

AUSTRALIAN CAPITAL TERRITORY

Public Health (Amendment) Ordinance 1989

No. 10 of 1989

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 22 February 1989.

BILL HAYDEN
Governor-General

By His Excellency's Command,

CLYDE HOLDING
Minister of State for the Arts
and Territories

An Ordinance to amend the *Public Health Ordinance 1928*

Short title

1. This Ordinance may be cited as the *Public Health (Amendment) Ordinance 1989*.¹

(Ord. 87/88)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Principal Ordinance

2. In this Ordinance, “Principal Ordinance” means the *Public Health Ordinance 1928*.²

Interpretation

3. Section 4 of the Principal Ordinance is amended by inserting the following definition:

“ ‘determined fee’ means the fee determined under section 11A for the purpose of the provision of this Ordinance or the regulations in which the expression occurs;”.

Insertion

4. After section 5 of the Principal Ordinance the following sections are inserted:

Medical Officer of Health—appointment

“5A. (1) The Minister may, in writing, appoint a person registered as a medical practitioner under the *Medical Practitioners Registration Ordinance 1930* to be the Medical Officer of Health.

“(2) A person who has attained the age of 65 years shall not be appointed to be the Medical Officer of Health and a person shall not be so appointed for a period that extends beyond the date on which the person will attain the age of 65 years.

Tenure

“5B. The Medical Officer of Health holds office for such period, not exceeding 6 years, as is specified in the instrument of his or her appointment.

Terms and conditions

“5C. The Medical Officer of Health holds office on such terms and conditions (if any), in respect of matters not provided for by this Ordinance, as are determined by the Minister in writing.

Remuneration and allowances

“5D. (1) The Medical Officer of Health shall be paid such remuneration and allowances as are prescribed.

“(2) Subsection (1) does not apply—

- (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the Medical Officer of Health; or
- (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the Medical Officer of Health.

“(3) In subsection (2), ‘determination’ means a determination of the Remuneration Tribunal.

Leave of absence

“5E. The Minister may grant leave of absence to the Medical Officer of Health on such terms and conditions as to remuneration and otherwise as the Minister determines.

Resignation

“5F. The Medical Officer of Health may resign his or her office by writing delivered to the Minister.

Termination of appointment

“5G. (1) The Minister may terminate the appointment of the Medical Officer of Health for misbehaviour or physical or mental incapacity.

“(2) If the Medical Officer of Health—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit;
- (b) engages in paid employment outside the duties of the office of Medical Officer of Health without the approval of the Minister;
- (c) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any period of 12 months;
- (d) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer; or
- (e) ceases to be registered as a medical practitioner under the *Medical Practitioners Registration Ordinance 1930*;

the Minister shall terminate the appointment of the Medical Officer of Health.

Acting Medical Officer of Health

“5H. (1) The Minister may appoint a person to act as the Medical Officer of Health—

- (a) during a vacancy in the office of Medical Officer of Health, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Medical Officer of Health is absent from duty or from Australia or is for any other reason unable to perform the functions of that office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(2) The Minister shall not appoint a person under subsection (1) who—

- (a) is not registered as a medical practitioner under the *Medical Practitioners Registration Ordinance 1930*; or
- (b) has attained the age of 65 years.

“(3) Anything done by or in relation to a person purporting to act under subsection (1) is not invalid on the ground that—

- (a) the occasion for the person’s appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person’s appointment;
- (c) the person’s appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Delegation

“5I. The Medical Officer of Health may delegate any of his or her powers under this Ordinance.”.

Insertion

5. After section 11 of the Principal Ordinance the following sections are inserted:

Power of Minister to determine fees

“11A. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Ordinance.

Fees payable

“11B. A fee determined under section 11A is payable to the Service in relation to the matter specified in the notice referred to in that section, being a matter in respect of which the Minister may make regulations.”.

Regulations

6. Section 12 of the Principal Ordinance is amended—

- (a) by omitting paragraph (n); and
- (b) by omitting from paragraph (o) “, and the fees payable therefor”.

Further amendments

7. The Principal Ordinance is further amended as set out in the Schedule.

SCHEDULE

Section 7

FURTHER AMENDMENTS

Subsection 6 (1)—

Insert “or her” after “his”.

Section 6A—

Insert “or she” after “he”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 8 March 1989.
2. No. 21, 1928 as amended by Nos. 5 and 18, 1930; No. 29, 1933; No. 3, 1951; No. 19, 1966; No. 17, 1975; No. 26, 1979; No. 29, 1988.