



Australian Capital Territory

# Health Infrastructure Enabling Act 2023

**A2023-17**

**Republication No 3**

**Effective: 27 November 2023**

Republication date: 27 November 2023

Last amendment made by [A2023-17](#)  
(replication for commenced provisions and  
amendments by [A2023-17](#))

## About this republication

### The republished law

This is a republication of the *Health Infrastructure Enabling Act 2023* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 27 November 2023. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 27 November 2023.

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 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](http://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 \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Health Infrastructure Enabling Act 2023

## Contents

---

	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
3	Dictionary 2
4	Notes 2
5	Purposes of Act 2
6	Application of other territory laws 3
<b>Part 2</b>	<b>Compulsory acquisition of public hospital land and assets</b>
7	Meaning of <i>acquisition day</i> 5
8	Acquisition of public hospital land 5
9	Acquisition of public hospital assets 6
10	Acquisition must be on just terms 6

---

R3  
27/11/23

Health Infrastructure Enabling Act 2023  
Effective: 27/11/23

contents 1

	Page
<b>Part 3</b>	<b>Acquisition and transition of public hospital operations</b>
11	Territory may enter hospital land 9
12	Calvary to provide information 11
13	Calvary and Territory must cooperate to ensure safe and orderly transition etc 13
<b>Part 4</b>	<b>What happens on or after acquisition day</b>
<b>Division 4.1</b>	<b>Operation of public hospital</b>
14	Operation of public hospital—generally 16
15	Access to hospital land on and after acquisition day 17
16	Territory may grant Calvary short-term licence to operate public hospital 18
17	Continued access to records relating to public hospital 19
<b>Division 4.2</b>	<b>Amendment of Crown lease</b>
18	Territory must prepare draft deposited plan 20
19	Amendment of the Crown lease etc 21
<b>Part 5</b>	<b>Miscellaneous</b>
20	No repudiation etc of network agreements 22
21	Performance of Calvary's obligations 23
22	Application of privacy legislation 23
23	References to director-general etc 24
24	Supreme Court may order stay of proceedings under security 24
25	Court order to enforce exercise of powers 25
26	Payments to be good discharge 26
27	Execution of documents for or on behalf of Territory 27
28	Regulation-making power 27

---

<b>Schedule 1</b>	<b>Private precinct area</b>	Page 28
<b>Dictionary</b>		29
<b>Endnotes</b>		
1	About the endnotes	35
2	Abbreviation key	35
3	Legislation history	36
4	Amendment history	36
5	Earlier republications	37





Australian Capital Territory

# Health Infrastructure Enabling Act 2023

---

An Act enabling the acquisition on just terms of land and other property for a public hospital, and for other purposes

---

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Health Infrastructure Enabling Act 2023*.

### 3 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 ‘*health record*—see the *Health Records (Privacy and Access) Act 1997*, dictionary.’ means that the term ‘health record’ is defined in that dictionary and the definition applies to 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)).

### 4 Notes

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

### 5 Purposes of Act

The purposes of this Act are to—

- (a) enable the Territory to acquire the public hospital land for the construction of a public hospital; and
- (b) enable the transition of the operation of the public hospital to the Territory, including by terminating the network agreements; and
- (c) provide for the safe and orderly transition of the operation of the public hospital to the Territory, including by—
  - (i) enabling the Territory to acquire the public hospital assets; and



- (ii) providing for the transition of employment of public hospital employees to the Territory; and
- (iii) providing for the novation and assignment of public hospital contracts to the Territory; and
- (d) ensure the continued operation of, and maintenance of service delivery standards at, the public hospital during and after the transition; and
- (e) ensure the Territory can, after the transition, effectively manage its obligations and liabilities in relation to the operation of the public hospital, including liabilities arising in relation to the operation of the public hospital before the transition; and
- (f) ensure that interests acquired under this Act are acquired on just terms.

## **6 Application of other territory laws**

- (1) The following territory laws do not apply in relation to anything done under this Act:
  - (a) the *Government Agencies (Land Acquisition Reporting) Act 2018*;
  - (b) the *Government Procurement Act 2001*;
  - (c) the *Lands Acquisition Act 1994*;
  - (d) the *Planning and Development Act 2007* (repealed);
  - (e) the *Planning Act 2023*;
  - (f) any other territory law prescribed by regulation.
- (2) Despite subsection (1) (d), on and from the acquisition day, the *Planning Act 2023* continues to apply to the amended Crown lease.

