



Australian Capital Territory

# **Health Act 1993**

**A1993-13**

**Republication No 14**

**Effective: 19 November 2006 – 13 December 2006**

Republication date: 19 November 2006

Last amendment made by A2006-46  
(republication for commenced expiry)

Not all amendments are in force: see last endnote

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 19 November 2006. It also includes any amendment, repeal or expiry affecting the republished law to 19 November 2006.

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](http://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 does not include 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

## Contents

---

	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
2	Dictionary 2
3	Notes 2
3A	Offences against Act—application of Criminal Code etc 3
4	Declaration of quality assurance activity 3
<b>Part 2</b>	<b>Health care principles</b>
5	Objectives 4
6	Medicare principles and commitments 4
7	Legal effect 6

		Page
<b>Part 3</b>	<b>Public sector quality assurance committees</b>	
<b>Division 3.1</b>	<b>General</b>	
8	Approval of public sector committees	7
9	Appointment of members	8
10	Procedure and conduct of matters	8
11	Disclosure of interest	8
12	Approval of Calvary Health Care ACT committees	9
<b>Division 3.2</b>	<b>Confidentiality and evidentiary matters</b>	
13	Nondisclosure of identity—approved public sector committee member	9
14	Admissibility of evidence	10
15	Members not compellable	10
16	Protection of members	11
17	Protection of people assisting committee	11
<b>Part 4</b>	<b>Private sector quality assurance committees</b>	
<b>Division 4.1</b>	<b>General</b>	
18	Definitions for pt 4	13
19	Committee to be approved	13
20	Procedure and conduct of matters	14
21	Disclosure of interest	14
<b>Division 4.2</b>	<b>Confidentiality and evidentiary matters</b>	
22	Nondisclosure of identity—approved private sector committee member	15
23	Admissibility of evidence	16
24	Members not compellable	16
25	Protection of members	16
26	Protection of people assisting committee	17
<b>Part 5</b>	<b>Clinical privileges</b>	
27	Interpretation for pt 5	19
28	Clinical privileges and engagements	19
29	Effect of variation etc	20
30	Application of pt 5 and 6	20

	Page
<b>Part 5A</b>	<b>Abortions</b>
30A	Meaning of <i>abortion</i> for pt 5A 21
30B	Only doctor may carry out abortion 21
30C	Abortion to be carried out in approved medical facility 21
30D	Approval of facilities 21
30E	No obligation to carry out abortion 22
<b>Part 6</b>	<b>Administrative review</b>
31	Interpretation for pt 6 23
32	Review 23
33	Notification 23
<b>Part 6A</b>	<b>VMO service contracts</b>
33A	Definitions for pt 6A 25
33B	Service contracts 25
33C	Core conditions 26
33D	Collective negotiations 26
33E	Negotiating agents 27
33F	Authorised representatives 28
33G	Arbitration 29
33H	Trade Practices Act authorisation 30
<b>Part 7</b>	<b>Miscellaneous</b>
34	Release of confidential information 31
35	References to Health and Community Care Service 31
36	Determination of fees 32
37	Payment of fees and interest 33
37A	Approved forms 33
37B	Regulations about nurse practitioners 34
38	Regulation-making power 34
190	Disclosure of interests by committee members 34
<b>Part 8</b>	<b>Transitional</b>
39	Definitions in Health (Fees) Determination 35
40	Expiry of pt 8 35

	Page
<b>Part 21</b>	
<b>Transitional—Health Legislation Amendment Act 2006</b>	
<b>Dictionary</b>	36
<b>Endnotes</b>	
1	39
2	39
3	39
4	42
5	55
6	55
7	55



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*.

### **U** 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 terms used in this Act, and includes references (*signpost definitions*) to other terms 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, 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, s 127 (1), (4) and (5) for the legal status of notes.



**U 3A Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**U 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.

## **U** Part 2 Health care principles

### **U** 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.

### **U** 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 that 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).

**U** 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, apart from this part, have come into existence after that enactment.

## **U** **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.

## **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, 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, 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 so far as they are relevant to the exercise 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 exercise 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 Health Care ACT committees**

- (1) The Minister may, in writing, declare a committee appointed by the peak management body (however described) of Calvary Health Care ACT that corresponds to a committee of a kind mentioned 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.

**Division 3.2 Confidentiality and evidentiary matters**

**13 Nondisclosure of identity—approved public sector committee member**

- (1) A member or former member of an approved public sector committee commits an offence if the person—
  - (a) does something that divulges the identity of a person to whom a health service was provided on behalf of the Territory (a *health service receiver*); and
  - (b) is reckless about whether doing the thing would result in the identity of the health service receiver being divulged.

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

- (2) This section does not apply if the health service receiver's identity is divulged—
  - (a) with the health service receiver's written consent; or

(b) to a member of the committee or another approved public sector committee.

(3) In this section:

*divulge* includes communicate.

#### **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 given to 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 relation to—
  - (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 relation to any act done or omitted to be done in good faith by the person in the exercise or purported exercise of any function given to 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, apart from that subsection, have in relation to 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 exercise 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 relation to—

(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 relation to 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, apart from that subsection, have in relation to an act or omission referred to in that subsection.

## **U** 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 about 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 exercise of its functions.
- (3) A declaration under subsection (1) is a notifiable instrument.

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

## **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 so far as they are relevant to the exercise 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 exercise 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—approved private sector committee member**

- (1) A member or former member of an approved private sector committee commits an offence if the person—
- (a) does something that divulges the identity of a person to whom a health service was provided by the prescribed body that established the committee (a *health service receiver*); and
  - (b) is reckless about whether doing the thing would result in the identity of the health service receiver being divulged.

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

- (2) This section does not apply if the health service receiver's identity is divulged—
- (a) with the health service receiver's written consent; or
  - (b) to a member of the committee or another approved private sector committee established by the prescribed body that established the committee.
- (3) In this section:  
*divulge* includes communicate.

## **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 given to 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 relation to—
  - (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 that established the committee against any costs incurred by the person in contesting any action, claim or demand brought or made against the person in relation to any act done or omitted to be done in good faith by the person in the exercise or purported exercise of any function given to 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, apart from that subsection, have in relation to 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 exercise 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 relation to—
  - (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 that established the committee against any costs incurred by the person in contesting any action, claim or demand brought or made against the person in relation to 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, apart from that subsection, have in relation to an act or omission referred to in that subsection.



## **U** Part 5                      **Clinical privileges**

### **27                      Interpretation for pt 5**

A reference in sections 28 (1) and (2) to the *chief executive* includes, if 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 considers appropriate; 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.

## **U** Part 5A                      **Abortions**

### **U** 30A                      **Meaning of *abortion* for pt 5A**

In this part:

*abortion* means causing a woman's miscarriage by:

- (a) administering a drug; or
- (b) using an instrument; or
- (c) any other means.

### **U** 30B                      **Only doctor may carry out abortion**

A person who is not a doctor must not carry out an abortion.

Maximum penalty: imprisonment for 5 years.

### **U** 30C                      **Abortion to be carried out in approved medical facility**

A person must not carry out an abortion except in a medical facility, or part of a medical facility, approved under section 30D (1).

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

### **U** 30D                      **Approval of facilities**

- (1) If a medical facility is suitable on medical grounds for carrying out abortions, the Minister may, in writing, approve the medical facility or an appropriate part of the medical facility.
- (2) An approval is a notifiable instrument.  
*Note*        A notifiable instrument must be notified under the *Legislation Act 2001*.
- (3) The Minister must not unreasonably refuse or delay a request for approval of a medical facility under subsection (1).

**U 30E No obligation to carry out abortion**

- (1) No-one is under a duty (by contract or by statutory or other legal requirement) to carry out or assist in carrying out an abortion.
- (2) A person is entitled to refuse to assist in carrying out an abortion.

**U Part 6 Administrative review****U 31 Interpretation for pt 6**

A reference in this part to the *chief executive* includes, if 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.

**U 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).

**U 33 Notification**

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

**U Part 6A VMO service contracts****U 33A Definitions for pt 6A**

In this part:

*authorised representative* means an entity authorised as a representative under section 33F.

*core conditions* means conditions determined under section 33C.

*entity* means a corporation or an unincorporated association.

*negotiating agent* means an entity approved as a negotiating agent under section 33E.

*negotiating period*—see section 33D (2).

*practice corporation*, of a VMO, means a corporation that is controlled or conducted by the VMO and by which the VMO conducts his or her practice as a doctor or dentist.

*service contract* means a contract for services, between the Territory and a VMO (or the VMO's practice corporation), under which the VMO is to provide health services to or for the Territory.

*VMO* (visiting medical officer) means a doctor or dentist who is engaged, or who the Territory proposes to engage, under a service contract.

**U 33B Service contracts**

- (1) The Territory must not enter into a service contract unless it includes the core conditions that apply to the contract.
- (2) A service contract entered into in contravention of subsection (1) is void.

- (3) A condition of a service contract that is inconsistent with a core condition that applies to the contract is void to the extent of the inconsistency.

**U 33C Core conditions**

- (1) The Minister may, in writing, determine core conditions for service contracts.
- (2) The Minister must not determine a condition as a core condition unless the condition has been—
- (a) agreed in collective negotiations under section 33D; or
  - (b) decided by arbitration under section 33G.
- (3) A determination of core conditions is a notifiable instrument.

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

**U 33D Collective negotiations**

- (1) The Territory may negotiate with a negotiating agent, or negotiating agents, to establish proposed core conditions for service contracts.
- (2) Before beginning collective negotiations, the Minister must determine a period (the *negotiating period*) for the negotiations.
- (3) A negotiating period determined after 31 December 2003 must not be shorter than 3 months unless the parties to the negotiations agree to a shorter negotiating period.
- (4) A determination of a negotiating period is a notifiable instrument.

