



Australian Capital Territory

Health (National Health Funding Pool and Administration) Act 2013

A2013-2

Republication No 2

Effective: 17 November 2014 – 21 February 2015

Republication date: 17 November 2014

Last amendment made by [A2014-49](#)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Health (National Health Funding Pool and Administration) Act 2013* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 17 November 2014. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 17 November 2014.

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, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

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 the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Health (National Health Funding Pool and Administration) Act 2013

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
3	Dictionary 2
4	Standing council on health 2
5	Interpretation 2
6	Notes 3
Part 2	Administrator of the national health funding pool
7	The office of administrator 4
8	Appointment of administrator 4
9	Suspension of administrator 5

R2 Health (National Health Funding Pool and Administration) contents 1
17/11/14 Act 2013
Effective: 17/11/14-21/02/15

Contents

		Page
10	Removal or resignation of administrator	6
11	Acting administrator	7
12	Provision of staff and facilities for administrator	7
13	Functions of administrator	7
Part 3	National health funding pool	
Division 3.1	State pool account	
14	Establishment of ACT local hospital network directorate	10
15	Establishment of state pool account with Reserve Bank	10
16	Payments into state pool account	11
17	Payments from state pool account	11
18	Payment from state pool account if no administrator	13
19	Distribution of Commonwealth funding	13
Division 3.2	State managed fund	
20	Establishment of state managed fund	14
21	Payments into state managed fund	14
22	Payments from state managed fund	15
Part 4	Financial management and reporting	
23	Financial management obligations of administrator	17
24	Monthly reports by administrator	17
25	Annual report by administrator	18
26	Administrator to prepare financial statements for state pool accounts	19
27	Audit of financial statements	20
28	Performance audits	20
29	States to provide administrator with information about State managed funds	20
30	Provision of information generally	21
Part 5	Miscellaneous	
31	Exclusion of ACT Acts	22
32	Application of Commonwealth Acts	22
33	Extraterritorial operation of Act	23
34	Act binds the ACT	23

		Page
35	Delegation of functions of responsible Minister	23
36	Offences—use or divulge protected information	23
37	Regulation-making power	25
Part 6	Transitional	
38	Transitional and validation provisions	26
39	Transitional regulations	26
40	Expiry—pt 6	26
Dictionary		27
Endnotes		
1	About the endnotes	30
2	Abbreviation key	30
3	Legislation history	31
4	Amendment history	32
5	Earlier republications	32



Australian Capital Territory

Health (National Health Funding Pool and Administration) Act 2013

An Act to apply a national law relating to the reform of health funding arrangements and administration, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Health (National Health Funding Pool and Administration) Act 2013*.

3 Dictionary

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

Note The dictionary at the end of this Act defines certain terms used in this Act.

4 Standing council on health

- (1) The standing council on health, when acting under this Act, is to be constituted only by a single Minister for the Commonwealth and a single Minister for each of the States, and any reference in this Act to a member of the council is to be construed as a reference to those Ministerial members only.
- (2) If there are 2 or more Ministers for the Commonwealth or for a State who are members of the standing council on health, the relevant Minister for this Act is the Minister having primary portfolio responsibility for health in his or her jurisdiction.
- (3) A reference in this Act to the agreement of, or a request by, a member of the standing council on health is a reference to an agreement or request in writing.

5 Interpretation

- (1) The *Legislation Act 2001* does not apply to this Act (other than part 1 (Preliminary), section 37 (Regulation-making power) and part 6 (Transitional)).

- (2) This Act is to be interpreted in accordance with the *Health Practitioner Regulation National Law (ACT)*, schedule 7 and, for that purpose, schedule 7 applies—
- (a) as if references to ‘this Law’ or a Queensland Act were references to this Act or an Act of this jurisdiction; and
 - (b) with all other necessary modifications.

6 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 Administrator of the national health funding pool

7 The office of administrator

- (1) The office of administrator of the national health funding pool is established.
- (2) It is the intention of the Legislative Assembly that the same individual holds the office established under subsection (1) and under the corresponding provision of the law of the Commonwealth and the other States.
- (3) The administrator appointed under this Act may exercise and perform the functions of the administrator in relation to—
 - (a) one jurisdiction; or
 - (b) 2 or more or all jurisdictions collectively.
- (4) A reference in a provision of this Act (other than in section 13 (1) (Functions of administrator) or part 3 (National health funding pool)) to a function of the administrator under this Act includes a reference to a function of the administrator under the corresponding provision of the law of the Commonwealth and the other States.