- (3) However, any provision of this Act that applies to the amended Crown lease on and from the acquisition day prevails over any provision of the *Planning Act 2023* that applies to the lease to the extent of any inconsistency.
- (4) A regulation may modify the operation of subsections (2) and (3).
- (5) The following provisions do not apply to a procurement of goods, services or works by a territory entity necessary for or ancillary to the operation of the public hospital in the 6-month period immediately after the acquisition day:
  - (a) the *Government Procurement Act 2001*—
    - (i) part 2A (Procurement activities) other than section 22A (1) and (2); and
    - (ii) part 2B (Secure local jobs code); and
    - (iii) any other provision prescribed by regulation;
  - (b) the *Government Procurement Regulation 2007*—
    - (i) part 2 (Government procurement—quotation and tender thresholds); and
    - (ii) part 3 (Procurement proposals); and
    - (iii) part 4 (Secure local jobs code); and
    - (iv) any other provision prescribed by regulation.
- (6) In this section:

*territory entity*—see the *Government Procurement Act 2001*, section 3.



**9 Acquisition of public hospital assets**

- (1) On the acquisition day, the public hospital assets—
  - (a) vest in the Territory; and
  - (b) are freed and discharged from any trust, restriction, dedication, reservation, obligation, charge, encumbrance, lien, contract, licence, rate or any other interest.
- (2) Any interest, or part of an interest, that is divested, extinguished or diminished because of subsection (1) (b) is taken to have been acquired by the Territory under this Act.
- (3) Subsection (1) does not apply to an interest in an excluded asset.
- (4) A regulation may provide for an interest mentioned in subsection (2) to be dealt with in a different way.

**10 Acquisition must be on just terms**

- (1) The Territory must provide just terms to a person from whom an interest is acquired under this Act.
- (2) Without limiting subsection (1), just terms for the acquisition includes reasonable compensation for the following:
  - (a) the acquisition of Calvary's interest in the public hospital land;
  - (b) any security right or other interest in land taken to have been acquired under section 8 (2);
  - (c) the acquisition of the public hospital assets;
  - (d) any security right or other interest in a public hospital asset taken to have been acquired under section 9 (2);

- (e) things arising as a consequence of an acquisition mentioned in paragraphs (a) to (d) including the following:
  - (i) the termination of the network agreements under section 14 (1);
  - (ii) the termination of any public hospital contract or other contract because of the operation of this Act;
  - (iii) any redundancy or similar payment payable by Calvary to a public hospital employee because of the operation of this Act;
  - (iv) anything else prescribed by regulation.
- (3) A regulation may provide for the following matters:
  - (a) how just terms for an interest acquired under this Act are provided;
  - (b) how compensation is worked out;
  - (c) how claims for compensation are made and dealt with;
  - (d) a time limit within which a claim for compensation may be made;
  - (e) information or other things required from a person claiming compensation that is needed to assess their claim and work out any compensation;
  - (f) how any dispute about working out compensation is resolved;
  - (g) how compensation is paid;
  - (h) any other matter relevant to providing just terms to a person from whom an interest is acquired under this Act.
- (4) A claim for compensation is not maintainable if brought after the end of a time limit made for subsection (3) (d), and the *Limitation Act 1985* does not apply to the claim.

(5) In this section:

***compensation***, for an acquisition of an interest under this Act, includes the following:

- (a) monetary payment;
- (b) the transfer or assumption of a loss, liability or expense;
- (c) the grant of a right, entitlement or benefit;
- (d) any other beneficial term.



- (iv) assess the Territory's requirements for operating, and maintaining service delivery standards at, the public hospital after the acquisition day;
  - (e) enter on the hospital land to do any other thing reasonably necessary to prepare for or give effect to a purpose of this Act or to otherwise exercise a function under this Act;
  - (f) any other thing prescribed by regulation.
- (2) If requested by an authorised person, Calvary must give the authorised person any assistance reasonably necessary for the authorised person to exercise a function under subsection (1).
- (3) Without limiting subsection (2), Calvary must:
- (a) give an authorised person access to secured areas in the public hospital; and
  - (b) show an authorised person where records, equipment and other assets in relation to the public hospital are kept on the hospital land.
- (4) In entering the hospital land under this section, the Territory must minimise any interference with Calvary's use of the land to the extent reasonably practicable.
- (5) In this section:
- authorised person*** means a person authorised in writing by the director-general to exercise a function under this section.



