

Director of Public Prosecutions Direction 2006 (No 2)

Notifiable instrument NI2006–356

made under the

Director of Public Prosecutions Act 1990, section 20 (Directions and guidelines by Attorney General)

EXPLANATORY STATEMENT

Background

In 1997 the Commonwealth Government enacted the *Euthanasia Laws Act 1997* which removed the constitutional power of the Assembly to make laws permitting or having the effect of permitting euthanasia or the assisting of a person to terminate his or her life. The Commonwealth law contains a provision that withholding treatment and the giving of palliative care are permitted, provided such actions do not amount to intentional killing.

After enactment of the *Euthanasia Laws Act 1997* there was uncertainty as to whether this Act would invalidate laws such as the *ACT Medical Treatment Act 1994*. Legal opinion was divided and this left the status of the *Medical Treatment Act 1994* uncertain.

Accordingly, on 8 January 1998, the then Attorney General, Mr Gary Humphries issued a Direction after consultation with the Director of Public Prosecutions (as required under Section 20 of the *Director of Public Prosecutions Act 1990* (“DPP Act”). The Direction deals with circumstances under which the DPP may not prosecute a health professional.

The New Direction

Recent events have prompted inquiries about whether the correct processes were followed in making the 1998 Direction. Investigations into the matter showed that the status of the January 1998 Direction is not clear, as the Direction was not gazetted and tabled as required.

To remove any uncertainty regarding the status of the 1998 Direction, this new Direction re-instates the effect of the previous Direction.