8 Appointment of administrator

- (1) The Minister for this jurisdiction who is a member of the standing council on health is to appoint an individual to the office of the administrator of the national health funding pool under this Act.
- (2) Before the appointment is made, the chair of the standing council on health is to give each member of the council an opportunity to nominate an individual for appointment.

- (3) An appointment is not to be made unless all the members of the standing council on health have agreed on the individual who will be appointed as administrator, the date that the appointment will take effect, the period of appointment and the conditions of appointment.
- (4) The appointment is to be made by instrument in writing.
- (5) The administrator is to be appointed (subject to subsection (3)) for the period, not exceeding 5 years, and on the conditions stated in his or her instrument of appointment, but is eligible for re-appointment.
- (6) The administrator is entitled to the remuneration determined in accordance with the law of the Commonwealth.

9 Suspension of administrator

- (1) The chair of the standing council on health is required to suspend the administrator from office if requested to do so by—
 - (a) at least 3 members of the council who are Ministers of a State; or
 - (b) the member of the council who is a Minister of the Commonwealth.
- (2) A member of the standing council on health is not to request the suspension of the administrator unless the member is satisfied that the administrator—
 - (a) is, because of any physical or mental incapacity or otherwise, unable to perform his or her functions satisfactorily; or
 - (b) has failed to comply with his or her obligations or duties as administrator; or
 - (c) has been accused or convicted of an offence that carries a penalty of imprisonment; or
 - (d) has or may become bankrupt.

- (3) A suspension is to be effected by an instrument in writing and is to be notified by the chair of the standing council on health to all members of the council.
- (4) A suspension is terminated after a period of suspension of 60 days unless before the end of that period the administrator is removed or resigns from office or a majority of the members of the standing council on health—
 - (a) terminates the suspension; or
 - (b) extends the suspension for a stated further period.
- (5) Despite subsection (1), the chair of the standing council on health is not to suspend the administrator from office within the period of 90 days after an earlier period of suspension was terminated unless a majority of the members of the council request the chair to do so.

10 Removal or resignation of administrator

- (1) The Minister for this jurisdiction who is a member of the standing council on health is required to remove the administrator from office if a majority of the members of the council agree to the administrator's removal from office.
- (2) The administrator is to be removed from office by an instrument in writing that takes effect on the date agreed to by the majority of the members of the standing council on health.
- (3) The administrator may resign as administrator by notice in writing to the chair of the standing council on health.
- (4) The resignation of the administrator takes effect on the date notified by the chair of the standing council on health to all members of the council.

11 Acting administrator

- (1) The chair of the standing council on health may, from time to time, appoint an individual to act as the administrator during any period when the office is vacant or the holder of the office is suspended or absent from duty.
- (2) Any acting appointment may only be made from a panel of people, and in accordance with the procedure, agreed to by all the members of the standing council on health.

Note The *Health Practitioner Regulation National Law (ACT)*, sch 7, cl 27 contains additional provisions relating to acting appointments that have effect subject to this section.

12 Provision of staff and facilities for administrator

- (1) Staff and facilities to assist the administrator in exercising or performing his or her functions under this Act are to be provided by the national health funding body constituted under the *National Health Reform Act 2011* (Cwlth).
- (2) The administrator is not entitled to delegate a function conferred on the administrator under this Act to that body, to a member of the staff or to any other person or body.

