

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

HEALTH AUTHORITY (AMENDMENT) ORDINANCE (NO. 2) 1987

ORDINANCE NO. 62 of 1987

Subsection 12(1) of the Seat of Government (Administration) Act 1910 provides that the Governor-General may make Ordinances for the peace, order and good government of the Australian Capital Territory.

The Health Authority (Amendment) Ordinance (No. 2, 1987, (the amending Ordinance) amends the Health Authority Ordinance 1985 (the Principal Ordinance) by abolishing the constitutive body of the ACT Health Authority. The Hospital Services Board and the Community Health Services Board each of which has seven members.

The amending Ordinance replaces those bodies with a single member ACT Health Authority will be constituted by the General Manager.

The change results from a budget decision to reduce the number of multi-member decision-making and advisory bodies in the ACT. Apart from saving costs in respect of remuneration for members, it was recognised that the reduction in the number of bodies and decision-makers should make the decision-making process more efficient.

The new single member Authority will be supported by a Committee and Service Development Groups as part of the Authority's proposals for health services delivery. These arrangements should ensure there is external input into matters which are presented to the Authority as a preliminary step to decision-making.

It was not considered necessary to include these arrangements in the amending Ordinance because Committees can be established by section 82 of the Principal Ordinance.

The amending Ordinance does not increase the functions of the ACT Health Authority and both staffing and financial provisions will remain unchanged in substance.

Section 1 contains the short title.

Section 2 allows the Minister to commence the Ordinance on a date notified in the Gazette.

Section 3 provides that the "Principal Ordinance" means the Health Authority Ordinance 1985.

Section 4 repeals Section 3 of the Principal Ordinance. Section 3 served its purpose when it repealed a schedule of a pre-existing Ordinance in 1985.

Section 5 removes the definitions of "Authority" and "Board" which refer to the bodies which are to be abolished. A new definition of "Authority" has been inserted to reflect the creation of a new single member body.

Section 6 replaces the Part and Division headings for Part II of the Principal Ordinance to reflect the new function of Part II which includes the establishment, functions, powers and administration of the ACT Health Authority.

Section 7 removes Section 5 of the Principal Ordinance and replaces it with a new provision which establishes a single member ACT Health Authority. Section 5 previously established the seven member Authority. New Section 5 constitutes the new Authority as a corporation sole which is technically different from the existing Authority which is a corporation aggregate.

Section 8 makes minor changes to Section 6 of the Principal Ordinance. Section 6 is concerned with the functions of the ACT Health Authority. The changes remove a need to prescribe what residents may be provided ambulance services outside the ACT and an unnecessary requirement that agreements to provide services should always be in writing. The substance of the functions of the new Authority remains unchanged from those of the existing Authority - to provide and conduct a range of health services.

Section 9 replaces reference to a "Common Seal" in sub-section 8(1) with reference to "seal". This change reflects the change in essence of the Authority from a corporation aggregate to a corporation sole and is a purely technical matter.

Section 10 inserts a new Division headed "Division 2 - Administration". The Division is made up of the following new provisions:-

New Section 9, which provides that the sole member of the new Authority is the General Manager. The new subsection also replaces Sections 20 and 21 of the Principal Ordinance by providing for the appointment by a Minister, (previously by the Governor-General), a 6 year term of office, retirement age and the fixing of terms and conditions of appointment for the General Manager. Apart from changing the appointment provisions from the Governor-General to the Minister, new Section 9 retains the essence of Sections 20 and 21.

New Section 10 provides for the remuneration of the General Manager. Under the Principal Ordinance remuneration was dealt with by Section 78A which allowed remuneration to be set by the Remuneration Tribunal. New Section 10 allows the continuance of subsisting determinations by that Tribunal concerning remuneration and allowances to be paid to the General Manager.

New Section 11 enables the Minister to grant the General Manager leave. Section 11 replaces identical Section 23 of the Principal Ordinance.

New Section 12 provides a procedure which enables the General Manager to resign in writing to the Minister. New Section 12 replaces Section 24 which requires that his or her resignation must be submitted to the Governor-General.