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



**U 33E      Negotiating agents**

- (1) The Minister may, in writing, approve an entity as a negotiating agent.
- (2) The Minister must not approve an entity as a negotiating agent unless the Minister is satisfied that—
  - (a) the entity is the authorised representative of at least 50 VMOs who, between them, belong to at least 3 of the following categories:
    - (i) physician;
    - (ii) surgeon;
    - (iii) obstetrician and gynaecologist;
    - (iv) anaesthetist;
    - (v) general practitioner or other doctor or dentist; and
  - (b) the entity is not disqualified under subsection (3); and
  - (c) the entity is otherwise suitable to be a negotiating agent having regard to anything that may reasonably influence that decision, including the following:
    - (i) any criminal or civil court proceedings in which the entity or an executive officer of the entity has been concerned in the previous 10 years;
    - (ii) any levy of execution against the entity or an executive officer of the entity that is not satisfied;
    - (iii) whether an executive officer of the entity has ceased to carry on business, or has been involved in the management of an entity that has ceased to carry on business, with the result that creditors were not fully paid or are unlikely to be fully paid.

- (3) For subsection (2) (b), an entity is disqualified if—
- (a) the entity, or an executive officer of the entity, has been convicted, in the ACT or elsewhere, of—
    - (i) an offence punishable by imprisonment for longer than 1 year; or
    - (ii) an offence that involves dishonesty and is punishable by imprisonment for 3 months or longer; or
  - (b) the entity has a receiver, receiver and manager, or provisional liquidator appointed over part or all of its affairs, or is otherwise under external administration; or
  - (c) the entity is insolvent, enters into voluntary administration or makes an arrangement with its creditors or takes the benefit of any law for the relief of insolvent debtors; or
  - (d) the executive officer of the entity is disqualified from managing corporations under the Corporations Act, part 2D.6 (Disqualification from managing corporations).
- (4) In this section:
- executive officer*, of an entity, means a person, by whatever name called, and whether or not the person is a director of the entity, who is concerned with or takes part in the management of the entity.

**U 33F Authorised representatives**

- (1) A VMO may, in writing, authorise 1 entity to represent the VMO in collective negotiations under section 33D.
- Note* If a form is approved under s 37A for an authorisation, the form must be used.
- (2) The authorisation must nominate 1 of the categories mentioned in section 33E (2) (a) as the category to which the VMO belongs.

**U 33G Arbitration**

- (1) This section applies if agreement is not reached in collective negotiations between the Territory and a negotiating agent or negotiating agents in relation to a matter before the end of the negotiating period.
- (2) Unless resolved by mediation beforehand, the matter must be decided by arbitration.
- (3) The arbitration must be conducted under the *Commercial Arbitration Act 1986* and in accordance with principles and rules determined, in writing, by the Minister.
- (4) That Act applies to the arbitration as if the determined principles and rules were an arbitration agreement between the Territory and the negotiating agent or negotiating agents.
- (5) The principles and rules—
  - (a) must be determined by the Minister having regard to the objective of improving the efficiency, effectiveness and quality of health services, and other public interest considerations; and
  - (b) must include a requirement that the arbitrator has appropriate experience, including in determining industrial awards; and
  - (c) must be fair and reasonable.
- (6) A determination of principles and rules for arbitration is a notifiable instrument.

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

**U 33H Trade Practices Act authorisation**

For the *Trade Practices Act 1974* (Cwlth) and the Competition Code of the ACT, the following are authorised:

- (a) collective negotiations between the Territory and an approved negotiating agent, or approved negotiating agents, under this part;
- (b) the conditions agreed in those negotiations;
- (c) service contracts containing core conditions;
- (d) everything done under a service contract.

**U Part 7 Miscellaneous****U 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.

**U 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).

**U** 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.

**U 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.

**U 37A Approved forms**

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the form must be used for that purpose.

*Note* For other provisions about forms, see Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

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

**U 37B Regulations about nurse practitioners**

- (1) The regulations may make provision in relation to nurse practitioner positions and the scopes of practice for nurse practitioner positions.
- (2) In this section:

*nurse practitioner position* means a position approved under the regulations as a nurse practitioner position.

*position* means a position (however described) in the public or private sector, whether or not the occupant is an employee.

*scope of practice*, for a nurse practitioner position, means the manner in which the nurse practitioner who occupies the position may practise as a nurse practitioner, including, for example, the aspects of practice that the nurse practitioner may perform as a nurse practitioner.

**Examples for def scope of practice**

- 1 prescribing particular medication
- 2 referring patients to other health care professionals
- 3 ordering particular diagnostic investigations

*Note* An example is part of the regulations, 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).

**U 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.

**U 190 Disclosure of interests by committee members**



**U Part 8 Transitional****U 39 Definitions in Health (Fees) Determination**

- (1) This section applies to the *Health (Fees) Determination 2003-04* DI2003-150.
- (2) A reference in the determination to a **medical practitioner** is taken to be a reference to a person registered as a medical practitioner under the *Health Professionals Act 2004*.
- (3) The reference in the determination, clause 1, definition of **physiotherapy service** to ‘the definition of physiotherapy in the *Physiotherapists Act 1977*’ is taken to be a reference to—
  - (a) the regulated health service of physiotherapy under the *Health Professionals Act 2004*; or
  - (b) the definition of **physiotherapy** under the *Physiotherapists Act 1977*, section 3 (1); but
  - (c) does not include the definition mentioned in paragraph (b) if the *Physiotherapists Act 1977* has been repealed.

**U 40 Expiry of pt 8**

This part expires on the day the *Health Professionals Act 2004*, section 136 (Repeals) expires.

**U Part 21 Transitional—Health Legislation Amendment Act 2006**

## **U** Dictionary

(see s 2)

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

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

- function
- exercise
- the Territory
- ACT
- in relation to.

***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 section 12 (Approval of Calvary Health Care ACT committees).

***authorised representative***, for part 6A (VMO service contracts)—see section 33A.

***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.

***core conditions***, for part 6A (VMO service contracts)—see section 33A.

***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 to provide health services elsewhere.

**Examples of people who may be health service providers**

- 1 a chiropractor
- 2 a dentist
- 3 a dental technician
- 4 a dental prosthetist
- 5 a doctor
- 6 a nurse
- 7 an osteopath
- 8 an optometrist
- 9 a pharmacist
- 10 a physiotherapist

*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).

**negotiating agent**, for part 6A (VMO service contracts)—see section 33A.

**negotiating period**, for part 6A (VMO service contracts)—see section 33D (2).

**practice corporation**, for part 6A (VMO service contracts)—see section 33A.

**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).

***service contract***, for part 6A (VMO service contracts)—see section 33A.

***VMO*** (visiting medical officer), for part 6A (VMO service contracts)—see section 33A.

## 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.

### 2 Abbreviation key

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

### 3 Legislation history

#### Health Act 1993 No 13

notified 1 March 1993 (Gaz 1993 No S23)

## Endnotes

3 Legislation history

---

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)

**Statute Law Amendment Act 2003 A2003-41 sch 1 pt 1.1**

notified LR 11 September 2003  
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))  
sch 1 pt 1.1 commenced 9 October 2003 (s 2 (1))

**Health Amendment Act 2003 A2003-43**

notified LR 29 September 2003  
s 1, s 2 commenced 29 September 2003 (LA s 75 (1))  
remainder commenced 30 September 2003 (s 2)

**Nurse Practitioners Legislation Amendment Act 2004 A2004-10 pt 2**

notified LR 19 March 2004  
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))  
pt 2 commenced 27 May 2004 (s 2 and CN2004-9)

**Health Professionals Legislation Amendment Act 2004 A2004-39  
sch 1 pt 1.3**

notified LR 8 July 2004  
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))  
sch 1 pt 1.3 commenced 7 July 2005 (s 2 and see Health  
Professionals Act 2004 A2004-38, s 2 and CN2005-11)

**Health Legislation Amendment Act 2005 A2005-28 amdt 1.70**

notified LR 6 July 2005  
s 1, s 2 commenced 6 July 2005 (LA s 75 (1))  
amdt 1.70 commenced 7 July 2005 (s 2)

**Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.24**

notified LR 27 October 2005  
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))

## Endnotes

4 Amendment history

---

sch 1 pt 1.24 commenced 24 November 2005 (s 2)

### **Statute Law Amendment Act 2005 (No 2) A2005-62 sch 3 pt 3.10**

notified LR 21 December 2005

s 1, s 2 commenced 21 December 2005 (LA s 75 (1))

sch 3 pt 3.10 commenced 11 January 2006 (s 2 (1))

### **Health Legislation Amendment Act 2006 A2006-27 pt 2, sch 1**

notified LR 14 June 2006

s 1, s 2 commenced 14 June 2006 (LA s 75 (1))

pt 2, sch 1 awaiting commencement (s 2)

*Note* default commencement under LA s 79: 14 December 2006

### **Health Legislation Amendment Act 2006 (No 2) A2006-46 sch 2 pt 2.8**

notified LR 17 November 2006

s 1, s 2 commenced 17 November 2006 (LA s 75 (1))

sch 2 pt 2.8 commenced 18 November 2006 (s 2 (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  
am A2006-27 s 4