13 Functions of administrator

- (1) The administrator is—
 - (a) to calculate and advise the Treasurer of the Commonwealth of the amounts required to be paid by the Commonwealth into each state pool account of the national health funding pool under the national health reform agreement (including advice on any reconciliation of those amounts based on subsequent actual service delivery); and
 - (b) to monitor State payments into each state pool account for the purposes of part 4 (Financial management and reporting); and

- (c) to make payments from each state pool account in accordance with the directions of the State concerned; and
 - (d) to report publicly on the payments made into and from each state pool account and other matters on which the administrator is required to report under this Act; and
 - (e) to exercise or perform any other functions conferred on the administrator under this Act.
- (2) The administrator and the body and staff assisting the administrator are not subject to the control or direction of any Minister of the Commonwealth in relation to the exercise or performance of the administrator's functions under this Act.
- (3) However, the administrator is required to comply with any directions given by COAG in relation to the manner in which the administrator exercises or performs his or her functions under this Act (including in relation to the preparation or provision of annual or monthly reports, financial statements or information under part 4).
- (4) Directions given by COAG under subsection (3)—
- (a) are to be given in accordance with a written resolution of COAG passed in accordance with the procedures determined by COAG; and
 - (b) are to be notified in writing to the administrator; and
 - (c) are to be made publicly available by the administrator.
- (5) To avoid doubt, this Act is not intended—
- (a) to give the Commonwealth ownership or control of money in a state pool account; or
 - (b) to affect the obligation of the administrator under the law of a State to make payments from the state pool account of the State in accordance with the directions of the State.

- (6) To avoid doubt, the administrator may have regard to information obtained in the exercise or performance of functions under the law of another jurisdiction in the exercise or performance of the administrator's functions under part 4.

Part 3 National health funding pool

Division 3.1 State pool account

14 Establishment of ACT local hospital network directorate

The Treasurer must, under the [Financial Management Act](#), dictionary, definition of *directorate*, paragraph (b), establish and keep a directorate (the *ACT local hospital network directorate*) for this Act.

Note The ACT local hospital network directorate is part of the administrative unit responsible for this Act (see [Financial Management Act](#), dict, def *directorate*, par (b)).

15 Establishment of state pool account with Reserve Bank

- (1) The director-general must open and keep a bank account (the *state pool account*) with the Reserve Bank of Australia solely for the ACT's use under this Act.
- (2) A state pool account is a directorate banking account of the ACT local hospital network directorate.
- (3) The [Financial Management Act](#), section 34 (3) (Directorate banking accounts) does not apply to the opening or keeping of a bank account under this section.
- (4) To remove any doubt, the [Financial Management Act](#), section 34 (7) does not apply to the opening or keeping of a bank account under this section to the extent that it requires compliance with that Act, section 34 (3).
- (5) The ACT Treasurer may enter into an agreement with the Reserve Bank of Australia in relation to the state pool account.

16 Payments into state pool account

- (1) The following must be paid into the state pool account:
 - (a) all activity-based funding allocated from ACT funds for the provision of public hospital services under the national health reform agreement;
 - (b) all funding received from the Commonwealth for the provision of public hospital services and other health services under the national health reform agreement;
 - (c) money paid to the ACT by another State for payment into the state pool account under the national health reform agreement;
 - (d) any other funding received from the Commonwealth for payment into the state pool account.
- (2) The following may be paid into the state pool account:
 - (a) exceptional payments for the provision of health services decided by the director-general;
 - (b) interest earned on the account.
- (3) The amounts paid into the state pool account may include adjustments—
 - (a) to reflect the difference between estimated and actual health services provided; and
 - (b) for other funding reconciliations under the national health reform agreement.

17 Payments from state pool account

- (1) Payments of funds from the state pool account, including the timing of the payments, are to be made only by the administrator in accordance with a direction of the responsible Minister for this jurisdiction.

- (2) The administrator is required to authorise personally each payment made from the state pool account.
- (3) Payments from the state pool account are to be made only—
 - (a) to local hospital networks and for other health services; or
 - (b) to the state managed fund; or
 - (c) to a Territory banking account (other than the state pool account or the state managed fund); or
 - (d) for any other matter that is to be funded through the state pool account.
- (4) For subsection (3) (a), a payment to a local hospital network includes a payment to another entity on behalf of the network for corporate or other services provided to the network by that entity.
- (5) A direction made by the Minister to the administrator for the payment of funds from the state pool account is to be consistent with—
 - (a) the purpose for which the funding was paid into the account; and
 - (b) the national health reform agreement; and
 - (c) advice provided by the administrator about the basis on which the administrator has calculated payments into the account by the Commonwealth; and
 - (d) any relevant service agreement between the director-general and a local hospital network.
- (6) This section does not prevent the Minister from directing the administrator to pay funds—
 - (a) to reflect the difference between estimated and actual health services provided; or

- (b) for other funding reconciliations under the national health reform agreement; or
- (c) to correct any error in payments out of the state pool account; or
- (d) to pay fees associated with maintaining the state pool account, including financial institution fees and audit fees; or
- (e) for interest earned on the state pool account—for any purpose decided by the ACT Treasurer.