**12 Calvary to provide information**

- (1) For a purpose of this Act, the director-general may request Calvary provide documents or other information about any of the following:
- (a) public patient health records;
  - (b) stock in trade and inventory of the public hospital;
  - (c) fixed and non-fixed assets of the public hospital including asset maintenance records and condition reports;
  - (d) trade debts and other receivables owed in relation to the public hospital;
  - (e) suppliers of goods and services in relation to the public hospital;
  - (f) subleases, underleases, licences, easements, rights of way and any other occupancy rights or arrangements in relation to the public hospital land;
  - (g) accounting and financial records in relation to the operation of the public hospital;
  - (h) public hospital employees including employment records and payroll information;
  - (i) public hospital contracts;
  - (j) any trust funds for the public hospital including details about the specific purpose for which the funds are held or the trusts established;
  - (k) any existing or pending investigation, proceeding (whether civil or criminal) or remedy in relation to a right, privilege or liability under a law applying in the ACT in relation to the public hospital;

- (l) details about any existing security over the hospital land, public hospital assets or other property in relation to the public hospital including—
    - (i) contact details of the securityholder; and
    - (ii) the total amount of debt secured by the security and details of any other security instrument which secures that debt;
  - (m) details of any other personal property security interest in relation to the public hospital or the arrangements to which they relate, including contact details of the security interest holder;
  - (n) intellectual property relating to the operation of the public hospital, including any intellectual property created under a network agreement;
  - (o) public hospital administration records, including any reports, audited materials, regulatory matters, maintenance and operational records;
  - (p) any other matter relevant to a purpose of this Act;
  - (q) anything else prescribed by regulation.
- (2) A request—
- (a) must be in writing; and
  - (b) must state a reasonable period within which the information is to be provided; and
  - (c) may state a reasonable format or way in which the information is to be provided.
- (3) Calvary must—
- (a) comply with the request within the stated period; and
  - (b) provide the information in any stated format or way.

- (4) For a purpose of this Act, the director-general may give any information, including a public patient health record, provided to them by Calvary under this section to a Territory employee or contractor.

**13 Calvary and Territory must cooperate to ensure safe and orderly transition etc**

- (1) Calvary and the Territory must act in good faith, cooperate and do all other things reasonably necessary to ensure—
- (a) the safe and orderly transition of the operation of the public hospital to the Territory; and
  - (b) the continued operation of, and maintenance of service delivery standards at, the public hospital.
- (2) Without limiting subsection (1), Calvary must—
- (a) appoint a senior executive to—
    - (i) be the contact person for operational matters relating to the transition of the operation of the public hospital to the Territory; and
    - (ii) coordinate Calvary's role in the transition of the operation of the public hospital to the Territory; and
  - (b) cooperate with the Territory to develop a transition plan for the transfer of the operation of the public hospital and ensure its employees, officers and contractors comply with the plan; and
  - (c) provide all reasonable assistance to enable the Territory to obtain all licences and authorisations required by law to operate the public hospital; and
  - (d) provide reasonable access to any records management information technology systems used for public patient health records, employee and payroll records, financial records and other operations management records; and

- (e) ensure its employees and officers provide all reasonable assistance to the Territory to assist in the transition of the operation of the public hospital to the Territory and ensure there is sufficient staffing to do so; and
  - (f) ensure all maintenance and repair of public hospital facilities and public hospital assets continues until the acquisition day; and
  - (g) comply with all requirements under this Act as soon as is reasonably practicable; and
  - (h) provide reasonable assistance to the Territory to enable the Territory to comply with its obligations under this Act; and
  - (i) not do anything that hinders, obstructs or delays the transition of the operation of the public hospital to the Territory; and
  - (j) promptly notify the Territory of any matter of which it is aware may hinder, obstruct or delay the transition of the operation of the public hospital to the Territory; and
  - (k) do anything else prescribed by regulation.
- (3) Without limiting subsection (1), the Territory must—
- (a) appoint a senior executive to—
    - (i) be the contact person for operational matters relating to the transition of the operation of the public hospital to the Territory; and
    - (ii) coordinate the Territory's role in the transition of the operation of the public hospital to the Territory; and
  - (b) cooperate with Calvary to develop a transition plan for the transfer of the operation of the public hospital and ensure its employees and contractors comply with the plan; and

- (c) ensure that any disruption to Calvary's operation of facilities on the private hospital land caused by the transition of the operation of the public hospital to the Territory is minimised to the extent reasonably practicable; and
- (d) comply with all requirements under this Act as soon as is reasonably practicable; and
- (e) provide reasonable assistance to Calvary to enable Calvary to comply with its obligations under this Act; and
- (f) not do anything that hinders, obstructs or delays Calvary in complying with its obligations under this Act; and
- (g) on request by Calvary, provide Calvary with any reasonable assistance to enable Calvary to comply with its obligations under this Act; and
- (h) promptly notify Calvary of any matter of which it is aware may hinder, obstruct or delay the transition of the operation of the public hospital to the Territory; and
- (i) do anything else prescribed by regulation.

