment of members

s 9 (prev s 7A) ins 2001 No 56 amdt 1.13
renum R4 LA (see 2001 No 56 amdt 1.36)

Procedure and conduct of matters

s 10 (prev s 8) am 1998 No 50 s 7
renum R4 LA (see 2001 No 56 amdt 1.36)

Disclosure of interest

s 11 (prev s 8A) ins 1998 No 50 s 8
renum R4 LA (see 2001 No 56 amdt 1.36)

Approval of Calvary Hospital committees

s 12 (prev s 9) am 1998 No 50 s 9; 2001 No 56 amdts 1.14-1.17
renum R4 LA (see 2001 No 56 amdt 1.36)

Confidentiality and evidentiary matters

div 3.2 hdg (prev pt 3 div 2 hdg) renum R4 LA (see 2001 No 56 amdt 1.36)

Nondisclosure of identity

s 13 (prev s 10) am 1998 No 50 s 10; 1998 No 54 sch
renum R4 LA (see 2001 No 56 amdt 1.36)

Admissibility of evidence

s 14 (prev s 11) sub 1998 No 50 s 11
renum R4 LA (see 2001 No 56 amdt 1.36)

Members not compellable

s 15 (prev s 12) am 1998 No 50 s 12
renum R4 LA (see 2001 No 56 amdt 1.36)

Protection of members

s 16 (prev s 13) am 1996 No 35 sch; 1998 No 50 s 13; 2001 No 56 amdt 1.18-1.24
renum R4 LA (see 2001 No 56 amdt 1.36)
am 2002 No 47 amdt 1.14

Protection of people assisting committee

s 17 orig s 17 om 1996 No 35 sch
pres (prev s 13AA) ins 1998 No 50 s 14
am 2001 No 56 amdt 1.25
renum R4 LA (see 2001 No 56 amdt 1.36)
am 2002 No 47 amdt 1.14

Private sector quality assurance committees

pt 4 hdg (prev pt 3A hdg) ins 1998 No 50 s 15
renum R4 LA (see 2001 No 56 amdt 1.36)

General

div 4.1 hdg (prev pt 3A div 1 hdg) renum R4 LA (see 2001 No 56 amdt 1.36)

Definitions for pt 4

s 18 orig s 18 om 1996 No 35 sch
(prev s 13AB) ins 1998 No 50 s 15
def **prescribed body** ins 1998 No 50 s 15
am 2001 No 56 amdt 1.26
def **private day hospital facility** ins 1998 No 50 s 15
renum R4 LA (see 2001 No 56 amdt 1.36)

Committee to be approved

s 19 (prev s 13AC) ins 1998 No 50 s 15
am 2001 No 44 amdt 1.2023, amdt 1.2024
renum R4 LA (see 2001 No 56 amdt 1.36)

Procedure and conduct of matters

s 20 (prev s 13 AD) ins 1998 No 50 s 15
renum R4 LA (see 2001 No 56 amdt 1.36)

Disclosure of interest

s 21 (prev s 13AE) ins 1998 No 50 s 15
renum R4 LA (see 2001 No 56 amdt 1.36)

Confidentiality and evidentiary matters

div 4.2 hdg (prev pt 3A div 2 hdg) renum R4 LA (see 2001 No 56 amdt 1.36)

Nondisclosure of identity

s 22 (prev s 13AF) ins 1998 No 50 s 15
renum R4 LA (see 2001 No 56 amdt 1.36)

Endnotes

4 Amendment history

Admissibility of evidence

s 23 (prev s 13AG) ins 1998 No 50 s 15
renum R4 LA (see 2001 No 56 amdt 1.36)

Members not compellable

s 24 (prev s 13AH) ins 1998 No 50 s 15
renum R4 LA (see 2001 No 56 amdt 1.36)

Protection of members

s 25 (prev s 13AI) ins 1998 No 50 s 15
am 2001 No 56 amdts 1.27-1.33
renum R4 LA (see 2001 No 56 amdt 1.36)

Protection of people assisting committee

s 26 (prev s 13AJ) ins 1998 No 50 s 15
am 2001 No 56 amdt 1.34
renum R4 LA (see 2001 No 56 amdt 1.36)

