



Australian Capital Territory

Health Promotion Act 1995

A1995-43

Republication No 4

Effective: 1 January 2006 – 1 July 2006

Republication date: 1 January 2006

Last amendment made by A2005-52

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Health Promotion Act 1995* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 January 2006. It also includes any amendment, repeal or expiry affecting the republished law to 1 January 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):

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

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

Editorial changes

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

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

Uncommenced provisions and amendments

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

Modifications

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

Penalties

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

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



Australian Capital Territory

Health Promotion Act 1995

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R4
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Health Promotion Act 1995
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Australian Capital Territory

Health Promotion Act 1995

An Act to establish an authority for the promotion of health, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Health Promotion Act 1995*.

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.

Note 2 A definition in the dictionary 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 the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Part 2 The health promotion authority

Note for pt 2

The governance of territory authorities, including the health promotion authority, is regulated by the *Financial Management Act 1996* (the **FMA**), pt 9 as well as the Act that establishes them.

The FMA, pt 9 deals, for example, with the corporate status of territory authorities and their powers, the make-up of governing boards, the responsibilities of the governing board and board members, how governing board positions can be ended, meetings of governing boards and conflicts of interest.

Division 2.1 Establishment and functions of health promotion authority

4 Establishment of health promotion authority

The ACT Health Promotion Authority (the **health promotion authority**) is established.

Note If a law changes a name of an entity (like the ACT Health Promotion Board), the entity continues in existence under the new name (the ACT Health Promotion Authority) and its identity is not affected by the change (see Legislation Act, s 183).

5 Functions of health promotion authority

- (1) The health promotion authority has the following functions:
 - (a) funding activities related to the promotion of good health, safety and the prevention or early detection of disease;
 - (b) promoting good health in the community through the sponsorship of sports, recreation and arts activities, and cultural activities generally;
 - (c) encouraging healthy lifestyles and supporting activities involving participation in healthy pursuits;

- (d) promoting, through self-supporting activities, the community's capacity to support its own good health;
- (e) promoting good health through collaboration between different sectors of the community;
- (f) exercising a function given to the authority under this Act or any other territory law;
- (g) funding research and development activities in support of the authority's functions under paragraphs (a) to (f).

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

- (2) In exercising its functions, the health promotion authority may do any of the following:
 - (a) make grants;
 - (b) produce and market goods and services.
- (3) Subsection (2) does not limit how the health promotion authority may exercise its functions.

6 Delegation by health promotion authority

The health promotion authority may delegate a function to a member of the governing board or a public servant.

Note 1 The chief executive officer is a member of the governing board (see *Financial Management Act 1996*, s 80 (4)).

Note 2 For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

7 Ministerial directions

- (1) The Minister may give the health promotion authority written directions in relation to the exercise of its functions.
- (2) Before giving a direction the Minister must—

- (a) tell the governing board about the effect of the proposed direction; and
 - (b) give the board a reasonable opportunity to comment on the proposed direction; and
 - (c) consider any comments made by the board.
- (3) The Minister must present a copy of a direction to the Legislative Assembly within 6 sitting days after the day the Minister makes it.
- (4) On receiving a direction under this section, the health promotion authority must comply with it.

Division 2.2 Governing board

8 Establishment of governing board

The health promotion authority has a governing board.

9 Governing board members

- (1) The governing board has 10 members.
- (2) The members must include the chief health officer and the following members:
- (a) a member with expertise in business or accountancy;
 - (b) a member with expertise in media or communications;
 - (c) a member with expertise in employee relations or occupational health and safety;
 - (d) a member with expertise in community health;
 - (e) a member with expertise in environmental health;
 - (f) a member with expertise in sport or recreation;

(g) a member with expertise in the arts or culture generally.

Note 1 A chair and deputy chair must be appointed to the governing board under the *Financial Management Act 1996*, s 79.

Note 2 The chief executive officer of the health promotion authority is a member of the governing board (see *Financial Management Act 1996*, s 80 (4)).