## **Part 4** What happens on or after acquisition day

### **Division 4.1** Operation of public hospital

#### **14** Operation of public hospital—generally

- (1) On the acquisition day—
  - (a) the Crown lease for the hospital land is amended under section 19; and
  - (b) the network agreements are terminated; and
  - (c) Calvary must—
    - (i) vacate the public hospital land; and
    - (ii) allow the Territory to enter the public hospital land; and
    - (iii) allow the Territory to use all public hospital assets; and
    - (iv) allow the Territory to perform any activity necessary for the continued operation of the public hospital; and
    - (v) execute all documents necessary to give effect to a purpose of this Act; and
    - (vi) do all other things reasonably necessary to ensure—
      - (A) the safe and orderly transition of the operation of the public hospital to the Territory; and
      - (B) the continued operation of, and maintenance of service delivery standards at, the public hospital.
- (2) A regulation may provide for the following matters:
  - (a) the offer of employment by the Territory to public hospital employees and employment by the Territory of those employees and related matters;

- (b) the disapplication of provisions of the *Public Sector Management Act 1994* for paragraph (a);
- (c) for public hospital contracts—
  - (i) the novation or assignment of the contracts to the Territory; and
  - (ii) other arrangements in relation to the contracts, including renegotiation by the Territory of existing contractual arrangements with other parties to the contracts;
- (d) arrangements with parties to charges or other security interests, including renegotiation by the Territory of existing arrangements;
- (e) the transfer, retention and storage of public patient health records, employment and other records of the public hospital;
- (f) any other thing reasonably necessary to ensure—
  - (i) the safe and orderly transition of the operation of the public hospital to the Territory; and
  - (ii) the continued operation of, and maintenance of service delivery standards at, the public hospital.

## **15 Access to hospital land on and after acquisition day**

- (1) On the acquisition day—
  - (a) the Territory grants Calvary a licence to enter on the public hospital land and do all things reasonably necessary—
    - (i) to allow Calvary to comply with its obligations under this Act; and
    - (ii) to do any other thing reasonably required to ensure the continued operation of facilities on the private hospital land; and
    - (iii) for any other reason prescribed by regulation; and

- (b) Calvary grants the Territory a licence to enter on the private hospital land—
  - (i) to allow the Territory to comply with its obligations under this Act; and
  - (ii) to do anything mentioned in section 11; and
  - (iii) to do any other thing reasonably required to ensure—
    - (A) the safe and orderly transition of the operation of the public hospital to the Territory; and
    - (B) the continued operation of, and maintenance of service delivery standards at, the public hospital; and
  - (iv) for any other reason prescribed by regulation.
- (2) The *Public Unleased Land Act 2013* does not apply to the grant of a licence by the Territory under this section except that the licence is taken to be a licence for that Act, section 43 (4) (Offence—use public unleased land without permit).
- (3) In entering land under a licence granted under this section, the Territory and Calvary, must minimise any interference with the other party's use of the land to the extent reasonably practicable.
- (4) This section expires on the day declared by the Minister.
- (5) A declaration under subsection (4) is a notifiable instrument.

**16 Territory may grant Calvary short-term licence to operate public hospital**

- (1) The Territory may grant Calvary a licence to operate the public hospital on and from the acquisition day to ensure the continued operation of, and maintenance of service delivery standards at, the public hospital while the matters required to be done under this part are done.
- (2) The terms of the licence are as agreed by the Territory and Calvary.



- (3) The *Public Unleased Land Act 2013* does not apply to the grant of a licence by the Territory under this section except that the licence is taken to be a licence for that Act, section 43 (4) (Offence—use public unleased land without permit).

## **17 Continued access to records relating to public hospital**

- (1) The director-general may at any time after the acquisition day request that Calvary—
- (a) provide documents and other information reasonably required by the Territory in relation to the following:
    - (i) any past, current or future investigation, proceeding (whether civil or criminal) or remedy in relation to a right, privilege or liability under a law applying in the ACT in relation to the operation of the public hospital before the acquisition day;
    - (ii) the employment of public hospital employees before the acquisition day including in relation to their rights and entitlements;
    - (iii) any other thing prescribed by regulation; and
  - (b) do anything reasonably required in relation to the storage and retention of information mentioned in paragraph (a) including storing the information in a stated electronic form.

