



AUSTRALIAN CAPITAL TERRITORY

Ombudsman (Amendment) Act (No. 2) 1993

No. 97 of 1993

An Act to amend the *Ombudsman Act 1989*

[Notified in ACT Gazette S267: 24 December 1993]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Ombudsman (Amendment) Act (No. 2) 1993*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on the day on which Part II of the *Health Complaints Act 1993* commences.

Principal Act

3. In this Act, “Principal Act” means the *Ombudsman Act 1989*.¹

Interpretation

4. Section 3 of the Principal Act is amended—

(a) by inserting in subsection (1) the following definition:

“ ‘Commissioner for Health Complaints’ means the Commissioner for Health Complaints appointed under the *Health Complaints Act 1993*;”;

(b) by inserting “or Commissioner for Health Complaints” after “Commissioner” in paragraph (c) of the definition of “prescribed authority” in subsection (1).

Functions of Ombudsman

5. Section 5 of the Principal Act is amended—

(a) by inserting after paragraph (2) (cd) the following paragraph:

“(ce) action taken by—

- (i) the Commissioner for Health Complaints;
- (ii) a delegate of the Commissioner for Health Complaints;
- (iii) a member of the Health Complaints Unit, being the office established by section 6 of the *Health Complaints Act 1993*;
- (iv) a conciliator appointed under section 32 of that Act; or
- (v) a mentor appointed under section 38 of that Act;”;

(b) by omitting from paragraph (2) (d) “or” (last occurring);

(c) by adding at the end of paragraph (2) (e) “or”;

(d) by adding at the end of subsection (2) the following paragraph:

“(f) action taken by an agency—

- (i) for the purpose or in the course of providing, or purporting to provide, a health service; or
- (ii) in refusing to provide a health service.”;

(e) by adding at the end the following subsection:

“(6) In this section—

‘health service’ means a service provided or to be provided in the Territory for, or purportedly for, the benefit of the health of a person and includes a service specified in Part I of the Schedule to the *Health Complaints Act 1993*, but not a service specified in Part II of that Schedule.”.

Substitution

6. Section 37A of the Principal Act is repealed and the following section substituted:

Referral to Commissioner or Commissioner for Health Complaints

“37A. Where the Ombudsman forms the opinion that a complaint falls within the jurisdiction of—

- (a) the Commissioner; or
- (b) the Commissioner for Health Complaints;

the Ombudsman shall, whether or not he or she has commenced an inquiry, refer the complaint, together with relevant documents and information, to the Commissioner or the Commissioner for Health Complaints (as the case requires).”.

NOTE

1. Reprinted as at 31 August 1993.

[Presentation speech made in Assembly on 25 November 1993]