10 Exercise of functions of governing board

(1) In exercising its functions, the governing board may do the following:

- (a) appoint funding committees, chaired by members of the governing board, to give advice to the governing board about applications for funding;
- (b) appoint other committees and working groups to assist the governing board.

Note The governing board also has functions under the *Financial Management Act 1996*.

(2) Subsection (1) does not limit how the governing board may exercise its functions.

Division 2.3 Staff, consultants and committees of health promotion authority

11 Staff

The health promotion authority staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, s 24 provides that the chief executive officer of a territory instrumentality has all the powers of a chief executive under the Act in relation to the instrumentality staff to be employed under that Act (including, for example, in relation to the appointment of people to, or the employment of people for, that staff). Under that Act, s 3, def *chief executive officer*, the chief executive

officer of an instrumentality is the person who has responsibility for managing its affairs.

12 Consultants

- (1) The health promotion authority may engage consultants for this Act.
- (2) However, the health promotion authority must not enter into a contract of employment under this section.

13 Committees and working groups

A committee or working group may decide its own procedures, unless the governing board directs otherwise.

14 Application of governance provisions to committee members

- (1) The governance provisions apply to a committee member as if—
 - (a) a reference to a governing board member were a reference to a committee member; and
 - (b) a reference to the governing board were a reference to the committee; and
 - (c) a reference to a governing board meeting were a reference to a committee meeting; and
 - (d) any other necessary changes, and any changes prescribed by regulation, were made.
- (2) In this section:

committee means a committee or working group appointed by the governing board.

governance provisions means the following provisions of the *Financial Management Act 1996*:

- (a) section 85 (which is about honesty, care and diligence);

- (b) section 86 (which is about avoiding conflict of interest);
- (c) section 87 (which requires the agenda for a meeting to include an item about declaring a conflict of interest);
- (d) section 88 (which is about disclosure of interests).

15 Application of FMA protection provision to committee members etc

- (1) The *Financial Management Act 1996*, section 90 (Protection of governing board members from liability) applies to a relevant person as if—
 - (a) a reference to a governing board member were a reference to a relevant person; and
 - (b) any other necessary changes were made.

- (2) In this section:

committee means a committee or working group appointed by the governing board.

relevant person means—

- (a) a member of a committee; or
- (b) a member of the staff of the health promotion authority; or
- (c) a consultant engaged by the health promotion authority.

Part 3 Finances

23 Income

The income of the health promotion authority is to consist of—

- (a) the establishment amount transferred to the health promotion authority under section 24 (1); and
- (b) the amount transferred to the health promotion authority annually under section 24 (2); and
- (c) income derived by the health promotion authority, and money recovered by the health promotion authority, in the exercise of its functions; and
- (d) income derived from investments.

24 Transfers to health promotion authority

- (1) The Territory must transfer to the health promotion authority the amount appropriated for this subsection determined by the Minister as the establishment amount.
- (2) The Territory must transfer to the health promotion authority in each financial year an amount equal to the total of the following amounts:
 - (a) the amount that, under section 24A, is the applicable amount for the financial year;
 - (b) any additional amount determined by the Minister by instrument.
- (3) A determination under subsection (1) or (2) (b) must be presented to the Legislative Assembly within 15 sitting days after it is made.

24A Amount transferable under s 24 (2) (a)

- (1) In this section:

annual CPI number, in relation to a period of 12 months ending on 31 March, means the total of the index numbers, each of which is published by the Australian Statistician in relation to a quarter in the period.

index number means an all groups consumer price index number, being the weighted average of the 8 Australian capital cities, published by the Australian statistician in relation to a quarter.

- (2) Subject to this section, the applicable amount for a financial year is the amount worked out as follows:
- (a) for the financial year beginning on 1 July 1998—the amount of \$2 149 000;
 - (b) for a later financial year—the amount transferred under section 24 (2) (a) in relation to the previous financial year.
- (3) Subsection (4) applies in relation to a financial year if the annual CPI number for the period of 12 months ending on 31 March in the calendar year in which the financial year begins is greater than the annual CPI number for the period of 12 months ending on 31 March in the previous calendar year.
- (4) If this subsection applies in relation to a financial year—
- (a) subsection (2) does not apply in relation to the financial year; and
 - (b) the amount transferable under section 24 (2) (a) in relation to the financial year is the amount worked out in accordance with the following formula:

$$A \times (B \div C)$$

where:

A means the amount that would have been transferable under section 24 (2) (a) in relation to the financial year if subsection (2) had applied, instead of this subsection, in relation to the financial year.