*Note* Nothing in this section limits any obligation Calvary or a related corporation would otherwise have under a territory privacy law (see s 22).

- (2) A request—
- (a) must be in writing; and
  - (b) must state a reasonable period within which the request must be complied with; and

- (c) may state a reasonable format or way in which the information is to be provided, stored or retained.
- (3) Calvary must—
  - (a) comply with the request within the stated period; and
  - (b) provide, store or retain the information in any stated format or way.

## Division 4.2 Amendment of Crown lease

### 18 Territory must prepare draft deposited plan

- (1) The Territory must prepare a draft deposited plan describing—
  - (a) the land to be the subject of the amended Crown lease, which—
    - (i) substantially corresponds to the area identified as the ‘PRIVATE PRECINCT AREA’ in the plan in schedule 1; or
    - (ii) corresponds to any other area in the hospital land agreed in writing by the Territory and Calvary; and
  - (b) any easement or right of way the Territory decides is appropriate to allow Calvary to access the land the subject of the amended Crown lease; and
  - (c) any other thing prescribed by regulation.

- (2) In this section:

***draft deposited plan*** means a plan in a form that is registerable under the *Districts Act 2002*, section 7 (Deposited plans).

**19 Amendment of the Crown lease etc**

- (1) On the acquisition day, the Crown lease is amended—
  - (a) to only apply to the private hospital land; and
  - (b) in any other way prescribed by regulation.
- (2) The registrar-general must, as soon as is practicable after the acquisition day record the amendments on the register under the *Land Titles Act 1925*.
- (3) The Territory must—
  - (a) prepare an instrument for any easement or right of way noted in the draft deposited plan prepared under section 18 (1) (b); and
  - (b) take all reasonable steps to ensure the draft deposited plan and the instrument mentioned in paragraph (a) are registered under the *Land Titles Act 1925*.

## Part 5 Miscellaneous

### 20 No repudiation etc of network agreements

- (1) None of the following constitutes a repudiation or breach of a network agreement:
  - (a) the development or preparation of the Bill for this Act, or government or Cabinet consideration of policy carried out in developing or preparing the Bill;
  - (b) the presentation of the Bill in, and agreement to the Bill by, the Legislative Assembly, or any processes associated with the passage of the Bill through the Legislative Assembly;
  - (c) the making, notification or commencement of this Act;
  - (d) any act done in accordance with this Act;
  - (e) anything done by the Territory to give Calvary notice (whether in writing or orally) of the Territory's intention to do a thing mentioned in paragraphs (a) to (d);
  - (f) any other communication between the Territory and Calvary before the commencement of this Act about a matter mentioned in paragraphs (a) to (e).
- (2) Calvary or a related corporation may not bring any claim against the Territory for repudiation or breach of a network agreement, and is not entitled to any compensation or remedy for repudiation or breach of a network agreement, because of an event or matter mentioned in subsection (1).
- (3) Subsection (2) does not limit any right a person may have to compensation for an acquisition under section 10 (Acquisition must be on just terms).

## 21 Performance of Calvary's obligations

- (1) This section applies if—
  - (a) this Act requires Calvary to do, or not do, a thing; and
  - (b) Calvary fails to comply with the requirement, including because Calvary does not have or cannot access the resources required to do so.

*Note* **Fail** includes refuse (see [Legislation Act](#), dict).

- (2) A related corporation of Calvary nominated in writing by the Territory must comply with the requirement or ensure another related corporation does so.

## 22 Application of privacy legislation

- (1) This section applies in relation to either of the following information Calvary is required to give to the Territory under this Act (the **transferred information**):
  - (a) a public patient health record;
  - (b) personal information of a public hospital employee or other person.
- (2) None of the following constitutes a breach of a territory privacy law:
  - (a) Calvary or a related corporation providing the transferred information;
  - (b) the Territory receiving the transferred information;
  - (c) the Territory keeping the transferred information;
  - (d) the Territory using the transferred information for a purpose of this Act.

- (3) Nothing in this section limits any obligation Calvary, a related corporation or the Territory would otherwise have under a territory privacy law in relation to the use, disclosure and security of the transferred information.
- (4) In this section:  
*territory privacy law* means—
- (a) the *Health Records (Privacy and Access) Act 1997*; and
  - (b) the *Information Privacy Act 2014*.

**23 References to director-general etc**

- (1) A reference to the *director-general* in this Act means the director-general of the administrative unit responsible for matters generally under the *Health Act 1993*.
- (2) The director-general may delegate a function under this Act to—
- (a) the director-general responsible for Canberra Health Services; or
  - (b) another public servant.