Clinical privileges

pt 5 hdg orig pt 5 hdg om 1996 No 35 sch
pres (prev pt 4 hdg) renum R4 LA (see 2001 No 56 amdt 1.36)

Interpretation for pt 5

s 27 (prev s 13A) ins 1996 No 35 sch
renum R4 LA (see 2001 No 56 amdt 1.36)

Clinical privileges and engagements

s 28 (prev s 14) am 1994 No 38 sch 1 pt 44; 1998 No 50 s 16
renum R4 LA (see 2001 No 56 amdt 1.36)

Effect of variation etc

s 29 (prev s 15) renum R4 LA (see 2001 No 56 amdt 1.36)

Application of pt 5 and 6

s 30 (prev s 16) renum R4 LA (see 2001 No 56 amdt 1.36)

Interpretation for pt 6

s 31 (prev s 19A) ins 1996 No 35 sch
renum R4 LA (see 2001 No 56 amdt 1.36)

Review

s 32 (prev s 19) am 1994 No 38 sch 1 pt 44; 1994 No 60 sch 1
sub 1998 No 50 s 17
renum R4 LA (see 2001 No 56 amdt 1.36)

Notification

s 33 (prev s 20) am 1994 No 38 sch 1 pt 44; 1994 No 60 sch 1
sub 1998 No 50 s 17
renum R4 LA (see 2001 No 56 amdt 1.36)

Miscellaneous

pt 7 hdg ins 1994 No 23 s 5

Release of confidential information

s 34 (prev s 21) ins 1994 No 23 s 5
renum R4 LA (see 2001 No 56 amdt 1.36)

References to Health and Community Care Service

s 35 (prev s 22) ins 1994 No 23 s 5
sub 2001 No 44 amdt 1.2025
renum R4 LA (see 2001 No 56 amdt 1.36)
sub 2002 No 47 amdt 1.15

Determination of fees

s 36 ins 2002 No 47 amdt 1.15

Payment of fees and interest

s 37 ins 2002 No 47 amdt 1.15

Regulation-making power

s 38 ins 2002 No 47 amdt 1.15

Transitional provisions for repeal of Health and Community Care Services Act 1996

pt 8 hdg ins 2002 No 47 amdt 1.16

Definitions for pt 8

s 39 ins 2002 No 47 amdt 1.16

Transfer of assets, rights and liabilities

s 40 ins 2002 No 47 amdt 1.16

Registration of changes in ownership of certain assets

s 41 ins 2002 No 47 amdt 1.16

Proceedings and evidence

s 42 ins 2002 No 47 amdt 1.16

Continuation of determinations

s 43 ins 2002 No 47 amdt 1.16

Transitional regulations

s 44 ins 2002 No 47 amdt 1.16

Modification of pt 8's operation

s 45 ins 2002 No 47 amdt 1.16

Expiry of pt 8

s 46 ins 2002 No 47 amdt 1.16

Dictionary

dict ins 2001 No 56 amdt 1.35
def **approved committee** om 1998 No 50 s 5
def **approved private sector committee** ins 1998 No 50 s 5
def **approved public sector committee** ins 1998 No 50 s 5
sub 2001 No 56 amdt 1.4

Endnotes

5 Earlier republications

def **health facility** am 1996 No 35 sch; 2002 No 47 amdt 1.17
def **prescribed body** ins 2001 No 56 amdt 1.35
def **private day hospital facility** ins 2001 No 56 amdt 1.35
def **quality assurance activities** sub 2001 No 56 amdt 1.5
def **tribunal** om 1994 No 60 sch 1

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1994 No 60	28 February 1995
2	Act 1996 No 35	31 January 1998
3	Act 1998 No 54	28 February 1999
4	Act 2001 No 56	19 April 2002

6 Renumbered provisions

as made by 2001 No 56 amdt 1.36 and under the *Legislation Act 2001*

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5	Medicare principles and commitments	6
6	Legal effect	7
Division 1	General	Division 3.1
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9	Approval of Calvary Hospital committees	12
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11	Admissibility of evidence	14
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13AF	Nondisclosure of identity	22
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Part 4	Clinical privileges	Part 5
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14	Clinical privileges and engagements	28
15	Effect of variation etc	29
16	Application of pt 4 and 6	30
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20	Notification	33
21	Release of confidential information	34
22	Regulation-making power	35

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