B means the annual CPI number for the period of 12 months ending on 31 March in the calendar year in which the financial year begins.

C means the annual CPI number for the period of 12 months ending on 31 March in the previous calendar year.

- (5) For the formula in subsection (4)—
- (a) the factor obtained from the component ‘ $B \div C$ ’ must be calculated to 3 decimal places; and
 - (b) the product must be calculated to the nearest whole dollar.
- (6) Subject to subsection (7), if at any time, whether before or after the commencement of this Act, the Australian statistician has published or publishes an index number in relation to an index year in substitution for an index number previously published in relation to the same index year, the publication of the later index number must be disregarded for this section.
- (7) If at any time, whether before or after the commencement of this Act, the Australian statistician has changed or changes the reference base for the consumer price index, then, for the application of this section after the change, regard must be had only to the index number published in terms of the new reference base.

25 Expenditure

- (1) The income of the health promotion authority must be applied in the exercise of the authority’s functions.

- (2) Without limiting subsection (1), the income of the health promotion authority must be applied towards payment of the following administrative costs:
- (a) the remuneration and allowances of governing board members, together with any associated administrative costs;
 - (b) payments to the Territory of amounts equal to the salary and wages of the staff of the authority, together with any associated administrative costs;
 - (c) payments to consultants engaged by the authority;
 - (d) all other administrative overheads incurred in the exercise of the authority's functions.

Part 4 General

29 Authority's annual report

A report prepared by the health promotion authority under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include the following:

- (a) a copy of any direction given under section 7 (Ministerial directions) during the year;
- (b) a statement by the authority about action taken during the year to give effect to any direction given (whether before or during the year) under that section;
- (c) a copy of any determination made by the Minister under section 24 (Transfers to health promotion authority) during the year.

Note **Financial year** has an extended meaning in the *Annual Reports (Government Agencies) Act 2004*.

31 Regulation-making power

The Executive may make regulations for this Act.

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

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:

- ACT
- chief health officer
- entity
- exercise
- function
- under.

governing board means the governing board of the health promotion authority.

health promotion authority means the ACT Health Promotion Authority.

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, 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

Endnotes

3 Legislation history

3 Legislation history

Health Promotion Act 1995 No 43

notified 7 November 1995 (Gaz 1995 No S274)
commenced 7 November 1995 (s 2)

as amended by

Health Promotion (Amendment) Act 1997 No 15

notified 29 May 1997 (Gaz 1997 No S136)
ss 1-3, s 6 commenced 29 May 1997 (s 2 (1))
remainder commenced 1 July 1997 (s 2 (2))

Health Promotion (Amendment) Act 1998 No 10

notified 10 June 1998 (Gaz 1998 No S160)
ss 1-3 commenced 10 June 1998 (s 2 (1))
remainder commenced 1 July 1998 (s 2 (2))

Tobacco Licensing (Amendment) Act 1998 No 18 sch 1

notified 10 July 1998 (Gaz 1998 No S190)
commenced 10 July 1998 (s 2)

Tobacco Amendment Act 2000 No 16 sch 3 pt 1

notified 20 April 2000 (Gaz 2000 No 16)
s 1, s 2 commenced 20 April 2000 (IA s 10B)
sch 3 pt 1 commenced 1 July 2000 (s 2 (3))

Legislation (Consequential Amendments) Act 2001 No 44 pt 180

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 180 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.18

notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
sch 1 pt 1.18 commenced 13 April 2004 (s 2 and see Annual Reports (Government Agencies) Act 2004 A2004-8, s 2 and CN2004-5)