**24 Supreme Court may order stay of proceedings under security**

- (1) This section applies if—
- (a) an interest acquired under this Act is, immediately before the acquisition day, subject to a security and the securityholder—
    - (i) commences a proceeding and the proceeding was pending on the acquisition day; or
    - (ii) commences, or proposes to commence, a proceeding on or after the acquisition day and before compensation has been paid in full in relation to the acquisition; or

- (b) Calvary or a related corporation has granted a security over property which is not acquired under this Act and, as a direct consequence of the operation of this Act, the securityholder—
  - (i) commences a proceeding and the proceeding was pending on the acquisition day; or
  - (ii) commences, or proposes to commence, a proceeding on or after the acquisition day and before compensation has been paid in full in relation to the relevant acquisition under this Act.
- (2) The Supreme Court may, on application by Calvary or a related corporation and subject to any condition it considers appropriate—
  - (a) order a stay of the proceeding or enjoin the securityholder against commencing or continuing the proceeding; and
  - (b) make any other order it considers appropriate.
- (3) In this section:

*proceeding*, by a securityholder, means any action to enforce the rights of the securityholder under the security, whether or not the proceeding is in a court, including action with a view to taking possession of or selling an interest or foreclosing.

## **25 Court order to enforce exercise of powers**

- (1) This section applies if—
  - (a) a person hinders or obstructs or intends to hinder or obstruct an authorised person in the exercise of a function under section 11; or
  - (b) Calvary does not comply with a requirement under—
    - (i) section 11 (Territory may enter hospital land); or
    - (ii) section 12 (Calvary to provide information); or

- (iii) section 13 (Calvary and Territory must cooperate to ensure safe and orderly transition etc); or
  - (iv) section 14 (Operation of public hospital—generally); or
  - (v) section 17 (3) (Continued access to records relating to public hospital).
- (2) The Magistrates Court may, on application by the director-general, make an order—
  - (a) authorising a police officer or other stated person to provide assistance or use force as is reasonably necessary to allow an authorised person to exercise their power under section 11; or
  - (b) requiring Calvary, or a related corporation nominated under section 21 (2), to comply with a requirement mentioned in subsection (1) (b).
- (3) The director-general must give a copy of an application under subsection (2) to Calvary or the related corporation.
- (4) Calvary or the related corporation is entitled to appear and be heard on the hearing of the application.
- (5) In this section:  
*authorised person*—see section 11 (5).

## 26 Payments to be good discharge

Any payment made by or on behalf of the Territory to a person under this Act is good and valid discharge to the Territory and the Territory is not bound to see to the application of any money paid or to the performance of any trust.



**27 Execution of documents for or on behalf of Territory**

The territory planning authority may execute any instrument or other document, for and on behalf of the Territory, relating to an acquisition of land under this Act.

**28 Regulation-making power**

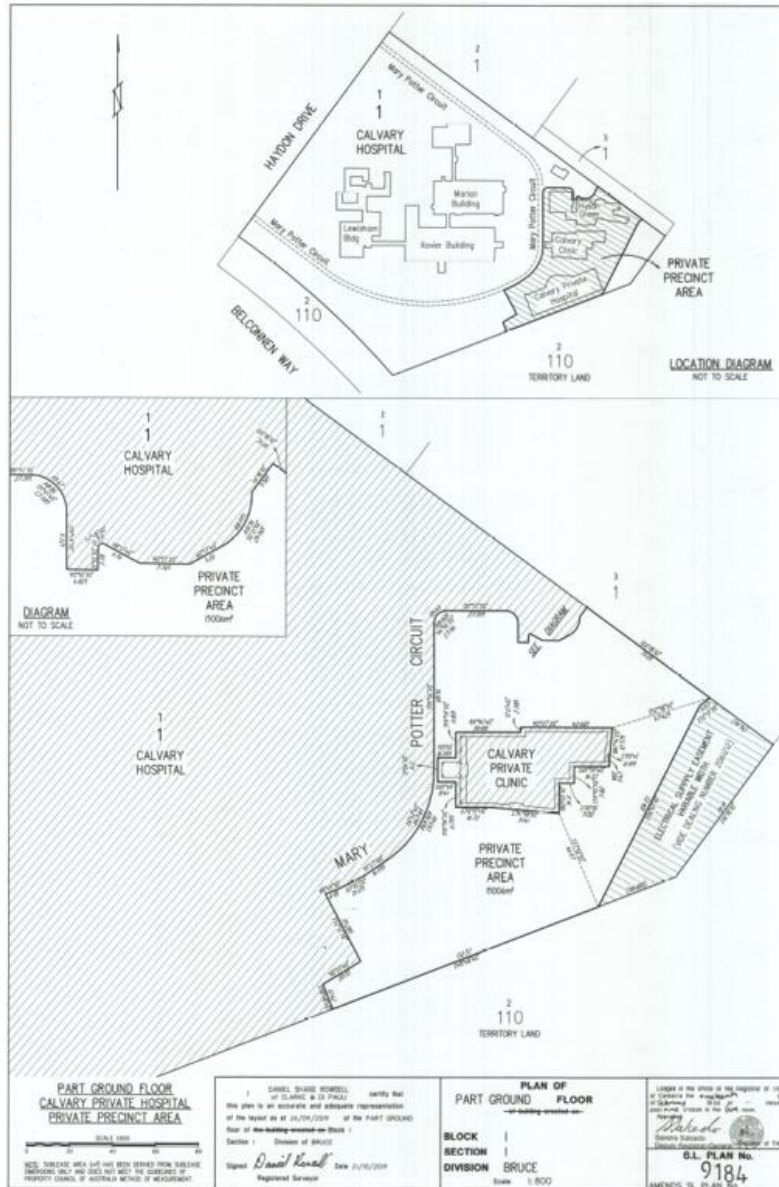
- (1) The Executive may make regulations for this Act.