### **Notes**

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

### **Offences against Act—application of Criminal Code etc**

s 3A ins A2005-54 amdt 1.167  
am A2006-27 amdt 1.1

### **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)  
om A2006-27 s 5

### **Health care principles**

pt 2 hdg renum as pt 3 hdg A2006-27 amdt 1.2



**Important concepts**

pt 2 hdg ins A2006-27 s 5

**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  
renum as s 10 A2006-27 amdt 1.3

**What is a health service?**

s 5 ins A2006-27 s 5

**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)  
renum as s 11 A2006-27 amdt 1.3

**What is a health facility?**

s 6 ins A2006-27 s 5

**Legal effect**

s 7 (prev s 6) renum R4 LA (see 2001 No 56 amdt 1.36)  
renum as s 12 A2006-27 amdt 1.3

**Who is a health service provider?**

s 7 ins A2006-27 s 5

**Public sector quality assurance committees**

pt 3 hdg sub 1998 No 50 s 6  
om A2006-27 s 6

**General**

div 3.1 hdg (prev pt 3 div 1 hdg) renum R4 LA (see 2001 No 56 amdt 1.36)  
om A2006-27 s 6

**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  
om A2006-27 s 6

**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)  
om A2006-27 s 6

**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)  
om A2006-27 s 6

## Endnotes

### 4 Amendment history

---

#### **Disclosure of interest**

s 11 (prev s 8A) ins 1998 No 50 s 8  
renum R4 LA (see 2001 No 56 amdt 1.36)  
om A2006-27 s 6

#### **Approval of Calvary Health Care ACT committees**

s 12 hdg sub A2003-41 amdt 1.1  
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)  
am A2003-41 amdt 1.1  
om A2006-27 s 6

#### **Confidentiality and evidentiary matters**

div 3.2 hdg (prev pt 3 div 2 hdg) renum R4 LA (see 2001 No 56 amdt 1.36)  
om A2006-27 s 6

#### **Nondisclosure of identity—approved public sector committee member**

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)  
sub A2005-54 amdt 1.168  
om A2006-27 s 6

#### **Admissibility of evidence**

s 14 (prev s 11) sub 1998 No 50 s 11  
renum R4 LA (see 2001 No 56 amdt 1.36)  
om A2006-27 s 6

#### **Members not compellable**

s 15 (prev s 12) am 1998 No 50 s 12  
renum R4 LA (see 2001 No 56 amdt 1.36)  
om A2006-27 s 6

#### **Protection of members**

s 16 (prev s 13) am 1996 No 35 sch; 1998 No 50 s 13; 2001 No 56  
amdts 1.18-1.24  
renum R4 LA (see 2001 No 56 amdt 1.36)  
am 2002 No 47 amdt 1.14  
om A2006-27 s 6

#### **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  
om A2006-27 s 6

#### **Quality assurance**

pt 4 hdg (prev pt 3A hdg) ins 1998 No 50 s 15  
renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2006-27 s 6

**Quality assurance—important concepts**

div 4.1 hdg (prev pt 3A div 1 hdg) renum R4 LA (see 2001 No 56  
amdt 1.36)  
sub A2006-27 s 6

**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)  
om A2006-27 s 6

**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)  
om A2006-27 s 6

**Definitions—pt 4**

s 20 (prev s 13AD) ins 1998 No 50 s 15  
renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2006-27 s 6  
def **CEO** ins A2006-27 s 6  
def **health facility QAC** ins A2006-27 s 6  
def **health professional organisation** ins A2006-27 s 6  
def **health professional organisation QAC** ins A2006-27 s 6  
def **health service report** ins A2006-27 s 6  
def **ministerial report** ins A2006-27 s 6  
def **special purpose QAC** ins A2006-27 s 6

**What is a health professional organisation?**

s 21 (prev s 13AE) ins 1998 No 50 s 15  
renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2006-27 s 6

**Quality assurance—quality assurance committees**

div 4.2 hdg (prev pt 3A div 2 hdg) renum R4 LA (see 2001 No 56  
amdt 1.36)  
sub A2006-27 s 6

**Who is the CEO of a health facility?**

s 22 (prev s 13AF) ins 1998 No 50 s 15  
renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2005-54 amdt 1.169; A2006-27 s 6

**Who is the CEO of a health professional organisation?**

s 23 (prev s 13AG) ins 1998 No 50 s 15  
renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2006-27 s 6

## Endnotes

4 Amendment history

---

### **What is a quality assurance committee?**

s 24 (prev s 13AH) ins 1998 No 50 s 15  
renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2006-27 s 6

### **Approval of health facility QACs**

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)  
sub A2006-27 s 6

### **Approval of health professional organisation QACs**

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)  
sub A2006-27 s 6

### **Reviewing 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)  
sub A2006-27 s 6

### **Approval of special purpose QACs**

s 27 (prev s 13A) ins 1996 No 35 sch  
renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2006-27 s 6

### **Quality assurance committees—criteria for approval**

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)  
sub A2006-27 s 6

### **Quality assurance committees—revocation of approval**

s 29 (prev s 15) renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2006-27 s 6

### **Quality assurance committees—functions**

s 30 (prev s 16) renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2006-27 s 6

### **Abortions**

pt 5A hdg reloc from Medical Practitioners Act 1930 pt 4B by A2005-28  
amdt 1.70  
am A2006-27 amdt 1.4

### **Meaning of *abortion* for pt 5A**

s 30A hdg am A2006-27 amdt 1.5  
s 30A reloc from Medical Practitioners Act 1930 s 55A by A2005-28  
amdt 1.70  
am A2006-27 amdt 1.6

**Only doctor may carry out abortion**

s 30B           reloc from Medical Practitioners Act 1930 s 55B by A2005-28  
 amdt 1.70  
am A2006-27 amdt 1.6

**Abortion to be carried out in approved medical facility**

s 30C           reloc from Medical Practitioners Act 1930 s 55C by A2005-28  
 amdt 1.70  
am A2006-27 amdt 1.7, amdt 1.8

**Approval of facilities**

s 30D           reloc from Medical Practitioners Act 1930 s 55D by A2005-28  
 amdt 1.70  
am A2006-27 amdt 1.8

**No obligation to carry out abortion**

s 30E           reloc from Medical Practitioners Act 1930 s 55E by A2005-28  
 amdt 1.70  
am A2006-27 amdt 1.8

**Administrative review**

pt 6 hdg       om A2006-27 amdt 1.9

**Quality assurance committees—appointment of members**

s 31           (prev s 19A) ins 1996 No 35 sch  
 renum R4 LA (see 2001 No 56 amdt 1.36)  
sub A2006-27 s 6

**Quality assurance committees—disclosure of interests**

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)  
sub A2006-27 s 6

**Quality assurance committees—procedure**

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)  
sub A2006-27 s 6

**VMO service contracts**

pt 6A hdg      ins A2003-43 s 4  
am A2006-27 amdt 1.10

**Definitions for pt 6A**

s 33A hdg      am A2006-27 amdt 1.11  
 s 33A           ins A2003-43 s 4  
am A2006-27 amdt 1.16  
 def **authorised representative** ins A2003-43 s 4  
am A2006-27 amdt 1.12  
 def **core conditions** ins A2003-43 s 4  
am A2006-27 amdt 1.13

## Endnotes

### 4 Amendment history

---

def **entity** ins A2003-43 s 4  
def **negotiating agent** ins A2003-43 s 4  
am A2006-27 amdt 1.14  
def **negotiating period** ins A2003-43 s 4  
am A2006-27 amdt 1.15  
def **practice corporation** ins A2003-43 s 4  
def **service contract** ins A2003-43 s 4  
def **VMO** ins A2003-43 s 4

#### **Service contracts**

s 33B ins A2003-43 s 4  
am A2006-27 amdt 1.16

#### **Core conditions**

s 33C ins A2003-43 s 4  
am A2006-27 amdt 1.17-1.19

#### **Collective negotiations**

s 33D ins A2003-43 s 4  
am A2006-27 amdt 1.19

#### **Negotiating agents**

s 33E ins A2003-43 s 4  
am A2005-62 amdt 3.119  
am A2006-27 amdt 1.19

#### **Authorised representatives**

s 33F ins A2003-43 s 4  
am A2006-27 amdt 1.20-1.23

#### **Arbitration**

s 33G ins A2003-43 s 4  
am A2006-27 amdt 1.23

#### **Trade Practices Act authorisation**

s 33H ins A2003-43 s 4  
am A2006-27 amdt 1.23

#### **Miscellaneous**

pt 7 hdg ins 1994 No 23 s 5  
am A2006-27 amdt 1.24

#### **Quality assurance committees—protection of members etc from liability**

s 34 (prev s 21) ins 1994 No 23 s 5  
renum R4 LA (see 2001 No 56 amdt 1.36)  
om A2006-27 amdt 1.25  
ins A2006-27 s 6

#### **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  
renum as s 191 A2006-27 amdt 1.26

**Quality assurance committees—obtaining information**

s 35 ins A2006-27 s 6

**Assessment and evaluation of health services**

div 4.3 hdg ins A2006-27 s 6

**Determination of fees**

s 36 ins 2002 No 47 amdt 1.15  
renum as s 192 A2006-27 amdt 1.26

**Assessment and evaluation of health services**

s 36 ins A2006-27 s 6

**Payment of fees and interest**

s 37 ins 2002 No 47 amdt 1.15  
renum as s 193 A2006-27 amdt 1.26

**Approval of quality assurance activities**

s 37 ins A2006-27 s 6

**Approved forms**

s 37A ins A2003-43 s 5  
renum as s 194 A2006-27 amdt 1.26

**Regulations about nurse practitioners**

s 37B ins A2004-10 s 4  
renum as s 195 A2006-27 amdt 1.26

**Regulation-making power**

s 38 ins 2002 No 47 amdt 1.15  
renum as s 196 A2006-27 amdt 1.26

**Preparing health service reports**

s 38 ins A2006-27 s 6

**Transitional—Health Professionals Act 2004**

pt 8 hdg ins 2002 No 47 amdt 1.16  
exp 31 December 2003 (s 46)  
ins A2004-39 amdt 1.15  
renum as pt 20 hdg A2006-27 amdt 1.27  
exp on the day the Health Professionals Act 2004 s 136  
expires (s 40)