18 Payment from state pool account if no administrator

If there is no administrator or acting administrator appointed under this Act, the director-general may pay funds from the state pool account at the direction of the responsible Minister for this jurisdiction as if the director-general were the administrator.

19 Distribution of Commonwealth funding

- (1) Directions by the responsible Minister for this jurisdiction to the administrator for payments from the state pool account are, in relation to the distribution of Commonwealth funding provided to the ACT under the national health reform agreement, to be consistent with the advice provided by the administrator to the Treasurer of the Commonwealth about the basis on which the administrator has calculated the payments to be made into that account by the Commonwealth.
- (2) This section does not affect the obligation of the administrator to make payments from the state pool account strictly in accordance with the directions of the responsible Minister for this jurisdiction.

Division 3.2 State managed fund

20 Establishment of state managed fund

- (1) The director-general must open and keep an account (the *state managed fund*) with an authorised deposit-taking institution.
- (2) The state managed fund is a directorate banking account of the ACT local hospital network directorate.

21 Payments into state managed fund

- (1) The following must be paid into the state managed fund:
 - (a) block funding for the provision of public hospital services and other health services allocated by the ACT under the national health reform agreement;
 - (b) funding for teaching, training and research related to the provision of health services allocated by the ACT under the national health reform agreement;
 - (c) amounts paid from the state pool account equivalent to block funding and funding for teaching, training and research related to the provision of health services provided by the Commonwealth under the national health reform agreement;
 - (d) other amounts paid from the state pool account.
- (2) Exceptional payments for the provision of health services decided by the director-general may be paid into the state managed fund.
- (3) The amounts paid into the state managed fund may include adjustments—
 - (a) to reflect the difference between estimated and actual health services provided; and
 - (b) for other funding reconciliations under the national health reform agreement.

- (4) In this section:

block funding—

- (a) means funding for public hospital services for public patients that are not appropriately funded through activity-based funding; but
- (b) does not include top-up funding provided by the Commonwealth under the national health reform agreement.

22 Payments from state managed fund

- (1) The payment of funds from the state managed fund, including the timing of the payments, is to be made by the director-general.
- (2) Payments from the state managed fund are to be made only—
 - (a) to local hospital networks and for other health services; and
 - (b) to universities and other providers of teaching, training and research related to the provision of health services; and
 - (c) to a Territory banking account (other than the state pool account or the state managed fund).
- (3) For subsection (2) (a), a payment to a local hospital network includes a payment to another entity on behalf of the network for corporate or other services provided to the network by that entity.
- (4) Payment of funds from the state managed fund is to be consistent with—
 - (a) the purpose for which the funding was paid into the fund; and
 - (b) the national health reform agreement; and
 - (c) any relevant service agreement between the director-general and a local hospital network.

- (5) This section does not prevent the director-general from paying funds from the state managed fund—
- (a) to reflect the difference between estimated and actual health services provided; or
 - (b) for other funding reconciliations under the national health reform agreement; or
 - (c) to correct any error in payments out of the fund; or
 - (d) to pay fees associated with maintaining the fund, including financial institution fees and audit fees.

Part 4 Financial management and reporting

23 Financial management obligations of administrator

The administrator must—

- (a) develop and apply appropriate financial management policies and procedures with respect to the state pool accounts (including policies and procedures to ensure payments from the accounts are made in accordance with the directions of the responsible Minister); and
- (b) keep proper records in relation to the administration of the state pool accounts, including records of all payments made into and from those accounts and the basis on which the payments were made; and
- (c) prepare the financial statements required by this part in relation to the state pool accounts and arrange for the audit of those financial statements in accordance with this part.