*Note* Power to make a regulation includes power to make different provision in relation to different matters or different classes of matters (see [Legislation Act](#), s 48).

- (2) A regulation may commence on its notification day.

# Schedule 1 Private precinct area

(see 18 (1) (a))



---

## Dictionary

(see s 3)

*Note* The [Legislation Act](#) contains definitions relevant to this Act. For example:

- Corporations Act
- director-general (see s 163)
- document
- Executive
- public servant
- registrar-general
- territory law.

***acquisition day***—see section 7.

***amended Crown lease*** means the Crown lease as amended under section 19.

***Calvary*** means Calvary Health Care ACT Limited (ACN 105 304 989).

***Crown lease*** means the Crown lease over the hospital land.

***director-general***—see section 23 (1).

***excluded asset*** means—

- (a) any asset used only in, or only purchased for, the private hospital; and
- (b) any non-fixed asset of religious or cultural significance to Calvary or a related corporation, as agreed in writing by the Territory; and
- (c) any loan receivables between Calvary and a related corporation; and

- (d) any special purpose fund or trust fund for the public hospital held by Calvary or a related corporation the terms of which only Calvary or a related corporation can fulfil; and
- (e) any other thing prescribed by regulation.

**health record**—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

**hospital land** means Block 1 Section 1 Division of Bruce.

**interest**, in the public hospital land or a public hospital asset—

- (a) means—
  - (i) the legal or equitable estate or interest in the public hospital land or a public hospital asset; and
  - (ii) any other right (including a right under an option and a right of redemption), charge, power or privilege over, or in connection with, the public hospital land or a public hospital asset or an interest in the public hospital land or a public hospital asset; and
- (b) includes—
  - (i) an interest of the Territory, a State or another Territory in the public hospital land or a public hospital asset; and
  - (ii) an interest that did not previously exist in relation to the public hospital land or a public hospital asset; and
  - (iii) a restriction on the use of the public hospital land or a public hospital asset, whether or not annexed to the public hospital land or public hospital asset; but
- (c) does not include an interest excluded by regulation.

**network agreement**—

- (a) means each of the following:
- (i) the agreement between the Territory and Calvary dated 7 December 2011 in relation to the operation of the public hospital on the hospital land;
  - (ii) the precinct deed;
  - (iii) if the provisions of the new public hospital agreement applies because of clause 32 of the network agreement—the agreement constituted by those provisions;
  - (iv) any other agreement (not including a public hospital contract) related to the operation of the public hospital prescribed by regulation; but
- (b) does not include an agreement excluded by regulation.

**operation**, of the public hospital, includes a public health service.

**patient**, of the public hospital, means a consumer as defined in the *Health Records (Privacy and Access) Act 1997*, dictionary.

**precinct deed** means the Bruce Health Care Precinct Deed between the Territory and Calvary dated on or about 7 December 2011.

**private hospital** means the private health care facilities (including Hyson Green and Calvary Clinic) operated on the hospital land by Calvary or a related corporation.

**private hospital land** means the land identified as the private hospital land in the draft deposited plan prepared under section 18.

**public health service**—

- (a) means a public health service provided by public hospital employees at places other than the public hospital; but
- (b) does not include a thing excluded by regulation.