**Definitions in Health (Fees) Determination**

s 39 ins 2002 No 47 amdt 1.16  
exp 31 December 2003 (s 46)  
ins A2004-39 amdt 1.15  
renum as s 240 A2006-27 amdt 1.28  
exp on the day the Health Professionals Act 2004 s 136  
expires (s 40)

## Endnotes

4 Amendment history

---

### **Giving health service reports to CEO or chief executive**

s 39 ins A2006-27 s 6

### **Expiry—pt 20**

s 40 ins 2002 No 47 amdt 1.16  
exp 31 December 2003 (s 46)  
ins A2004-39 amdt 1.15  
renum as s 241 A2006-27 amdt 1.29  
exp on the day the Health Professionals Act 2004 s 136  
expires (s 40)

### **Monitoring implementation of recommendations**

s 40 ins A2006-27 s 6

### **Quality assurance committees—reporting**

div 4.4 hdg ins A2006-27 s 6

### **Annual quality assurance committee report to Minister**

s 41 ins 2002 No 47 amdt 1.16  
exp 31 December 2003 (s 46)  
ins A2006-27 s 6

### **Other quality assurance committee reports**

s 42 ins 2002 No 47 amdt 1.16  
exp 31 December 2003 (s 46)  
ins A2006-27 s 6

### **Quality assurance committees—information sharing**

div 4.5 hdg ins A2006-27 s 6

### **Quality assurance committees—giving information to the Coroner's Court**

s 43 ins 2002 No 47 amdt 1.16  
exp 31 December 2003 (s 46)  
ins A2006-27 s 6

### **Quality assurance committees—giving information to other quality assurance committees**

s 44 ins 2002 No 47 amdt 1.16  
exp 31 December 2003 (s 46)  
ins A2006-27 s 6

### **Quality assurance committees—giving information to health profession board**

s 45 ins 2002 No 47 amdt 1.16  
exp 31 December 2003 (s 46)  
ins A2006-27 s 6

### **Quality assurance committees—giving information to Minister**

s 46 ins 2002 No 47 amdt 1.16  
exp 31 December 2003 (s 46)  
ins A2006-27 s 6



**Quality assurance committees—admissibility of evidence**

s 47 ins A2006-27 s 6

**Definitions—pt 5**

s 50 ins A2006-27 s 6  
def **CEO** ins A2006-27 s 6  
def **clinical privileges** ins A2006-27 s 6  
def **clinical privileges report** ins A2006-27 s 6  
def **clinical privileges review notice** ins A2006-27 s 6  
def **dentist** ins A2006-27 s 6  
def **doctor** ins A2006-27 s 6  
def **hospital** ins A2006-27 s 6  
def **review** ins A2006-27 s 6

**What is a clinical privileges committee?**

s 51 ins A2006-27 s 6

**Who is a doctor or dentist for a health facility?**

s 52 ins A2006-27 s 6

**Who is the CEO of a health facility?**

s 53 ins A2006-27 s 6

**What are clinical privileges?**

s 54 ins A2006-27 s 6

**Meaning of review clinical privileges**

s 55 ins A2006-27 s 6

**Approval of clinical privileges committees**

s 56 ins A2006-27 s 6

**Clinical privileges committees—criteria for approval**

s 57 ins A2006-27 s 6

**Clinical privileges committees—revocation of approval**

s 58 ins A2006-27 s 6

**Clinical privileges committees—functions**

s 59 ins A2006-27 s 6

**Clinical privileges committees—appointment of members**

s 60 ins A2006-27 s 6

**Clinical privileges committees—disclosure of interests**

s 61 ins A2006-27 s 6

**Clinical privileges committees—procedure**

s 62 ins A2006-27 s 6

**Clinical privileges committees—protection of members etc from liability**

s 63 ins A2006-27 s 6

## Endnotes

4 Amendment history

---

**Clinical privileges committees—obtaining information**

s 64 ins A2006-27 s 6

**Review of clinical privileges**

s 65 ins A2006-27 s 6

**Clinical privileges committee must give doctor or dentist opportunity to explain**

s 66 ins A2006-27 s 6

**Preparing clinical privileges reports**

s 67 ins A2006-27 s 6

**Giving clinical privileges reports to CEO of health facility and doctor or dentist**

s 68 ins A2006-27 s 6

**CEO to make decision on clinical privileges report**

s 69 ins A2006-27 s 6

**CEO to tell doctor or dentist of decision on clinical privileges report**

s 70 ins A2006-27 s 6

**When decision on clinical privileges report takes effect**

s 71 ins A2006-27 s 6

**Clinical privileges committees—giving information to health profession board**

s 72 ins A2006-27 s 6

**Clinical privileges committees—admissibility of evidence**

s 73 ins A2006-27 s 6

**Pt 5 obligations—no contracting out**

s 74 ins A2006-27 s 6

**Secrecy**

pt 8 hdg ins A2006-27 s 7

**Definitions—pt 8**

s 120 ins A2006-27 s 7  
def *divulge* ins A2006-27 s 7  
def *information holder* ins A2006-27 s 7  
def *protected information* ins A2006-27 s 7

**When is information *divulged*?**

s 121 ins A2006-27 s 7

**Who is an *information holder*?**

s 122 ins A2006-27 s 7

**What is *protected information*?**

s 123 ins A2006-27 s 7

**What is sensitive information?**s 124 [ins A2006-27 s 7](#)**Offence—secrecy of protected information**s 125 [ins A2006-27 s 7](#)**Information may be given to Medicare Australia**s 126 [ins A2006-27 s 7](#)**Review of decisions**pt 9 hdg [ins A2006-27 s 7](#)**Review of decisions**s 130 [ins A2006-27 s 7](#)**Pt 9 obligations—no contracting out**s 131 [ins A2006-27 s 7](#)**Disclosure of interests by committee members**s 190 [ins A2006-27 s 8](#)**Transitional—Health Legislation Amendment Act 2006**pt 21 hdg [ins A2006-27 s 9](#)**Transitional—protection of former members from liability**s 242 [ins A2006-27 s 9](#)**Expiry—pt 21**s 243 [ins A2006-27 s 9](#)  
[exp 1 year after the day it commences \(s 243\)](#)**Approval of facilities—transitional**s 250 [ins A2006-46 amdt 2.25](#)  
[exp 18 November 2006 \(s 250 \(3\) \(LA s 88 declaration applies\)\)](#)**Dictionary**dict [ins 2001 No 56 amdt 1.35](#)  
[sub A2006-27 s 10](#)  
def ***approved committee*** [om 1998 No 50 s 5](#)  
def ***approved private sector committee*** [ins 1998 No 50 s 5](#)  
[om A2006-27 s 10](#)  
def ***approved public sector committee*** [ins 1998 No 50 s 5](#)  
[sub 2001 No 56 amdt 1.4](#)  
[am A2003-41 amdt 1.2](#)  
[om A2006-27 s 10](#)  
def ***authorised representative*** [ins A2003-43 s 6](#)  
[sub A2006-27 s 10](#)  
def ***CEO*** [ins A2006-27 s 10](#)  
def ***clinical privileges*** [sub A2006-27 s 10](#)  
def ***clinical privileges committee*** [ins A2006-27 s 10](#)  
def ***clinical privileges report*** [ins A2006-27 s 10](#)

## Endnotes

4 Amendment history

---

- def **clinical privileges review notice** ins A2006-27 s 10  
def **core conditions** ins A2003-43 s 6  
sub A2006-27 s 10  
def **day hospital** ins A2006-27 s 10  
def **dentist** ins A2006-27 s 10  
def **divulge** ins A2006-27 s 10  
def **doctor** ins A2006-27 s 10  
def **engage** ins A2006-27 s 10  
def **entity** ins A2006-27 s 10  
def **health facility** am 1996 No 35 sch; 2002 No 47 amdt 1.17  
sub A2006-27 s 10  
def **health facility QAC** ins A2006-27 s 10  
def **health profession board** ins A2006-27 s 10  
def **health professional** ins A2006-27 s 10  
def **health professional organisation** ins A2006-27 s 10  
def **health professional organisation QAC** ins A2006-27  
s 10  
def **health service** ins A2006-27 s 10  
def **health service provider** sub A2004-39 amdt 1.16;  
A2006-27 s 10  
def **health service report** ins A2006-27 s 10  
def **hospital** ins A2006-27 s 10  
def **information holder** ins A2006-27 s 10  
def **ministerial report** ins A2006-27 s 10  
def **negotiating agent** ins A2003-43 s 6  
sub A2006-27 s 10  
def **negotiating period** ins A2003-43 s 6  
sub A2006-27 s 10  
def **practice corporation** ins A2003-43 s 6  
sub A2006-27 s 10  
def **prescribed body** ins 2001 No 56 amdt 1.35  
om A2006-27 s 10  
def **private day hospital facility** ins 2001 No 56 amdt 1.35  
om A2006-27 s 10  
def **protected information** ins A2006-27 s 10  
def **quality assurance activities** om 2001 No 56 amdt 1.5  
def **quality assurance activity** ins 2001 No 56 amdt 1.5  
om A2006-27 s 10  
def **quality assurance committee** ins A2006-27 s 10  
def **service contract** ins A2003-43 s 6  
sub A2006-27 s 10  
def **special purpose QAC** ins A2006-27 s 10  
def **tribunal** om 1994 No 60 sch 1  
def **VMO** ins A2003-43 s 6  
sub A2006-27 s 10

## 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. 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
5	A2002-47	31 December 2002
6	A2003-43	30 September 2003
7	A2003-43	9 October 2003
8	A2003-43	24 December 2003
9	A2004-10	27 May 2004
10	A2005-28	7 July 2005
11	A2005-54	24 November 2005
12*	A2005-62	11 January 2006
13	A2006-46	18 November 2006

## 6 Renumbered provisions

This Act was renumbered under the *Legislation Act 2001*, in R4 (see Act 2001 No 56). Details of renumbered provisions are shown in endnote 4 (Amendment history). For a table showing the renumbered provisions, see R4.

