

EXPLANATORY STATEMENT
AUSTRALIAN CAPITAL TERRITORY
COMMUNITY AND HEALTH SERVICE (AMENDMENT) ORDINANCE 1988

Ordinance No. 28 of 1988

The Community and Health Service (Amendment) Ordinance 1988 (the amending Ordinance) amends the Health Authority Ordinance 1985 (the Principal Ordinance). The main effect of the amending Ordinance is to change the name of the A.C.T. Health Authority to A.C.T. Community and Health Service and add additional functions to the organisation.

The additional functions relate to welfare matters such as direct financial and non-financial aid to the underprivileged, the adoption of children, services to assist the courts (such as the Youth Advocate and the Probation and Parole Service), the supervision of community service orders and the detention of both adult and child offenders (Belconnen Remand Centre, Quamby Youth Centre).

The organisation continues to have the same range of health functions as is the case with the Principal Ordinance.

The change in the name of the organisation is necessary to reflect its over-all functions. The name "Community" reflects the fact that the new functions are wider than the traditional concept of "welfare" and recognises the community aspects of the health functions which have been rationalised under the new arrangements.

The amalgamation of welfare and health functions promotes both greater efficiency (by encouraging less duplication) and co-ordination of the services provided to the community. It is expected it will bring about cost savings and improve service delivery.

The amending Ordinance also amends the Principal Ordinance by increasing Committees which may be appointed to advise or assist the Service from 5 to 7 members.

Details of the amending Ordinance are set out in the Attachment.

ATTACHMENT

Section 1 provides that the amending Ordinance shall have the short title of Community and Health Service (Amendment) Ordinance 1988.

Section 2 provides that the amending Ordinance will come into operation on 2 July 1988.

Section 3 refers to the Health Authority Ordinance 1985 as the Principal Ordinance.

Sections 4 and 5 changes the title and short title of the Principal Ordinance to Community and Health Service Ordinance 1985. This change helps identify the legislation with the new functions and name proposed the Australian Capital Territory Health Authority (the Authority).

Section 6 amends section 4 of the Principal Ordinance by replacing the definition of "Authority" with "Service" to reflect the new name of the Authority, the Australian Capital Territory Community and Health Service (the Service). The name of the Authority has been changed in this way to reflect an expansion in the Authority's functions to include non-health matters, such as welfare services, the detention of people on remand and adoptions. Those functions have for some time been described as "community services" and the name has been changed to include that description.

Section 7 alters the heading to part II of the Principal Ordinance. Instead of referring to the Authority it refers to the Service.

Section 8 alters the heading to Division 1 of Part II of the Principal Ordinance from "Establishment, functions and powers of the Authority", to "Constitution, functions and powers".

Section 9 amends section 5 of the Principal Ordinance by omitting subsection (1) and replacing it with a provision which preserves the continued existence of the corporate sole (a corporation made up of one person - in this case the General Manager) known as the Authority but changes its name to the Service. This provision eliminates the need for transitional provisions in the amending Ordinance. Legal proceedings, the vesting of property, contracts and other matters which would be affected by the establishment of a new corporation will remain undisturbed because the Service will continue to be the same corporate sole as the Authority. Section 9 of the amending Ordinance also changes several references from "Authority" to "Service". Those changes ensure the new name is reflected in the seal for the corporate sole and that the new name is legally recognised by the courts.

Section 10 replaces sections 6 and 7 of the Principal Ordinances with new sections, sections 6 and 7.

New section 6 provides for the functions of the corporate sole. These have been extended to include non-health functions. The prime functions are to arrange health and welfare services. New subsection 6(2) provides that health and welfare services include medical and hospital services, diagnostic, therapeutic and rehabilitation services, dental services, nursing services, public health services, ambulance and other transport services, research and advisory services, forensic

and veterinary laboratory services and health services in accordance with agreements entered into with other bodies (including the Commonwealth and bodies outside the Territory). All these functions were covered by subsection 6(2) of the Principal Ordinance (although some additional health services have been specified in new subsection 6(2) such as medical and hospital services). New subsection 6(2) also provides that health and welfare services include services in relation to the welfare needs of the community, (whether it be particular sections of the community or individuals), adoption of children, services to assist the Courts (such as the Youth Advocate), the supervision of people in accordance with community service orders and the lawful correction or detention of persons at places such as the Belconnen Remand Centre. These additional functions were the responsibility of the Department of the Arts, Sport, the Environment, Tourism and Territories and had to be added to those of the Authority to enable it to provide those services. As with the Authority, the Service is required to perform its functions in accordance with directions given by the Minister and provide him or her with information and proposals on request.

New section 7 provides for additional powers. The Service has powers previously held by the Authority including the power to acquire hold and dispose of real and personal property, to enter into contracts and agreements, to erect buildings, to occupy and use land made available by the Commonwealth, to accept gifts, devises and bequests, to let or hire plant and equipment, and to make available the services of staff, buildings and equipment for the provision of health services. All these powers are available to the Service to enable it to perform the health and welfare functions outlined in new section 6. The Service also has an additional power to provide financial and other assistance to persons or bodies on such conditions as it thinks fit. This includes financial assistance by means of grants and loans of money. The Authority previously never had a power to make grants except in accordance with agreements pursuant to paragraph 6(1)(b) of the Principal Ordinance. The requirement that the grant be in accordance with an agreement was not appropriate for the types of financial assistance provided as part of the welfare services. The welfare service often provides cash grants to the needy as well as non-financial assistance such as clothing. The new functions will make it necessary for the Service to have this additional power.

Sections 11 to 14 amend sections 43, 44, 45 and 47 of the Principal Ordinance by replacing references to "Authority" with "Service".

Section 15 replaces sections 48 and 49 of the Principal Ordinance with new sections 48 and 49. The new sections reflect contemporary provisions relating to the notification and review of decisions made under legislation.

New section 48 provides that the notice of a decision should include a statement that a person may make application for a review of a decision to the Administrative Appeals Tribunal and that the person may make application under section 28 of the Administrative Appeals Tribunal Act 1975 (AAT Act) for a statement of reasons for the decision where his or her interests are affected. Under section 49 of the Principal Ordinance a statement of reasons was required to be given as of course to the person who is the subject of the decision. That approach leads to the unnecessary provision of reasons in many cases. The change is now standard Commonwealth legislative policy and is more consistent with the AAT Act.

New section 49 provides for review of the same types of decisions listed in section 48 of the Principal Ordinance. The provision is worded more correctly by referring to subsection 44(1) rather than subsection 44(2) as the power under which a decision is made concerning clinical privileges. It is not necessary to provide for specific review of a decision concerning the hospital or other institution to which clinical privileges relate. The hospital at which the privileges relate is part of the general decision relating to the clinical privileges associated with the person's appointment pursuant to subsection 44(1) of the Principal Ordinance.

Section 16 changes the heading of Division 2 of Part VII of the Principal Ordinance from "Staff of the Authority" to "Staff of the Service".

Sections 17 to 19 amend sections 51, 70 and 71 of the Principal Ordinance by replacing references to "Authority" with "Service".

Section 20 amends section 75 of the Principal Ordinance to enable the Service to charge for accommodation and professional services provided as part of its new functions by means of a determination. Section 75 of the Principal Ordinance only allows charging by determination in relation to accommodation and professional services related to health functions.

Section 21 amends section 80 of the Principal Ordinance by replacing references to "Authority" with "Service".

Section 22 amends section 82 of the Principal Ordinance by increasing the size of the committee which may be appointed to advise or assist the Service from 5 members to 7 members.

Section 25 amends numerous provisions in the Principal Ordinance by replacing references to "Authority" with "Service".