**public hospital** means the public hospital located on the hospital land known as Calvary Public Hospital Bruce.

***public hospital assets***—

- (a) means the following:
  - (i) the fixed and non-fixed assets of the public hospital nominated by the Territory in writing;
  - (ii) the public hospital stock;
  - (iii) the motor vehicles used for the public hospital or a public health service nominated by the Territory in writing;
  - (iv) any special purpose fund or trust fund for the public hospital held by Calvary or a related corporation the terms of which only the Territory can fulfil;
  - (v) any asset purchased for the public hospital or a public health service before the acquisition day;
  - (vi) any other thing prescribed by regulation; but
- (b) does not include—
  - (i) an excluded asset; or
  - (ii) a public hospital contract;
  - (iii) any other thing excluded by regulation.

***public hospital contract***—

- (a) means a contract (not including a network agreement) to which Calvary or a related corporation is a party necessary for or ancillary to the operation of the public hospital or a public health service; and
- (b) includes a contract (not including a network agreement) prescribed by regulation.

***public hospital employee***—

- (a) means a person employed by Calvary or a related corporation solely or substantially for the purpose of providing services in or to the public hospital or a public health service and includes the following:
  - (i) a person employed under the [Public Sector Management Act 1994](#);
  - (ii) a person employed under an industrial agreement prescribed by regulation; and
- (b) includes any other person prescribed by regulation; but
- (c) does not include a person excluded by regulation.

***public hospital land*** means that part of the hospital land that is not private hospital land.

***public hospital stock*** means stock in trade and inventory of the public hospital and all other items held for sale or use in the ordinary course of the operation of the public hospital as at the acquisition day and includes items which are—

- (a) held by or on behalf of Calvary or a related corporation; and
- (b) in transit to Calvary or a related corporation; and
- (c) on consignment with a customer or any other person.

***public patient health records*** means a health record for a current or past patient of the public hospital or a public health service.

***purpose of this Act*** means a purpose mentioned in section 5.

***related corporation***, of another corporation, means a related body corporate, associate or related entity under the [Corporations Act](#).

***security***—

- (a) means security over an interest in land or other property securing the payment or repayment of money; and
- (b) includes a mortgage.

***securityholder***, in relation to a security, means the person who is or was entitled to receive payment or repayment of the money secured by the security, or any agent or security trustee on their behalf.

***security right*** means the interest in the land or other property of a securityholder under a security.



## 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

## Endnotes

3 Legislation history

---

### 3 Legislation history

#### **Health Infrastructure Enabling Act 2023 A2023-17**

notified LR 2 June 2023

s 1, s 2 commenced 2 June 2023 (LA s 75 (1))

sch 2 pt 2.1, pt 2.3, pt 2.4 commenced 3 July 2023 (s 2 (and see s 7 (1) (a))

sch 2 pt 2.2 commenced 27 November 2023 (s 2 (3) and see [Planning Act 2023 A2023-18](#), s 2 and [CN2023-10](#))

remainder commenced 2 June 2023 (s 2 (1))

### 4 Amendment history

#### **Commencement**

s 2 om R3 (LA s 89 (4))

#### **Application of other territory laws**

s 6 am [A2023-17](#) amdt 2.6, amdt 2.7; pars renum R3 LA

#### **Access to hospital land on and after acquisition day**

s 15 exp on the day declared by the Minister (s 15 (4))

#### **Execution of documents for or on behalf of Territory**

s 27 am [A2023-17](#) amdt 2.8

#### **Repeal and consequential amendments**

pt 6 hdg om R3 (LA s 89 (3))

#### **Legislation repealed**

s 29 om R3 (LA s 89 (3))

#### **Legislation amended—sch 2**

s 30 om R3 (LA s 89 (3))

#### **Consequential amendments**

sch 2 hdg om R3 (LA s 89 (3))

#### **Health Act 1993**

sch 2 pt 2.1 om R2 (LA s 89 (3))

#### **Health Infrastructure Enabling Act 2023**

sch 2 pt 2.2 om R3 (LA s 89 (3))

#### **Medicines, Poisons and Therapeutic Goods Regulation 2008**

sch 2 pt 2.3 om R2 (LA s 89 (3))

#### **Public Sector Management Act 1994**

sch 2 pt 2.4 om R2 (LA s 89 (3))

## 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.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 2 June 2023	2 June 2023– 2 July 2023	not amended	new Act
R2 3 July 2023	3 July 2023– 26 Nov 2023	not amended	commenced provisions

© Australian Capital Territory 2023