## 7 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

## Endnotes

7 Uncommenced amendments

---

<b>Health Legislation Amendment Act 2006 A2006-27 pt 2, sch 1</b>
---

## Part 2 Health Act 1993

### 3 Legislation amended—pt 2

This part amends the *Health Act 1993*.

*Note 1* The Act is also amended in sch 1.

*Note 2* This Act also repeals some instruments made under the Act (see sch 3).

### 4 Dictionary Section 2, note 1

*substitute*

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

For example, the signpost definition '*health professional*—see the *Health Professionals Act 2004*, section 14.' means that the term 'health professional' is defined in that section and applies to this Act.

### 5 Section 4

*substitute*

## Part 2 Important concepts

### 5 What is a *health service*?

For this Act, a *health service* is a service provided to someone (the *service user*) for any of the following purposes:

- (a) assessing, recording, maintaining or improving the physical, mental or emotional health, comfort or wellbeing of the service user;

- (b) diagnosing, treating or preventing an illness, disability, disorder or condition of the service user.

## 6 **What is a *health facility*?**

- (1) In this Act:

*health facility* means the following facilities where health services are provided:

- (a) a hospital, including a day hospital;
- (b) a hospice;
- (c) a nursing home;
- (d) a health professional's consulting room;
- (e) another facility ordinarily used by the Territory to provide health services;
- (f) any other facility prescribed by regulation for this section.

## 7 **Who is a *health service provider*?**

In this Act:

*health service provider*—

- (a) means a health professional or other person who provides a health service; and
- (b) for a health facility, means a health service provider who—
  - (i) provides a health service at the health facility; or
  - (ii) uses the equipment or other facilities of the health facility to provide a health service elsewhere.

### **Examples of people who may be health service providers**

- 1 a chiropractor
- 2 a dentist
- 3 a dental technician
- 4 a dental prosthetist

## Endnotes

### 7 Uncommenced amendments

---

- 5 a doctor
- 6 a nurse
- 7 an osteopath
- 8 an optometrist
- 9 a pharmacist
- 10 a physiotherapist

*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).

## 6 Part 3 to part 5

*substitute*

## Part 4 Quality assurance

### Division 4.1 Quality assurance—important concepts

#### 20 Definitions—pt 4

In this part:

**CEO**—

- (a) of a health facility—see section 22; and
- (b) of a health professional organisation—see section 23.

**health facility QAC**, for a health facility, means a committee approved under section 25 as a quality assurance committee for the health facility.

**health professional organisation**—see section 21.

**health professional organisation QAC**, for a health professional organisation, means a committee approved under section 26 as a quality assurance committee for the health professional organisation.



*health service report*—see section 38.

*ministerial report*—see section 41.

*special purpose QAC* means a committee approved under section 27 for a purpose.

*Note* *Quality assurance committee* is defined for the Act in s 24.

**21 What is a health professional organisation?**

In this part:

*health professional organisation* means an entity that—

- (a) is an association, society, college, faculty or other body of professionals who provide a health service; and
- (b) is prescribed by regulation for this section.

**22 Who is the CEO of a health facility?**

In this part:

*CEO*, of a health facility, means—

- (a) for a health facility operated by the Territory—the chief executive; or
- (b) in any other case—the person with overall responsibility for the control of the health facility.

**23 Who is the CEO of a health professional organisation?**

In this part:

*CEO*, of a health professional organisation, means the person with overall responsibility for the control of the health professional organisation.

## **Division 4.2                      Quality assurance—quality assurance committees**

### **24                      What is a *quality assurance committee*?**

In this Act:

*quality assurance committee* means—

- (a) a health facility QAC; or
- (b) a health professional organisation QAC; or
- (c) a special purpose QAC.

### **25                      Approval of health facility QACs**

- (1) The Minister may approve a stated committee as a quality assurance committee for a stated health facility.
- (2) An approval is a notifiable instrument.

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

### **26                      Approval of health professional organisation QACs**

- (1) The Minister may approve a stated committee as a quality assurance committee for a stated health professional organisation.
- (2) An approval is a notifiable instrument.

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

### **27                      Approval of special purpose QACs**

- (1) The Minister may approve a stated committee as a quality assurance committee for a stated purpose.
- (2) An approval is a notifiable instrument.

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

**28 Quality assurance committees—criteria for approval**

The Minister may approve a committee as a quality assurance committee under section 25, section 26 or section 27 only if satisfied that—

- (a) the committee's functions would be facilitated by the members, and other people mentioned in section 34, being protected from liability under section 34 (Quality assurance committees—protection of members etc from liability); and
- (b) it is in the public interest for part 8 (Secrecy) to apply to information held by the committee members.

**29 Quality assurance committees—revocation of approval**

The Minister may revoke the approval of a committee as a quality assurance committee if—

- (a) the Minister is not satisfied about 1 or both of the criteria mentioned in section 28 in relation to the committee; or
- (b) the committee has failed to prepare a health service report as required under section 38; or
- (c) the committee has failed to give a health service report as required under section 39; or
- (d) the committee has failed to prepare, or give, a ministerial report as required under section 41 (Annual quality assurance committee report to Minister); or
- (e) the committee has failed to prepare a report as required by a regulation made under section 42 (Other quality assurance reports); or

## Endnotes

7 Uncommenced amendments

---

- (f) for the last year, none of the members of the committee has held sensitive information in the exercise of a function under this Act.

*Note 1* **Sensitive information** is defined in s 124.

*Note 2* Power to make a statutory instrument includes power to amend or repeal the instrument. The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument (see Legislation Act, s 46).

### 30 **Quality assurance committees—functions**

A quality assurance committee has the following functions:

- (a) to facilitate the improvement of health services provided in the ACT;
- (b) any other function given to the committee under this Act.

### 31 **Quality assurance committees—appointment of members**

- (1) The CEO of a health facility must appoint the members of a health facility QAC for the health facility.
- (2) The CEO of a health professional organisation must appoint the members of a health professional organisation QAC for the health professional organisation.
- (3) The chief executive must appoint the members of a special purpose QAC.

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

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

*Note 3* A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def **appoint**).

**32 Quality assurance committees—disclosure of interests**

- (1) Section 190 (Disclosure of interests by committee members) applies to quality assurance committees.
- (2) If a person acting under the direction of a quality assurance committee has a material interest in an issue being considered, or about to be considered, by the committee, the person must disclose the nature of the interest at a committee meeting as soon as practicable after the relevant facts come to the person's knowledge.
- (3) In this section:  
*material interest*—see section 133 (4).

**33 Quality assurance committees—procedure**

In exercising its functions, a quality assurance committee—

- (a) must comply with the rules of natural justice; and
- (b) is not bound by the rules of evidence but may inform itself of anything in the way it considers appropriate; and
- (c) may do whatever it considers necessary or convenient for the fair and prompt conduct of its functions.

**34 Quality assurance committees—protection of members etc from liability**

- (1) In this section:  
*relevant person*, for a quality assurance committee—
  - (a) means a person who is, or has been, a member of the committee; and
  - (b) includes anyone engaging in conduct under the direction of a person who is a member of the committee.
- (2) A relevant person for a quality assurance committee is not personally liable for anything done or omitted to be done honestly and without recklessness—

## Endnotes

### 7 Uncommenced amendments

---

- (a) in the exercise of a function under this Act; or
- (b) in the reasonable belief that the act or omission was in the exercise of a function under this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (3) Any civil liability that would, apart from this section, attach to a relevant person for a quality assurance committee attaches instead to—
  - (a) if the committee is a health facility QAC for a health facility—the health facility; or
  - (b) if the committee is a health professional organisation QAC for a health professional organisation—the health professional organisation; or
  - (c) if the committee is a special purpose QAC—the Territory.

## 35 Quality assurance committees—obtaining information

- (1) A quality assurance committee carrying out a function under this Act may ask anyone to give the committee information, including protected information, that is relevant to the committee carrying out the function.

*Note* The identity of a person who gives information to a committee under this section is protected (see pt 8).

- (2) When asking anyone for information, the committee must tell the person that giving false or misleading information is an offence against the Criminal Code, section 338 (Giving false or misleading information).
- (3) If someone gives information honestly and without recklessness to a quality assurance committee under subsection (1)—
  - (a) the giving of the information is not—
    - (i) a breach of confidence; or

- (ii) a breach of professional etiquette or ethics; or
  - (iii) a breach of a rule of professional conduct; and
- (b) the person does not incur civil or criminal liability only because of the giving of the information.