24 Monthly reports by administrator

- (1) The administrator must provide monthly reports to the Commonwealth and each State containing the following information for the relevant month:
 - (a) the amounts paid into each state pool account and state managed fund by the relevant State and the basis on which the payments were made;
 - (b) the amounts paid into each state pool account by the Commonwealth and the basis on which the payments were made;

- (c) the amounts paid from each state pool account to local hospital networks, a state managed fund or other organisations or funds and the basis on which the payments were made;
 - (d) the amounts paid from each state managed fund to local hospital networks or other organisations or funds and the basis on which the payments were made;
 - (e) the number of public hospital services funded for each local hospital network (including a running financial year total) in accordance with the system of activity based funding;
 - (f) the number of other public hospital services and functions funded from a state pool account or state managed fund (including a running financial year total).
- (2) A monthly report required to be provided to a jurisdiction under this section is to be provided to the responsible Minister for that jurisdiction or to a body or officer notified to the administrator by that Minister.
- (3) The administrator is to make reports provided under this section publicly available.

25 Annual report by administrator

- (1) The administrator must, within 4 months after the end of each financial year, provide to the responsible Ministers an annual report on the exercise or performance of his or her functions during the financial year.
- (2) The annual report must include the following information for the relevant financial year:
- (a) the amounts paid into each state pool account and state managed fund by the relevant State and the basis on which the payments were made;

- (b) the amounts paid into each state pool account by the Commonwealth and the basis on which the payments were made;
 - (c) the amounts paid from each state pool account to local hospital networks, a state managed fund or other organisations or funds and the basis on which the payments were made;
 - (d) the amounts paid from each state managed fund to local hospital networks or other organisations or funds and the basis on which the payments were made;
 - (e) the number of public hospital services funded for each local hospital network in accordance with the system of activity based funding;
 - (f) the number of other public hospital services and functions funded from a state pool account or state managed fund.
- (3) The annual report is to be accompanied by—
- (a) an audited financial statement for each state pool account; and
 - (b) a financial statement that combines the audited financial statements for each state pool account.
- (4) The responsible Minister must, as soon as practicable after receiving an annual report under this section, present a copy of the report to the Legislative Assembly.

26 Administrator to prepare financial statements for state pool accounts

The administrator must, after each financial year, prepare—

- (a) a financial statement for each state pool account that details financial transactions during that financial year; and
- (b) a combined financial statement that consists of the financial statements for each state pool account for the financial year.

27 Audit of financial statements

A financial statement under this part for the ACT state pool account is to be audited by the ACT auditor-general in accordance with the [Auditor-General Act](#).

28 Performance audits

- (1) Before the ACT auditor-general conducts a performance audit, the ACT auditor-general must notify the auditors-general of all other jurisdictions of his or her intention to conduct the proposed audit.
- (2) Auditors-general who are conducting performance audits at the same time are to make arrangements to co-ordinate the conduct of those audits in relation to any requirements imposed on the administrator.
- (3) A performance audit must be conducted by the ACT auditor-general in accordance with the [Auditor-General Act](#).
- (4) In this section:

performance audit means an audit by the auditor-general of a jurisdiction of the exercise or performance of the functions of the administrator in relation to that jurisdiction to determine whether the administrator is acting effectively, economically, efficiently and in compliance with all relevant laws.

29 States to provide administrator with information about State managed funds

- (1) The responsible Minister for a State is to provide information to the administrator about any of the following matters relating to the state managed fund of the State that the administrator requires for the preparation of reports and financial statements under this part:
 - (a) the amounts paid by the State into the state managed fund and the basis on which the payments were made;

- (b) the amounts paid by the State from the state managed fund to local hospital networks or other organisations or funds and the basis on which the payments were made;
 - (c) public hospital services and functions that are funded from the state managed fund.
- (2) The information is to be provided by the time requested by the administrator.

