

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

HEALTH AUTHORITY (AMENDMENT) ORDINANCE (NO.3) 1987

NO. 69 OF 1987

SCHOOLS AUTHORITY (AMENDMENT) ORDINANCE 1987

NO. 70 OF 1987

The Health Authority Ordinance 1985 (the Principal Ordinance) provides for the establishment of the Australian Capital Territory Health Authority (the Authority). The functions of the Authority are, among other things, to provide and conduct health services in the Territory. The Principal Ordinance also provides for the appointment of a General Manager and for the establishment of the Hospital Services Board and the Community Health Services Board.

On 4 November 1987, the Health Authority (Amendment) Ordinance (No.2) 1987 was made, but it has not yet commenced operation. The Health Authority (Amendment) Ordinance (No.2) 1987, when it commences operation, will abolish the ACT Health Authority along with the Hospital Services Board and the Community Health Services Board and replace them with a single member ACT Health Authority constituted by the General Manager.

The Health Authority (Amendment) Ordinance (No.3) 1987 (the amending Ordinance) amends the Principal Ordinance by replacing section 82 with a new section in relation to the appointment of committees. By virtue of the new section 82, the Authority is able to appoint a committee of not more than five members to furnish advice to the Authority on such of its functions as the Authority refers to that committee or to assist the Authority in the performance of such of its functions as the Authority requires.

The General Manager of the existing Authority is deemed by the amending Ordinance to have been appointed to that position on the date the amending Ordinance is commenced.

The Schools Authority Ordinance 1976 provides for the establishment of the ACT Schools Authority. The functions of the Authority are, among other things, to establish and conduct schools and educational institutions in the Territory. The Ordinance also provides for the appointment of the Chief Education Officer and School Boards.

The Schools Authority (Amendment) Ordinance 1987 amends the Schools Authority Ordinance 1976 ("the Principal Ordinance") so that the ACT Schools Authority ("the Authority") will be constituted by a person known as the Chief Education Officer. A Schools Advisory Committee may be established at the discretion of the Authority to furnish advice to it with respect to such matters relating to the functions of the Authority as the Authority refers to it and to assist the Authority in the performance of such of its functions as the Authority requires.

The details of the Health Authority (Amendment) Ordinance (No.3) 1987 are set out in Attachment A. The details of the Schools Authority (Amendment) Ordinance 1987 are set out in Attachment B.

ISSUED BY AUTHORITY OF THE MINISTER
OF STATE FOR THE ARTS, SPORT, THE
ENVIRONMENT, TOURISM AND TERRITORIES

ATTACHMENT A

Section 1 cites the short title of the Ordinance.

Section 2 provides that the amending Ordinance shall come into operation on such date as is fixed by the Minister by notice in the Gazette.

Section 3 defines the "Principal Ordinance" as the Health Authority Ordinance 1985.

Section 4 inserts a new section 82 into the Principal Ordinance to the effect that the Authority may appoint a committee to advise the Authority or assist it in the performance of its functions as it requires.

Section 5 deems the General Manager of the abolished Health Authority to have been appointed to the same position within the new Authority on the date the amending Ordinance commences.

ATTACHMENT B

Section 1 deals with the citation of the Schools Authority (Amendment) Ordinance 1987.

Section 2 provides that the amending Ordinance shall come into operation on such date as is fixed by the Minister by notice in the Gazette.

Section 3 cites the Schools Authority Ordinance 1976 as the Principal Ordinance.

Section 4 amends section 4 of the Principal Ordinance by omitting the reference to "Acting Chief Education Officer", "Chairman" and "House of Assembly" and including a definition of "Chief Education Officer" as the person appointed under subsection 8(1) to be the Authority.

Section 5 repeals Parts III and IV of the Principal Ordinance and substitutes new Part III which will provide as follows:

- New subsection 8(1) empowers the Minister to appoint a person to be the Authority.
- New subsection 8(2) provides that the Authority will be a corporation sole with perpetual succession, will have an official seal and will be capable of suing and being sued.
- New subsection 8(3) provides for judicial notice to be taken of the seal of the Authority.
- New subsection 9(1) deals with the tenure of office of the Chief Education Officer and empowers the Minister to determine the terms and conditions of the Chief Education Officer.
- New subsection 9(2) allows the Chief Education Officer to be re-appointed.
- New subsection 9(3) clarifies that the Minister will not be able to determine terms and conditions relating to superannuation of the Chief Education Officer.
- New subsection 9(4) ensures that a person appointed as the Chief Education Officer will not be over 65 years of age during his or her term of office.
- New subsection 10(1) provides that the remuneration and allowances of the Chief Education Officer will be as prescribed.