### **Division 4.3                    Assessment and evaluation of health services**

#### **36                    Assessment and evaluation of health services**

- (1) A health facility QAC for a health facility may assess and evaluate health services provided by health service providers for the health facility by carrying out a quality assurance activity with the health service providers.
- (2) A health professional organisation QAC for a health professional organisation may assess and evaluate health services provided by health service providers who are members of a health professional organisation by carrying out a quality assurance activity with the health service providers.
- (3) A special purpose QAC may, for a purpose for which it was approved, assess and evaluate health services provided by health service providers for any health facility by carrying out a quality assurance activity with the health service providers.

- (4) In this section:

*quality assurance activity* means an activity approved as a quality assurance activity under section 37.

#### **37                    Approval of quality assurance activities**

- (1) The Minister may approve an activity as a quality assurance activity if satisfied that the activity is designed to evaluate, monitor or improve the quality of a health service.

## Endnotes

7 Uncommenced amendments

---

- (2) An approval is a notifiable instrument.

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

**Examples of activities designed to evaluate, monitor or improve the quality of a health service**

- 1 clinical audits
- 2 records audits
- 3 peer review
- 4 quality review
- 5 investigation into disease and death.

*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).

### 38 Preparing health service reports

- (1) This section applies to a quality assurance committee if it completes an assessment and evaluation under section 36.
- (2) The quality assurance committee must prepare a report (a **health service report**) about the assessment and evaluation.

*Note* The report must be prepared as soon as possible (see Legislation Act, s 151B).

- (3) The health service report must include the following:
- (a) details of the health services assessed and evaluated;
  - (b) the results of the assessment and evaluation;
  - (c) the committee's conclusions;
  - (d) the committee's recommendations (if any).

### 39 Giving health service reports to CEO or chief executive

- (1) This section applies to a quality assurance committee if it prepares a health service report.
- (2) The quality assurance committee must give a copy of the report to—



- (a) if the committee is a health facility QAC for a health facility—the CEO of the health facility; or
- (b) if the committee is a health professional organisation QAC for a health professional organisation—the CEO of the health professional organisation; or
- (c) if the committee is a special purpose QAC—the chief executive.

*Note* The report must be given as soon as possible (see Legislation Act, s 151B).

#### 40 Monitoring implementation of recommendations

If a quality assurance committee makes a recommendation in a health service report, the committee may monitor the implementation of the recommendation.

### Division 4.4 Quality assurance committees—reporting

#### 41 Annual quality assurance committee report to Minister

- (1) A quality assurance committee must, for each financial year, prepare a report (a *ministerial report*) about the committee's operation during the year.
- (2) The ministerial report must include information for the financial year about—
  - (a) the committee's functions under division 4.3 (Assessment and evaluation of health services); and
  - (b) how the committee's functions were facilitated by the members, and other people mentioned in section 34, being protected from liability under section 34 (Quality assurance committees—protection of members etc from liability); and
  - (c) why it was in the public interest for part 8 (Secrecy) to apply to information held by the committee members.

## Endnotes

7 Uncommenced amendments

---

(3) The ministerial report must comply with any requirements prescribed by regulation for this section.

(4) The ministerial report must not include sensitive information.

*Note* *Sensitive information* is defined in s 124.

(5) The ministerial report must be given to the Minister not later than 3 months after the end of the financial year.

## 42 Other quality assurance committee reports

(1) A quality assurance committee must prepare a report prescribed by regulation for this section.

(2) The report must include the following information about the operation of the committee—

(a) how the committee's functions were facilitated by the members, and other people mentioned in section 34, being protected from liability under section 34 (Quality assurance committees—protection of members etc from liability); and

(b) why it was in the public interest for part 8 (Secrecy) to apply to information held by the committee members.

(3) The report must not include sensitive information.

*Note* *Sensitive information* is defined in s 124.

## Division 4.5 Quality assurance committees— information sharing

### 43 Quality assurance committees—giving information to the Coroner's Court

A quality assurance committee must not give protected information to the Coroner's Court unless the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.

*Note* Protected information includes sensitive information (see s 123).

- 44 Quality assurance committees—giving information to other quality assurance committees**
- A quality assurance committee must not give protected information to another quality assurance committee unless the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.
- Note* Protected information includes sensitive information (see s 123).
- 45 Quality assurance committees—giving information to health profession board**
- A quality assurance committee must not give protected information to a health profession board unless the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.
- Note* Protected information includes sensitive information (see s 123).
- 46 Quality assurance committees—giving information to Minister**
- A quality assurance committee must not give protected information to the Minister unless—
- (a) the information is not sensitive information; and
  - (b) the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.
- 47 Quality assurance committees—admissibility of evidence**
- (1) The following are not admissible as evidence in a proceeding before a court:
    - (a) an oral statement made in a proceeding before a quality assurance committee;
    - (b) a document given to a quality assurance committee, but only to the extent that it was prepared only for the committee;

## Endnotes

7 Uncommenced amendments

---

(c) a document prepared by a quality assurance committee.

(2) In this section:

*court* includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

## Part 5 Reviewing clinical privileges

### 50 Definitions—pt 5

In this part:

*CEO*, of a health facility—see section 53.

*clinical privileges*, of a doctor or dentist, for a health facility—see section 54.

*clinical privileges report*—see section 67.

*clinical privileges review notice*—see section 70.

*dentist*, for a health facility—see section 52.

*doctor*, for a health facility—see section 52.

*hospital* includes a day hospital.

*review clinical privileges*—see section 55.

*Note* *Clinical privileges committee* is defined for the Act in s 51.

### 51 What is a *clinical privileges committee*?

In this Act:

*clinical privileges committee* means a committee approved under section 56 as a clinical privileges committee.

### 52 Who is a *doctor or dentist* for a health facility?

In this Act:

*dentist*, for a health facility, means a dentist who—

- (a) provides health services at the health facility; or
- (b) uses the equipment or other facilities of the health facility to provide health services elsewhere.

*doctor*, for a health facility, means a doctor who—

- (a) provides health services at the health facility; or
- (b) uses the equipment or other facilities of the health facility to provide health services elsewhere.

**53 Who is the *CEO* of a health facility?**

In this part:

*CEO*, of a health facility, means—

- (a) for a health facility operated by the Territory—the chief executive; or
- (b) in any other case—the person with overall responsibility for the control of the health facility.

**54 What are *clinical privileges*?**

In this part:

*clinical privileges*, of a doctor, or dentist for a health facility, means the rights of the doctor or dentist—

- (a) to treat patients or carry out other procedures at the health facility; or
- (b) to use the equipment or other facilities of the health facility.

**55 Meaning of *review clinical privileges***

In this part:

*review clinical privileges* includes assess and evaluate clinical privileges.

**56 Approval of clinical privileges committees**

- (1) The Minister may approve a stated committee as a clinical privileges committee.
- (2) An approval is a notifiable instrument.

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

**57 Clinical privileges committees—criteria for approval**

The Minister may approve a committee as a clinical privileges committee under section 56 only if satisfied that—

- (a) the committee's functions would be facilitated by the members, and other people mentioned in section 63, being protected from liability under section 63 (Clinical privileges committees—protection of members etc from liability); and
- (b) it is in the public interest for part 8 (Secrecy) to apply to information held by the committee members.

**58 Clinical privileges committees—revocation of approval**

The Minister may revoke the approval of a committee as a clinical privileges committee if the Minister is not satisfied about 1 or both of the criteria mentioned in section 57 in relation to the committee.

*Note* Power to make a statutory instrument includes power to amend or repeal the instrument. The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument (see Legislation Act, s 46).

**59 Clinical privileges committees—functions**

A clinical privileges committee has the following functions:

- (a) to review the clinical privileges of doctors, and dentists, for health facilities;
- (b) any other function given to the committee under this Act.

**60 Clinical privileges committees—appointment of members**

The chief executive must appoint the members of a clinical privileges committee.

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

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

*Note 3* A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

**61 Clinical privileges committees—disclosure of interests**

- (1) Section 190 (Disclosure of interests by committee members) applies to clinical privileges committees.
- (2) If a person acting under the direction of a clinical privileges committee has a material interest in an issue being considered, or about to be considered, by the committee, the person must disclose the nature of the interest at a committee meeting as soon as practicable after the relevant facts come to the person's knowledge.
- (3) In this section:  
*material interest*—see section 133 (4).

**62 Clinical privileges committees—procedure**

In exercising its functions, a clinical privileges committee—

- (a) must comply with the rules of natural justice; and
- (b) is not bound by the rules of evidence but may inform itself of anything in the way it considers appropriate; and
- (c) may do whatever it considers necessary or convenient for the fair and prompt conduct of its functions.

**63 Clinical privileges committees—protection of members etc from liability**

- (1) In this section:
- relevant person*, for a clinical privileges committee—
- (a) means a person who is, or has been, a member of the committee; and
  - (b) includes anyone engaging in conduct under the direction of a person who is a member of the committee.
- (2) A relevant person for a clinical privileges committee is not personally liable for anything done or omitted to be done honestly and without recklessness—
- (a) in the exercise of a function under this Act; or
  - (b) in the reasonable belief that the act or omission was in the exercise of a function under this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (3) Any civil liability that would, apart from this section, attach to a relevant person for a clinical privileges committee attaches instead to the Territory.

**64 Clinical privileges committees—obtaining information**

- (1) A clinical privileges committee carrying out a function under this Act may ask anyone to give the committee information, including protected information, that is relevant to the committee carrying out the function.

*Note* The identity of a person who gives information to a committee under this section is protected (see pt 8).

- (2) When asking anyone for information, the committee must tell the person that giving false or misleading information is an offence



against the Criminal Code, section 338 (Giving false or misleading information).