30 Provision of information generally

- (1) The administrator is required to provide to the responsible Minister for a jurisdiction any information requested by that Minister that relates to that jurisdiction.
- (2) The information is to be provided by the time requested by the responsible Minister.
- (3) The administrator is required to provide to the responsible Ministers of all jurisdictions a copy of advice provided by the administrator to the Treasurer of the Commonwealth about the basis on which the administrator has calculated the payments to be made into state pool accounts by the Commonwealth.
- (4) The administrator may at any time provide any information that relates to a jurisdiction to the responsible Minister for that jurisdiction.
- (5) Any information relating to a jurisdiction that is provided by the administrator to another jurisdiction may only be publicly released by that other jurisdiction in accordance with arrangements approved by the responsible Minister for the jurisdiction to which the information relates.

Part 5 Miscellaneous

31 Exclusion of ACT Acts

The following Acts do not apply to or in relation to the administrator or a function exercised by the administrator:

- (a) the *Freedom of Information Act 1989*;
- (b) the *Health Records (Privacy and Access) Act 1997*;
- (c) the *Information Privacy Act 2014*;
- (d) the *Ombudsman Act 1989*;
- (e) the *Territory Records Act 2002*.

32 Application of Commonwealth Acts

- (1) The following Acts apply (subject to subsection (2)) as laws of this jurisdiction to or in relation to the administrator or a function exercised by the administrator:

- (a) the *Archives Act 1983* (Cwlth);
- (b) the *Australian Information Commissioner Act 2010* (Cwlth);
- (c) the *Freedom of Information Act 1982* (Cwlth);
- (d) the *Ombudsman Act 1976* (Cwlth);
- (e) the *Privacy Act 1988* (Cwlth).

- (2) Each of the Acts mentioned in subsection (1) applies for the purposes of this Act subject to the modifications made by regulations made under the *National Health Reform Act 2011* (Cwlth) with the agreement of all the members of the standing council on health.

33 Extraterritorial operation of Act

The Legislative Assembly intends that this Act is to operate to include, in so far as the legislative power of the Legislative Assembly permits, the following:

- (a) things situated in or outside the territorial limits of this jurisdiction;
- (b) acts, transactions and matters done, entered into or occurring in or outside the territorial limits of this jurisdiction;
- (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of another jurisdiction.

34 Act binds the ACT

This Act binds the ACT and, in so far as the legislative power of the Legislative Assembly permits, the ACT in all its other capacities.

35 Delegation of functions of responsible Minister

- (1) The responsible Minister for this jurisdiction may delegate to an authority or officer of the State the Minister's functions under this Act.
- (2) This section does not apply to the functions of a Minister under part 2 (Administrator of the national health funding pool).

36 Offences—use or divulge protected information

- (1) A person to whom this section applies commits an offence if—
 - (a) the person uses information; and
 - (b) the information is protected information about someone else; and

- (c) the person is reckless about whether the information is protected information about someone else.

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

- (2) A person to whom this section applies commits an offence if—
 - (a) the person does something that divulges information; and
 - (b) the information is protected information about someone else; and
 - (c) the person is reckless about whether—
 - (i) the information is protected information about someone else; and
 - (ii) doing the thing would result in the information being divulged to someone else.

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

- (3) Subsections (1) and (2) do not apply if the information is used or divulged—
 - (a) under this Act or another territory law; or
 - (b) in relation to the exercise of a function, by a person to whom this section applies, under this Act or another territory law; or
 - (c) in a court proceeding.
- (4) Subsections (1) and (2) do not apply to the using or divulging of protected information about a person with the person's consent.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see *Criminal Code 2002*, s 58).

(5) A person to whom this section applies need 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 or another law applying in the territory.

(6) In this section:

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

divulge includes—

- (a) communicate; or
- (b) publish.

person to whom this section applies means—

- (a) a person who is or has been the administrator; or
- (b) anyone else who has exercised a function under this Act.

produce includes allow access to.

protected information means information about a person that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.

territory law—see the *Legislation Act 2001*, part 1, dictionary.

use, in relation to information, includes make a record of the information.

37 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](#).

Part 6 Transitional

38 Transitional and validation provisions

- (1) If, on the commencement of this Act, corresponding provisions to this Act have not been enacted by another jurisdiction, the responsible Minister for that jurisdiction for the purposes of this Act is the Minister of that jurisdiction with portfolio responsibility for health.
- (2) Anything done by a Minister of the Commonwealth or of a State before the commencement of this Act that would have been validly done if this Act, and the corresponding provisions of other jurisdictions, had been in force at the time is taken to have been validly done.

