



Australian Capital Territory

Health Legislation Amendment Act 2024

A2024-42

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Health Legislation Amendment Act 2024

A2024-42

An Act to amend legislation about health, and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *Health Legislation Amendment Act 2024*.

2 Commencement

- (1) This Act (other than part 2 and section 6) commences on the day after its notification day.

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

- (2) Part 2 commences on the later of—
- (a) the commencement of the *Assisted Reproductive Technology Act 2024*, division 8.6 (Power to seize things); and
 - (b) the commencement of this Act, section 3.
- (3) Section 6 commences on the later of—
- (a) the commencement of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* (Qld), chapter 3, part 21 (Interim prohibition orders); and
 - (b) the commencement of this Act, section 3.

3 Legislation amended

This Act amends the following legislation:

- *Assisted Reproductive Technology Act 2024*
- *Health Practitioner Regulation National Law (ACT) Act 2010*
- *Health Records (Privacy and Access) Act 1997*
- *Medicines, Poisons and Therapeutic Goods Act 2008*
- *Variation in Sex Characteristics (Restricted Medical Treatment) Act 2023*.

Part 2

Assisted Reproductive Technology Act 2024

4 Return of seized things Section 112 (3)

substitute

- (3) If subsection (2) (a), (b) or (c) applies—
- (a) the thing is forfeited to the Territory; and
 - (b) the director-general may direct that the thing be sold, destroyed or otherwise disposed of.

5 Section 131

substitute

131 Completion of family—gametes donated before end of transitional period

- (1) This section applies to a donated gamete if, before the end of the transitional period—
- (a) the gamete is donated; and
 - (b) a person becomes pregnant as a result of ART treatment using another donated gamete of the donor.
- (2) An ART provider may use the gamete—
- (a) in the provision of ART treatment to the person who became pregnant, or their domestic partner; or
 - (b) to create an embryo for use in the provision of ART treatment to the person who became pregnant, or their domestic partner.

- (3) For a gamete used in accordance with this section—
- (a) the donor is taken to have consented to the use and may modify or withdraw consent in accordance with section 30; and
 - (b) if the person mentioned in subsection (1) (b) became pregnant before the transitional period—the following provisions do not apply to the ART provider in relation to the gamete, or an embryo created from the gamete:
 - (i) section 39 (Donated gametes or embryos—time limits on use);
 - (ii) section 40 (Donated gametes or embryos—limits on number of families);
 - (iii) section 46 (Requirement to collect information about gamete provider);
 - (iv) section 47 (Requirement to collect information about person undergoing ART treatment);
 - (v) section 48 (Requirement to keep records);
 - (vi) section 53 (Mandatory information); and
 - (c) if the person mentioned in subsection (1) (b) became pregnant during the transitional period—the following provisions do not apply to the ART provider in relation to the gamete, or an embryo created from the gamete:
 - (i) section 39 (Donated gametes or embryos—time limits on use);
 - (ii) section 40 (1) (Donated gametes or embryos—limits on number of families);
 - (iii) section 53 (Mandatory information).

Part 3

Health Practitioner Regulation National Law (ACT) Act 2010

6 Modifications—Health Practitioner Regulation National Law Schedule 1, modification 1.3, new section 150 (4A) (aa)

insert

- (aa) deal with the notification or complaint, or part, under part 8, division 7A (Interim prohibition orders);

7 Schedule 1, modification 1.3, new section 150 (4A) (ca)

insert

- (ca) refer the notification or complaint, or part, to another entity under section 150A (Referral to other entities);

Part 4 Health Records (Privacy and Access) Act 1997

8 Storage, security and destruction of personal health information—safekeeping requirement Schedule 1, principle 4.1, new clauses 3 (d) and 4

after the note, insert

- (d) the record is a video recording of images captured by an automated security or surveillance camera (*surveillance footage*) located at premises from which a health service provider provides services or in an area surrounding the premises.

Example—surveillance footage

a recording of images captured by a closed-circuit television security camera

- 4 In this principle:

surveillance footage—

- (a) includes an automated video recording made for the purposes of security, public safety, monitoring of activities or community education; but
- (b) does not include a video recording, whether or not automated, made for the purpose of a clinical procedure or investigation.

Examples—par (b)

- 1 a video recording of a surgery made for quality assurance
- 2 an automated video recording monitoring use of an MRI machine

**9 Storage, security and destruction of personal health information—register of destroyed or transferred records
Schedule 1, principle 4.2, new clauses 4 and 5**

insert

4 A record keeper need not keep a record on the register under clause 1 if the record destroyed is surveillance footage.

5 In this principle:

surveillance footage—see principle 4.1, clause 4.

Part 5

Medicines, Poisons and Therapeutic Goods Act 2008

10 Definitions—ch 6A Section 97B, definition of *another jurisdiction* and note

substitute

another jurisdiction—

- (a) means the Commonwealth or a State; and
- (b) includes an entity established under a law of the Commonwealth or a State.

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

Part 6

Variation in Sex Characteristics (Restricted Medical Treatment) Act 2023

11 Deciding the application—general treatment plan New section 23 (1A)

after the note, insert

- (1A) A decision under subsection (1) is decided by a majority of votes of all assessment committee members.

12 Deciding the application—individual treatment plan New section 26 (1A)

after the note, insert

- (1A) A decision under subsection (1) is decided by a majority of votes of all assessment committee members.

13 Decision of internal review committee New section 39 (2A)

insert

- (2A) A decision under this section, except a decision taken to be a confirmation under subsection (3), is decided by a majority of votes of all internal review committee members.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 6 June 2024.

2 Notification

Notified under the [Legislation Act](#) on 17 September 2024.

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 Legislation Amendment Bill 2024, which was passed by the Legislative Assembly on 28 August 2024.

Clerk of the Legislative Assembly

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