- (3) If someone gives information honestly and without recklessness to a clinical privileges committee under subsection (1)—
- (a) the giving of the information is not—
    - (i) a breach of confidence; or
    - (ii) a breach of professional etiquette or ethics; or
    - (iii) a breach of a rule of professional conduct; and
  - (b) the person does not incur civil or criminal liability only because of the giving of the information.

## **65 Review of clinical privileges**

A clinical privileges committee may review the clinical privileges of a doctor, or dentist, for a health facility.

## **66 Clinical privileges committee must give doctor or dentist opportunity to explain**

- (1) This section applies to a clinical privileges committee if—
- (a) the committee is reviewing the clinical privileges of a doctor, or dentist, for a health facility; and
  - (b) the committee proposes to recommend in a clinical privileges report that—
    - (i) the clinical privileges of the doctor or dentist should be amended or be withdrawn; or
    - (ii) the terms of engagement of the doctor or dentist by the health facility should be amended; or
    - (iii) the engagement of the doctor or dentist by the health facility should be suspended or ended.

*Note* Clinical privileges reports are prepared under s 67.

## Endnotes

7 Uncommenced amendments

---

- (2) The committee must give the doctor or dentist a written notice (a **recommendation notice**) stating—
  - (a) the committee’s proposed recommendation; and
  - (b) the reasons for the committee’s proposed recommendation; and
  - (c) that the doctor or dentist may, not later than 21 days after the day the recommendation notice is given to the doctor or dentist, make a submission to the committee about the proposed recommendation.
- (3) A recommendation notice must not include sensitive information.

*Note* **Sensitive information** is defined in s 124.
- (4) The committee must consider any submission made by the doctor or dentist to the committee in accordance with the notice.

## 67 Preparing clinical privileges reports

- (1) This section applies to a clinical privileges committee if—
  - (a) the committee is reviewing the clinical privileges of a doctor, or dentist, for a health facility, under section 65; and
  - (b) if the committee has given the doctor or dentist a recommendation notice under section 66—the committee has considered any submission made by the doctor or dentist in accordance with the notice; and
  - (c) the committee has completed the review.
- (2) The clinical privileges committee must prepare a report (a **clinical privileges report**) about the review.

*Note* The report must be prepared as soon as possible (see Legislation Act, s 151B).
- (3) The clinical privileges report must include the committee’s recommendations about whether—

- (a) the clinical privileges of the doctor or dentist should stay the same, be amended or be withdrawn; and
- (b) the terms of engagement of the doctor or dentist by the health facility should be amended; and
- (c) the engagement of the doctor or dentist by the health facility should be suspended or ended.

**68 Giving clinical privileges reports to CEO of health facility and doctor or dentist**

- (1) This section applies to a clinical privileges committee if the committee prepares a clinical privileges report about a doctor, or dentist, for a health facility.
- (2) The committee must give a copy of the report to—
  - (a) the CEO of the health facility; and
  - (b) the doctor or dentist.

*Note* The report must be given as soon as possible (see Legislation Act, s 151B).

**69 CEO to make decision on clinical privileges report**

- (1) This section applies if the CEO of a health facility is given a clinical privileges report about a doctor, or dentist, for the health facility.
- (2) The CEO must—
  - (a) consider the recommendations in the clinical privileges report; and
  - (b) decide whether to take—
    - (i) the action recommended in the clinical privileges report; or

## Endnotes

7 Uncommenced amendments

---

- (ii) any other action that the committee could have recommended under section 67 (3) that the CEO considers appropriate.

*Note 1* The CEO must consider the recommendations and make a decision as soon as possible (see Legislation Act, s 151B).

*Note 2* A decision of the CEO under this section is a reviewable decision (see pt 9).

## 70 CEO to tell doctor or dentist of decision on clinical privileges report

- (1) This section applies if the CEO of a health facility—
  - (a) is given a clinical privileges report about a doctor, or dentist, for the health facility; and
  - (b) decides under section 69 whether to take action on the report.
- (2) The CEO of the health facility must tell the following people about the decision (a *clinical privileges review notice*):
  - (a) each doctor or dentist for the health facility whose clinical privileges or engagement will be affected by the action the CEO has decided to take;
  - (b) the clinical privileges committee that prepared the clinical privileges report that the CEO considered in making the decision.
- (3) The clinical privileges review notice must include the following information:
  - (a) if a doctor or dentist's clinical privileges are to stay the same—a statement to that effect;
  - (b) if a doctor or dentist's clinical privileges are being amended—how the clinical privileges are being amended;
  - (c) if a doctor or dentist's clinical privileges are being withdrawn—a statement to that effect;

- (d) if a term of engagement of a doctor or dentist by a health facility is being amended—how the term is being amended;
  - (e) if the engagement of a doctor or dentist by a health facility is being suspended—the period for which the engagement is being suspended;
  - (f) if the engagement of a doctor or dentist by a health facility is being ended—a statement to that effect;
  - (g) when the decision takes effect.
- (4) The clinical privileges review notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

## **71 When decision on clinical privileges report takes effect**

A decision of the CEO of a health facility under section 69 in relation to a doctor, or dentist, for the health facility takes effect on the later of the following days:

- (a) the day stated in the clinical privileges review notice for the decision;
- (b) the day the clinical privileges review notice is given to the doctor or dentist.

## **72 Clinical privileges committees—giving information to health profession board**

A clinical privileges committee must not give protected information to a health profession board unless the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.

*Note* Protected information includes sensitive information (see s 123).

## Endnotes

7 Uncommenced amendments

---

### 73 Clinical privileges committees—admissibility of evidence

- (1) The following are not admissible as evidence in a proceeding before a court:
  - (a) an oral statement made in a proceeding before a clinical privileges committee;
  - (b) a document given to a clinical privileges committee, but only to the extent that it was prepared only for the committee;
  - (c) a document prepared by a clinical privileges committee.
- (2) In this section:

*court* includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

### 74 Pt 5 obligations—no contracting out

To remove any doubt, this part applies in relation to a doctor or dentist for a health facility despite anything to the contrary in a term of the doctor's or dentist's engagement.

## 7 New part 8

*insert*

## Part 8 Secrecy

### 120 Definitions—pt 8

In this part:

*divulge*—see section 121.

*information holder*—see section 122.

*protected information*—see section 123.

*Note* *Sensitive information* is defined for the Act in s 124.

**121 When is information *divulged*?**

In this part:

*divulge* includes communicate.

**122 Who is an *information holder*?**

For this part, a person is an *information holder* if—

- (a) the person is or has been—
  - (i) a member of a quality assurance committee; or
  - (ii) a member of a clinical privileges committee; or
  - (iii) someone else exercising a function under part 4 (Quality assurance) or part 5 (Reviewing clinical privileges); or
  - (iv) someone else engaged in the administration of part 4 (Quality assurance) or part 5 (Reviewing clinical privileges); or
- (b) the person has been given information under this Act by a person mentioned in paragraph (a).

*Note* Information may be given to people under various provisions of pt 4 and pt 5, including:

- s 39 (Giving health service reports to CEO or chief executive)
- s 43 (Quality assurance committees—giving information to the Coroner's Court)
- s 44 (Quality assurance committees—giving information to other quality assurance committees)
- s 45 (Quality assurance committees—giving information to health profession board)
- s 72 (Clinical privileges committees—giving information to health profession board).

**123 What is *protected information*?**

- (1) For this part, information is *protected information* about a person if it is information about the person that is disclosed to, or obtained by, an information holder because of the exercise of a function under this Act by the information holder or someone else.
- (2) Without limiting subsection (1), *protected information* includes sensitive information.

**124 What is *sensitive information*?**

In this Act:

*sensitive information* means information that—

- (a) identifies a person who—
  - (i) has received a health service; or
  - (ii) is a health service provider; or
  - (iii) has provided information to a quality assurance committee under section 35 (Quality assurance committees—obtaining information) or otherwise in the course of the committee carrying out the committee’s functions under this Act; or
  - (iv) has provided information to a clinical privileges committee under section 64 (Clinical privileges committees—obtaining information) or otherwise in the course of the committee carrying out the committee’s functions under this Act; or
- (b) would allow the identity of the person to be worked out.

**125 Offence—secrecy of protected information**

- (1) An information holder commits an offence if—
  - (a) the information holder—



- (i) makes a record of protected information about someone else; and
  - (ii) is reckless about whether the information is protected information about someone else; or
- (b) the information holder—
  - (i) does something that divulges protected information about someone else; and
  - (ii) is reckless about whether—
    - (A) the information is protected information about someone else; and
    - (B) doing the thing would result in the information being divulged to another person.

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

- (2) This section does not apply to the making of a record or the divulging of information if the record is made or the information divulged—
  - (a) under this Act; or
  - (b) in the exercise of a function, as an information holder, under this Act.
- (3) This section does not apply to the making of a record or the divulging of information if—
  - (a) the protected information is not sensitive information; and
  - (b) the record is made or the information divulged—
    - (i) under another territory law; or

## Endnotes

7 Uncommenced amendments

---

- (ii) in the exercise of a function, as an information holder, under another territory law.

*Note* Other legislation may provide for information to be given to people, including the *Freedom of Information Act 1989*, s 10.

- (4) This section does not apply to the divulging of protected information about someone with the person's agreement.
- (5) An information holder must not divulge protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act.

*Note* A quality assurance committee may give protected information to the Coroner's Court (see s 43).

- (6) In this section:

*court* includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

*produce* includes allow access to.

## 126 Information may be given to Medicare Australia

- (1) The CEO of a health facility may give protected information about a health service provided by a health service provider for the health facility to—
  - (a) Medicare Australia; or
  - (b) the auditor-general.

