



Australian Capital Territory

Health (Patient Privacy) Amendment Act 2015

A2015-43

An Act to amend the *Health Act 1993*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Health (Patient Privacy) Amendment Act 2015*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

This Act amends the *Health Act 1993*.

4 New division 6.1 heading

insert

Division 6.1 Abortions—generally

5 New division 6.2

insert

Division 6.2 Patient privacy in protected areas

85 Definitions—div 6.2

(1) In this division:

approved medical facility means a medical facility approved under section 83.

capture visual data—a person ***captures visual data*** of another person if the person captures moving or still images of the other person by a camera or any other means in such a way that—

- (a) a recording is made of the images; or
- (b) the images are capable of being transmitted in real time with or without retention or storage in a physical or electronic form; or
- (c) the images are otherwise capable of being distributed.

prohibited behaviour, in a protected area around an approved medical facility, means any of the following:

- (a) the harassment, hindering, intimidation, interference with, threatening or obstruction of a person, including by the capturing of visual data of the person, in the protected period that is intended to stop the person from—
 - (i) entering the approved medical facility; or
 - (ii) having or providing an abortion in the approved medical facility;
- (b) an act that—
 - (i) can be seen or heard by anyone in the protected period; and
 - (ii) is intended to stop a person from—
 - (A) entering the approved medical facility; or
 - (B) having or providing an abortion in the approved medical facility;
- (c) a protest, by any means, in the protected period in relation to the provision of abortions in the approved medical facility.

protected area means an area declared under section 86.

- (2) For this section, *protected period*, in relation to an approved medical facility, means the period between 7 am and 6 pm on each day the facility is open or any other period declared by the Minister.

- (3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

86 Declaration of protected area

- (1) The Minister must declare an area around an approved medical facility to be a protected area.

- (2) In making the declaration, the Minister must be satisfied that the area declared is—

- (a) not less than 50m at any point from the approved medical facility; and
- (b) sufficient to ensure the privacy and unimpeded access for anyone entering, trying to enter or leaving an approved medical facility; but
- (c) no bigger than necessary to ensure that outcome.

- (3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

87 Prohibited behaviour in or in relation to protected area

- (1) A person commits an offence if the person—

- (a) is in a protected area; and
- (b) engages in prohibited behaviour.

Maximum penalty: 25 penalty units.

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- (2) A person commits an offence if—
- (a) the person publishes captured visual data of a person (the ***recorded person***) entering or leaving, or trying to enter or leave, an approved medical facility; and
 - (b) the person does so with the intention of stopping a person from having or providing an abortion; and
 - (c) the recorded person did not consent to the publication.

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

- (3) In this section:

publish, captured visual data—

- (a) means communicate or distribute visual data in a way or to an extent that makes it available to, or likely to come to the notice of, the public or a section of the public or anyone else not lawfully entitled to the visual data; and
- (b) includes—
 - (i) entering into an agreement or arrangement to do a thing mentioned in paragraph (a); and
 - (ii) attempting to do a thing mentioned in paragraph (a) or subparagraph (i).

6 Dictionary, new definitions

insert

approved medical facility, for division 6.2 (Patient privacy in protected areas)—see section 85.

capture visual data, for division 6.2 (Patient privacy in protected areas)—see section 85.

prohibited behaviour, for division 6.2 (Patient privacy in protected areas)—see section 85.

protected area, for division 6.2 (Patient privacy in protected areas)—see section 85.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 17 September 2015.

2 Notification

Notified under the [Legislation Act](#) on 4 November 2015.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Health (Patient Privacy) Amendment Bill 2015, which was passed by the Legislative Assembly on 29 October 2015.

Clerk of the Legislative Assembly