

1996

**LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL
TERRITORY**

**HEALTH AND COMMUNITY CARE SERVICES
(CONSEQUENTIAL PROVISIONS) BILL 1996**

EXPLANATORY MEMORANDUM

**Circulated by the authority of the Minister for
Health and Community Care**

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HEALTH AND COMMUNITY CARE SERVICES (CONSEQUENTIAL PROVISIONS) BILL 1996

Outline

The *Health and Community Care Services (Consequential Provisions) Bill 1996* (the Bill) makes provisions that are consequential upon the establishment of the Australian Capital Territory Health and Community Service (the Service) by the *Health and Community Care Services Bill 1996* (the Services Bill). The main features of the Bill are:

- provision is made for the first Chief Executives of the Service.
- the ACT's assets, rights and obligations that relate to the functions of the Service are transferred to it.
- amendments to legislation within the Health and Community Care portfolio consequential on the establishment of the Service are made.
- transitional provisions are made.

Financial Impact Statement

The Bill has no financial implications

Details of the Bill are as follows

PART I - PRELIMINARY

This part provides for the formal matters for the Act.

Clause 1 - Short title The short title is *Health and Community Care Services (Consequential Provisions) Act 1996*.

Clause 2 - Commencement The Bill will commence on 1 July 1996.

Clause 3 - Interpretation Provides interpretative provisions for the Bill.

PART II - TRANSITIONAL AND SAVINGS

Division 1 - Administration

Clause 4 - Administration of Board pending first meeting of Board Pending the first meeting of the Health and Community Care Service Board the functions and powers of the Board will be exercised by the Chief Executive, Department of Health and Community Care.

Clause 5 - First Chief Executives of Service The Service's first Chief Executives are to be the persons who hold the following offices:

- Chief Executive Officer, Woden Valley Hospital
- Chief Executive Officer, Community Division

At present recruitment action for these positions is well advanced. Provision is made so this action may be completed under existing legislative arrangements.

Division 2 - Transitional

Clauses 6, 7 and 8 - Health Act - Reports by quality assurance committees; Health Act - pending AAT matters; and Health Act - existing determinations

These 3 clauses make transitional provisions to ensure the effectiveness of various amendments that are made to the *Health Act 1993* as a consequence of the establishment of the Service.

PART III - TRANSFER OF RIGHTS AND LIABILITIES

Clause 9 - Interpretation Provides an expanded meaning to a reference in the Part to "rights and liabilities". The reference will include assets and also rights in relation to a contract, arrangement or agreement.

Clause 10 - Transfer of rights and liabilities This section vests in the Service the ACT's rights and liabilities it holds in relation to the health and community care functions. However, the Minister is given power to specify rights and liabilities that do not vest in the Service [this is a precautionary measure].

Clause 11 - Registration of changes in title to land Provides for any changes in title to land that are affected by section 5 to be registered by the Registrar-General.

Clause 12 - Proceedings and evidence This section provides that causes of action by or against the ACT that relate to the health and community care functions vest in the Service.

The section does not apply to causes of action for personal injury with the result that causes of action for personal injury that arise out of incidents occurring before 1 July 1996 will remain the responsibility of the ACT.

The section makes provision to ensure the effectiveness of the above.

PART IV - CONSEQUENTIAL AMENDMENTS

Clause 11 - Amendments of other Acts The Acts specified in the Schedule are amended.

Clause 12 - Amendment of Public Health (Infectious and Notifiable Diseases) Regulations The Public Health (Infectious and Notifiable Diseases) Regulations are amended to ensure they apply to a Territory authority, such as the Service.

SCHEDULE

A number of Acts are amended to ensure they apply, appropriately, to a Territory authority, such as the Service. The Acts amended in this way are.

- *Drugs of Dependence Act 1989*
- *Health Act 1993*
- *Mental Health (Treatment and Care) Act 1994*

In addition the following amendments are made

Drugs of Dependence Act

- Sections 3 and 3A are amended to reflect the fact the Director, Alcohol and Drug Service will be a member of the staff of the Service, rather than a member of the staff of an administrative unit

Health Act

Section 4 is amended to ensure the objectives set out in the section apply when the ACT provides or arranges the provision of health services. At present the section makes the objectives applicable when the ACT provides health services.

Section 7(c) is amended so that the Minister can approve quality assurance committees that can make recommendations about clinical privileges provided to health service providers by the Service.

A new section 13A is inserted so that when a quality assurance committee makes a recommendation to the relevant Chief Executive of the Service he or she can take the appropriate action relating to the clinical privileges provided to a health service provider.

A new section 19A is added so that decisions affecting a health service providers clinical privileges made by the relevant Chief Executive of the Service can be appealed to the Administrative Appeals Tribunal

Mental Health (Treatment and Care) Act

Section 49 is amended so that the relevant Chief Executive of the Service is the responsible person for the purposes of the Act for mental health facilities conducted by the Service.

Sections 89 and 94 are amended so the relevant Chief Executive of the Service can take part in proceedings of the Mental Health Tribunal

Section 112 is amended so the Director of Mental Health Services is a member of the staff of the Service