39 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

40 Expiry—pt 6

This part and the dictionary, definition of *responsible Minister*, note expire 2 years after the day this section commences.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act, pt 1 and pt 6.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- commencement
- territory law
- transitional.

ACT means the Australian Capital Territory.

ACT auditor-general means the Auditor-General for the ACT under the [Auditor-General Act](#).

ACT local hospital network directorate—see section 14.

ACT Treasurer means the Minister designated Treasurer by the Chief Minister, and includes a Minister authorised by the Chief Minister to act on behalf of the Treasurer.

administrator means the administrator of the national health funding pool appointed under section 8 and under the corresponding provision of the laws of the Commonwealth and the other States.

Auditor-General Act means the [Auditor-General Act 1996](#).

authorised deposit-taking institution means an authorised deposit-taking institution under the [Banking Act 1959](#) (Cwlth).

Chief Minister means the Chief Minister for the ACT.

COAG means the Council of Australian Governments.

directorate banking account—see the [Financial Management Act](#), dictionary.

director-general means the person employed under the *Public Sector Management Act 1994*, section 28 or section 30 to exercise the functions of director-general in the administrative unit of which the ACT local hospital network directorate is part.

Financial Management Act means the *Financial Management Act 1996*.

function includes a power, authority or duty.

health service—

- (a) means a health service defined in the *Health Act 1993*, section 5; and
- (b) includes teaching, training and research related to the provision of a health service.

Legislative Assembly means the Legislative Assembly for the ACT.

Note The Legislative Assembly is established by the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth).

local hospital network means an organisation that is a local hospital network (however described) for the purposes of the national health reform agreement.

national health funding pool means the combined state pool accounts for each State.

national health reform agreement means the National Health Reform Agreement between the Commonwealth and the States that was agreed to by COAG on 2 August 2011, as amended from time to time.

responsible Minister for a jurisdiction means the relevant Minister with portfolio responsibility for the administration of the provision of this Act in which the expression occurs (or of the corresponding provision of the law of the Commonwealth and the other States).

Note See also s 38 (1) (Transitional and validation provisions).

standing council on health means (subject to section 4 (1) (Standing council on health)) the Ministerial Council by that name or, if there is no such Ministerial Council, the standing Ministerial Council established or recognised by COAG whose members include all Ministers in Australia having portfolio responsibility for health.

State includes the ACT and the Northern Territory.

state managed fund of a State means a bank account or fund established by the State for the purposes of health funding under the national health reform agreement that is required to be undertaken in the State through a state managed fund.

state pool account of a State means the bank account established by the State under part 3 (National health funding pool) or under the corresponding provisions of the law of another State.

this jurisdiction means the ACT.

Endnotes

1 About the endnotes

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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

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

3 Legislation history

Health (National Health Funding Pool and Administration) Act 2013 A2013-2

notified LR 20 February 2013

s 1, s 2 commenced 20 February 2013 (LA s 75 (1))

remainder commenced 21 February 2013 (s 2)

as amended by

Justice and Community Safety Legislation Amendment Act 2014 (No 2) A2014-49 sch 1 pt 1.8

notified LR 10 November 2014

s 1, s 2 commenced 10 November 2014 (LA s 75 (1))

sch 1 pt 1.8 commenced 17 November 2014 (s 2)

Endnotes

4 Amendment history

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Exclusion of ACT Acts

s 31 am [A2014-49](#) amdt 1.17; pars renum R2 LA

Transitional

pt 6 hdg [exp 21 February 2015 \(s 40\)](#)

Transitional and validation provisions

s 38 [exp 21 February 2015 \(s 40\)](#)

Transitional regulations

s 39 [exp 21 February 2015 \(s 40\)](#)

Expiry—pt 6

s 40 [exp 21 February 2015 \(s 40\)](#)

Dictionary

dict def *responsible Minister*, note [exp 21 February 2015 \(s 40\)](#)

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 and date	Effective	Last amendment made by	Republication for
R1 21 Feb 2013	21 Feb 2013– 16 Nov 2014	not amended	new Act

© Australian Capital Territory 2014