- New subsection 10(2) clarifies that subsection 10(1) will not apply if there are any subsisting determinations applicable.
- New subsection 10(3) defines "determination" to mean a determination of the Remuneration Tribunal.
- New section 11 allows the Minister to grant leave of absence to the Chief Education Officer.
- New section 12 provides for the resignation of the Chief Education Officer.
- New subsection 13(1) empowers the Minister to terminate the appointment of the Chief Education Officer for misbehaviour or physical or mental incapacity.
- New subsection 13(2) requires the Minister to terminate the appointment of the Chief Education Officer for bankruptcy, absence without leave, or for engaging in paid employment for purposes outside the purposes of the Ordinance.
- New subsection 14(1) provides for the Minister to appoint a person to act as the Authority during a vacancy in, or absence of, the Authority.
- New subsection 14(2) allows an acting appointment to be expressed to have effect only in such circumstances as are specified.
- New subsection 14(3) provides for certain acting appointments to continue for a maximum of 12 months.
- New subsection 14(4) deals with the terms and conditions of an acting appointment.
- New subsection 14(5) provides for the resignation of a person appointed to act as the Authority.
- New subsection 14(6) ensures that a person appointed to act as the Authority will have the same powers and functions as the Authority.
- New subsection 14(7) validates things done by a person appointed to act as the Authority where there is some defect or irregularity related to the appointment or vacancy.

Section 6 amends subsection 45(3) of the Principal Ordinance by omitting "the Chairman of".

Section 7 amends section 46 of the Principal Ordinance by omitting references to "the Chairman", and substituting "the Authority".

Section 8 amends section 48B of the Principal Ordinance by omitting a reference to "the Chief Education Officer" and substituting "the Authority".

Section 9 repeals sections 51 and 52 of the Principal Ordinance and inserts a new section 51 to the effect that the Authority may appoint a committee of not more than five members to advise the Authority and assist it in the performance of such of its functions as it requires.

Section 10 amends section 54 which deals with the rights of the Chief Education Officer where the Chief Education Officer was immediately before his or her appointment, an officer of the Australian Public Service or a person to whom the Officer's Rights Declaration Act 1928 applied.

Section 11 repeals section 55 of the Principal Ordinance and substitutes a new section 55 so that a person who is or has been a Chief Education Officer, a person appointed to act as the Authority or a member of a school board shall be protected from any action or proceedings for anything done, in good faith, in the performance of his or her duties.

Section 12 deals with interpretation.

Section 13 vests all property, rights or assets vested in the former Authority in the new Authority and the new Authority will be liable to pay or discharge any debts, obligations or liabilities that existed before the commencement date of the proposed Ordinance.

Section 14 provides that contracts, arrangements or agreements entered into by the former Authority continue in force as if the new Authority were substituted for the former Authority and a reference in a contract, arrangement or agreement to the former Authority were a reference to the new Authority.

Section 15 provides that a reference in any instrument to the former Authority is to be construed as a reference to the new Authority.

Section 16 provides that an act or thing done by or on behalf of the former Authority shall be deemed to have been done by or on behalf of the new Authority.

Subsection 17(1) continues a cause of action by or against the former Authority as a cause of action by or against the new Authority.

Subsection 17(2) continues proceedings instituted by or against the former Authority as proceedings by or against the new Authority.

Subsection 17(3) clarifies that in proceedings instituted or continued by or against the new Authority, each party has the same rights and obligations as if the proceedings were instituted by or against the former Authority.

Section 18 provides that the person who was the Chief Education Officer appointed under the Principal Ordinance shall be deemed to have been appointed by the Minister under subsection 8(1) to be the new Authority and holds office for the remainder of the period for which the person was so appointed.

Section 19 continues the employment of staff of the former Authority so that a member of staff of the former Authority shall be deemed to be a member of staff of the new Authority.