*Note* Protected information includes sensitive information (see s 123).

- (2) However, the CEO must not give the information unless—
  - (a) the CEO is satisfied that the giving of the information will help the prevention or detection of fraud; and
  - (b) the Minister agrees, in writing, to the giving of the information.

- (3) In this section:

*CEO*, of a health facility—see section 22.

*Medicare Australia*—see the *Medicare Australia Act 1973* (Cwlth).

## Part 9 Review of decisions

### 130 Review of decisions

A doctor, or dentist, for a health facility may apply to the AAT for review of a decision of the CEO of the health facility under section 69—

- (a) to amend or withdraw the clinical privileges of the doctor or dentist; or
- (b) to amend the terms of engagement of the doctor or dentist; or
- (c) to suspend or end the engagement of the doctor or dentist.

### 131 Pt 9 obligations—no contracting out

To remove any doubt, this part applies in relation to a doctor, or dentist, for a health facility despite anything to the contrary in a term of the doctor's or dentist's engagement.

## 8 New section 190

*in part 7, insert*

### 190 Disclosure of interests by committee members

- (1) If a member of a committee to which this section applies has a material interest in an issue being considered, or about to be considered, by the committee, the member must disclose the nature of the interest at a committee meeting as soon as practicable after the relevant facts come to the member's knowledge.

*Note 1* This section applies to a quality assurance committee (see s 32) and a clinical privileges review committee (see s 61).

*Note 2* **Material interest** is defined in s (4). The definition of **indirect interest** in s (4) applies to the definition of **material interest**.

## Endnotes

- (2) The disclosure must be recorded in the committee's minutes and, unless the committee otherwise decides, the member must not—
- (a) be present when the committee considers the issue; or
  - (b) take part in a decision of the committee on the issue.

### Example

Adam, Ben and Charlotte are members of a quality assurance committee. They have an interest in an issue being considered at a committee meeting and they disclose the interest as soon as they become aware of it. Adam's and Ben's interests are minor but Charlotte has a direct financial interest in the issue.

The committee considers the disclosures and decides that because of the nature of the interests:

- Adam may be present when the committee considers the issue but not take part in the decision
- Ben may be present for the consideration and take part in the decision.

The committee does not make a decision allowing Charlotte to be present or take part in the committee's decision. Accordingly, since Charlotte has a material interest she cannot be present for the consideration of the issue or take part in the decision.

*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).

- (3) Any other committee member who also has a material interest in the issue must not be present when the committee is considering its decision under subsection (2).
- (4) In this section:

*associate*, of a person, means—

- (a) the person's business partner; or
- (b) a close friend of the person; or
- (c) a family member of the person.

*executive officer*, of a corporation, means a person (however described) who is concerned with, or takes part in, the corporation's

management, whether or not the person is a director of the corporation.

**indirect interest**—without limiting the kinds of indirect interests a person may have, a person has an **indirect interest** in an issue if any of the following has an interest in the issue:

- (a) an associate of the person;
- (b) a corporation if the corporation has not more than 100 members and the person, or an associate of the person, is a member of the corporation;
- (c) a subsidiary of a corporation mentioned in paragraph (b);
- (d) a corporation if the person, or an associate of the person, is an executive officer of the corporation;
- (e) the trustee of a trust if the person, or an associate of the person, is a beneficiary of the trust;
- (f) a member of a firm or partnership if the person, or an associate of the person, is a member of the firm or partnership;
- (g) someone else carrying on a business if the person, or an associate of the person, has a direct or indirect right to participate in the profits of the business.

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

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

## 9 New part 21

*insert*

## Part 21 Transitional—Health Legislation Amendment Act 2006

### 242 Transitional—protection of former members from liability

(1) In section 34:

*relevant person* includes a person who was, at any time before the commencement of the *Health Legislation Amendment Act 2006*, a member of—

- (a) an approved private sector committee; or
- (b) an approved public sector committee.

(2) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

### 243 Expiry—pt 21

This section expires 1 year after the day it commences.

## 10 Dictionary

*substitute*

## Dictionary

(see s 2)

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

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

- AAT
- Act
- ACT
- appoint
- chief executive (see s 163)
- Commonwealth

- Coroner's Court
- entity
- exercise
- function
- in relation to
- interest
- make
- proceeding
- territory authority
- territory law
- the Territory
- tribunal.

*authorised representative*, for part 7 (VMO service contracts)—see section 100.

*CEO*—

- (a) of a health facility, for part 4 (Quality assurance)—see section 22; and
- (b) of a health professional organisation, for part 4 (Quality assurance)—see section 23; and
- (c) of a health facility, for part 5 (Reviewing clinical privileges)—see section 53.

*clinical privileges*, of a doctor or dentist, for a health facility, for part 5 (Reviewing clinical privileges)—see section 54.

*clinical privileges committee*—see section 51.

*clinical privileges report*, for part 5 (Reviewing clinical privileges)—see section 67.

*clinical privileges review notice*, for part 5 (Reviewing clinical privileges)—see section 70.

## Endnotes

7 Uncommenced amendments

---

**core conditions**, for part 7 (VMO service contracts)—see section 100.

**day hospital** means a facility where a person is admitted for surgical or medical treatment and discharged on the same day.

**dentist**, for a health facility, for part 5 (Reviewing clinical privileges)—see section 52.

**divulge**, for part 8 (Secrecy)—see section 121.

**doctor**, for a health facility, for part 5 (Reviewing clinical privileges)—see section 52.

**engage** in conduct means—

- (a) do an act; or
- (b) omit to do an act.

**entity**, for part 7 (VMO service contracts)—see section 100.

**health facility**—see section 6.

**health facility QAC**, for a health facility, for part 4 (Quality assurance)—see section 20.

**health profession board**—see the *Health Professionals Act 2004*, dictionary.

**health professional**—see the *Health Professionals Act 2004*, section 14.

**health professional organisation**, for part 4 (Quality assurance)—see section 21.

**health professional organisation QAC**, for a health professional organisation, for part 4 (Quality assurance)—see section 20.

**health service**—see section 5.

**health service provider**—see section 7.



*health service report*, for part 4 (Quality assurance)—see section 38.

*hospital*, for part 5 (Reviewing clinical privileges)—see section 50.

*information holder*, for part 8 (Secrecy)—see section 122.

*ministerial report*, for part 4 (Quality assurance)—section 41.

*negotiating agent*, for part 7 (VMO service contracts)—see section 100.

*negotiating period*, for part 7 (VMO service contracts)—see section 103 (2).

*practice corporation*, for part 7 (VMO service contracts)—see section 100.

*protected information*—see section 123.

*quality assurance committee*—see section 24.

*review* clinical privileges, for part 5 (Reviewing clinical privileges)—see section 55.

*sensitive information*—see section 124.

*service contract*, for part 7 (VMO service contracts)—see section 100.

*special purpose QAC*, for part 4 (Quality assurance), for a purpose stated in the approval—see section 20.

*VMO*, or visiting medical officer, for part 7 (VMO service contracts)—see section 100.

## Schedule 1 Health Act 1993—technical amendments

(see s 3)

## Endnotes

7 Uncommenced amendments

---

**[1.1] Section 3A**  
*renumber as section 4*

**[1.2] Part 2**  
*renumber as part 3*

**[1.3] Sections 5 to 7**  
*renumber as sections 10 to 12*

**[1.4] Part 5A**  
*renumber as part 6*

**[1.5] Section 30A heading**  
*omit*

**pt 5A**  
*substitute*

**pt 6**

**[1.6] Sections 30A and 30B**  
*renumber as sections 80 and 81*

**[1.7] Section 30C**  
*omit*

30D  
*substitute*

83

**[1.8] Sections 30C to 30E**  
*renumber as sections 82 to 84*

- 
- [1.9] Part 6**  
*omit*
- [1.10] Part 6A**  
*renumber as part 7*
- [1.11] Section 33A heading**  
*omit*
- 6A**  
*substitute*
- 7**
- [1.12] Section 33A, definition of *authorised representative***  
*omit*  
33F  
*substitute*  
105
- [1.13] Section 33A, definition of *core conditions***  
*omit*  
33C  
*substitute*  
102
- [1.14] Section 33A, definition of *negotiating agent***  
*omit*  
33E  
*substitute*
-

## Endnotes

7 Uncommenced amendments

---

104

**[1.15] Section 33A, definition of *negotiating period***

*omit*

33D

*substitute*

103

**[1.16] Sections 33A and 33B**

*renumber as sections 100 and 101*

**[1.17] Section 33C (2) (a)**

*omit*

33D

*substitute*

103

**[1.18] Section 33C (2) (b)**

*omit*

33G

*substitute*

106

**[1.19] Sections 33C to 33E**

*renumber as sections 102 to 104*

**[1.20] Section 33F (1)**

*omit*

33D

*substitute*

103

**[1.21] Section 33F (1), note**

*omit*

37A

*substitute*

194

**[1.22] Section 33F (2)**

*omit*

33E

*substitute*

104

**[1.23] Sections 33F to 33H**

*renumber as sections 105 to 107*

**[1.24] Part 7**

*renumber as part 15*

**[1.25] Section 34**

*omit*

**[1.26] Sections 35 to 38**

*renumber as sections 191 to 196*

**Endnotes**

7 Uncommenced amendments

---

**[1.27] Part 8 heading**

*substitute*

**Part 20 Transitional—Health  
Professionals Act 2004**

**[1.28] Section 39 heading**

*substitute*

**240 Transitional—definitions in Health (Fees) Determination**

**[1.29] Section 40 heading**

*substitute*

**241 Expiry—pt 20**

© Australian Capital Territory 2006