New Section 13 replaces existing Section 25. It differs in that the Minister rather than the Governor-General may terminate the appointment of the General Manager. As with Section 25 the General Manager's appointment can be terminated where he or she has misbehaved, suffers from physical or mental incapacity, becomes bankrupt, fails to disclose an interest, engages in other paid employment, is absent from duty without leave or is convicted of an offence punishable by imprisonment for 1 year or longer.

New Section 14 replaces existing Section 26 and is identical. It requires the General Manager to disclose all pecuniary interests he acquires in any business.

New Section 15 replaces existing Section 27 and is identical in substance except for the removal of reference to the Public Service Board. It provides for the appointment of an Acting General Manager during vacancies in the office of General Manager.

Section 11 of the amending Ordinance repeals Parts III, IV and V of the Principal Ordinance. Part III previously provided for the constitution, the seven person membership and meetings of the ACT Health Authority. Part IV provided for the appointment of the General Manager and the terms of that appointment. These matters are incorporated into proposed Division 2 of Part II. Part V provides for the constitution, the seven person membership, the powers and functions, and meetings of the Hospital Services and Community Health Services Boards. This provision has the effect of abolishing the existing ACT Health Authority and the Boards.

Sections 12 and 13 removes the requirement to obtain Public Service Board approval concerning the terms and conditions of officers and temporary employees under existing Sections 52 and 55. Sections 14 and 15 also remove references in Sections 57 and 58 of the Principal Ordinance to the Public Service Board. Under the previous provisions the classification and re-classification of staffing positions required Public Service Board approval. These amendments flow from government policy to devolve these powers on the abolition of the Board and the constitution of the Public Service Commission and from the direct instruction of the Commissioner.

Section 16 alters Section 62 of the Principal Ordinance to ensure that the General Manager cannot be appointed as the chairperson of a Promotion Appeal Board. This re-enacts the previous position where the General Manager could not be appointed by virtue of the fact that he or she was a member of the 7 member ACT Health Authority and was thereby excluded from appointment.

Section 17 amends Subsection 66(9) of the Principal Ordinance by omitting "General Manager" and substituting "Authority". As the General Manager is the sole member of the Authority the change introduces more universal terminology, but does not change the substance of Section 66.

Section 18 alters Section 68 of the Principal Ordinance to ensure that the General Manager cannot be appointed as the chairperson of the Staff Appeals Board in conformity with the provisions of Section 62.

Section 19 amends Section 69 of the Principal Ordinance by omitting "General Manager" and substituting "Authority". As the General Manager is the sole member of the Authority the change introduces more universal terminology, but does not change the substance of Section 69. The exception to this is new sub-Section 69(5) which sets a 28 day limit during which a person is required to be notified of the results of an investigation into complaints. Under the Principal Ordinance there was no time limit.

Section 20 repeals Section 78A of the Principal Ordinance. Section 78A dealt with the remuneration of Authority and Board members. As the Amending Ordinance abolished these bodies and the General Manager will be remunerated under new Section 19, Section 78A was no longer necessary.

Section 21 amends Section 81 of the Principal Ordinance to ensure the General Manager is bound to keep secret information acquired as part of his official duties. In its previous form, the provision would not be binding on the General Manager because it would only cover existing and former Authority members.

Section 22 deletes Subsection 82(3) of the Principal Ordinance as it is not in accordance with Government policy that Committees appointed under the Ordinance should be remunerated. Under the existing Ordinance they would be required to be remunerated pursuant to the provisions of the Remuneration Ordinance, 1976.

Section 23 repeals repeal Section 83 of the Principal Ordinance because the Officers Rights Declaration Act, 1928 has been repealed. Officers rights are now protected under the provisions of the Public Service Act.

Sections 24 and 25 repeal Part X and the Schedule to the Principal Ordinance because the transitional provisions and list of Ordinances have served their original purpose and are no longer required.

Part III of the amending Ordinance provides for transitional provisions which protect legal proceedings, bank accounts, rights and liabilities, the vesting of property, contracts and agreements, instruments, acts or things done, secrecy and the rights of staff engaged by the former Authority.