Financial Management Legislation Amendment Act 2005 A2005-52 sch 1 pt 1.9

notified LR 26 October 2005

s 1, s 2 commenced 26 October 2005 (LA s 75 (1))

sch 1 pt 1.9 commenced 1 January 2006 (s 2 (2))

4 Amendment history

Title

title sub A2005-52 amdt 1.30

Dictionary

s 2 om 2001 No 44 amdt 1.2066
ins A2005-52 amdt 1.131

Notes

s 3 sub A2005-52 amdt 1.131
def **tobacco franchise fees** am 1998 No 18 sch 1
om 2000 No 16 sch 3 pt 1

The health promotion authority

pt 2 hdg sub A2005-52 amdt 1.132

Establishment and functions of health promotion authority

div 2.1 hdg (prev pt 2 div 1 hdg) renum R2 LA
sub A2005-52 amdt 1.132

Establishment of health promotion authority

s 4 sub A2005-52 amdt 1.132

Functions of health promotion authority

s 5 sub A2005-52 amdt 1.132

Delegation by health promotion authority

s 6 sub A2005-52 amdt 1.132

Ministerial directions

s 7 sub A2005-52 amdt 1.132

Governing board

div 2.2 hdg (prev pt 2 div 2 hdg) renum R2 LA
sub A2005-52 amdt 1.132

Establishment of governing board

s 8 pars renum R2 LA
sub A2005-52 amdt 1.132

Governing board members

s 9 sub A2005-52 amdt 1.132

Endnotes

4 Amendment history

Exercise of functions of governing board

s 10 sub A2005-52 amdt 1.132

Staff, consultants and committees of health promotion authority

div 2.3 hdg (prev pt 2 div 3 hdg) renum R2 LA
sub A2005-52 amdt 1.132

Staff

s 11 sub A2005-52 amdt 1.132

Consultants

s 12 sub A2005-52 amdt 1.132

Committees and working groups

s 13 sub A2005-52 amdt 1.132

Application of governance provisions to committee members

s 14 sub A2005-52 amdt 1.132

Application of FMA protection provision to committee members etc

s 15 sub A2005-52 amdt 1.132

Staff

s 16 om A2005-52 amdt 1.132

Consultants

s 17 om A2005-52 amdt 1.132

Procedure

div 2.4 hdg (prev pt 2 div 4 hdg) renum R2 LA
om A2005-52 amdt 1.132

Meeting procedure

s 18 om A2005-52 amdt 1.132

Committees

s 19 om A2005-52 amdt 1.132

Disclosures of interest—board members

s 20 om A2005-52 amdt 1.132

Disclosures of interest—committee members

s 21 om A2005-52 amdt 1.132

Confidentiality

div 22.5 hdg (prev pt 2 div 5 hdg) renum R2 LA
om A2005-52 amdt 1.132

Confidential information

s 22 om A2005-52 amdt 1.132

Income

s 23 am 1997 No 15 s 4; A2005-52 amdt 1.133

Transfers to board

s 24 hdg am A2005-52 amdt 1.133
 s 24 am 1997 No 15 s 5; 1998 No 10 s 4; A2005-52 amdt 1.133

Amount transferable under s 24 (2) (a)

s 24A ins 1998 No 10 s 5

Expenditure

s 25 sub A2005-52 amdt 1.134

Strategic plans

s 26 om A2005-52 amdt 1.135

Revised strategic plans

s 27 om A2005-52 amdt 1.135

Application of Audit Act

s 28 om 1997 No 15 s 6

Authority's annual report

s 29 sub A2005-52 amdt 1.136

Board's annual report

s 30 sub A2004-9 amdt 1.26
 om A2005-52 amdt 1.136

Regulation-making power

s 31 sub 2001 No 44 amdt 1.2067

Dictionary

dict ins A2005-52 amdt 1.137
 def **governing body** ins A2005-52 amdt 1.137
 def **health promotion authority** ins A2005-52 amdt 1.137

Endnotes

5 Earlier republishings

5 Earlier republishings

Some earlier republishings 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 republishings have also been published in printed format. These republishings 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 1998 No 18	28 February 1999
2	A2001-44	2 May 2002
3	A2004-9	13 April 2004

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