

# AUSTRALIAN CAPITAL TERRITORY

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## Health Services Ordinance 1985

### No. 3 of 1985

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 15 February 1985.

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

LIONEL BOWEN

Attorney-General for and on behalf of the  
Minister of State for Health

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An Ordinance to amend the *Health Commission Ordinance 1975*

### PART I—PRELIMINARY

#### Short title

1. This Ordinance may be cited as the *Health Services Ordinance 1985*.<sup>1</sup>

#### Commencement

2. This Ordinance shall come into operation on 19 February 1985.

#### Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Health Commission Ordinance 1975*.<sup>2</sup>

## **PART II—AMENDMENTS OF THE PRINCIPAL ORDINANCE**

### **Long title**

4. The title of the Principal Ordinance is repealed and the following title substituted:

“An Ordinance to establish an Australian Capital Territory Health Authority and for related purposes”.

### **Short title**

5. Section 1 of the Principal Ordinance is amended by omitting “*Health Commission*” and substituting “*Health Services*”.

### **Interpretation**

6. Section 5 of the Principal Ordinance is amended by omitting from subsection (1) the definitions of “Commission” and “Commissioner” and substituting the following definitions:

“ ‘Authority’ means the Australian Capital Territory Health Authority established by this Ordinance;

“ ‘Authority member’ means a member of the Authority and includes the Chairman of the Authority;”.

### **Heading to Part II**

7. The heading to Part II of the Principal Ordinance is omitted and the following heading substituted:

“PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE AUTHORITY”.

8. Section 6 of the Principal Ordinance is repealed and the following section substituted:

### **Establishment of Authority**

“6. There is established by this Ordinance a body by the name of the Australian Capital Territory Health Authority.”.

### **Functions of Authority**

9. Section 7 of the Principal Ordinance is amended by omitting from subsection (1) “functions of the Commission” and substituting “functions of the Authority”.

### **Powers of Authority**

10. Section 8 of the Principal Ordinance is amended by omitting “Commission has power” and substituting “Authority has power”.

### **Heading to Part III**

11. The heading to Part III of the Principal Ordinance is omitted and the following heading substituted:

“PART III—CONSTITUTION AND MEETINGS OF THE AUTHORITY”.

12. Sections 9 and 10 of the Principal Ordinance are repealed and the following sections substituted:

### **Constitution of Authority**

“9. (1) The Authority—

- (a) is a body corporate;
- (b) has perpetual succession;
- (c) shall have a common seal; and
- (d) is capable of suing or being sued in its corporate name.

“(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

“(3) All courts, judges and persons acting judicially shall take judicial notice of—

- (a) the official signature of any person who holds or has held, or is acting in or has acted in, the office of the Chairman of the Authority; and
- (b) the fact that that person holds or has held, or is acting in or has acted in, that office,

if a signature purporting to be the signature of that person appears on any official document.

### **Membership of Authority**

“10. (1) The Authority shall consist of a Chairman and 2 other members.

“(2) The Authority members shall be appointed by the Governor-General and shall hold office, subject to this Ordinance, on such terms and conditions as the Governor-General determines.

“(3) At least one of the Authority members shall be a person who is a registered medical practitioner.

“(4) The performance of the functions or the exercise of the powers of the Authority is not affected by reason only of there being a vacancy or vacancies in the membership of the Authority.”.

### **Acting appointments**

**13.** Section 19 of the Principal Ordinance is amended by inserting in paragraph (1) (a) “, whether or not an appointment has previously been made to the office” after “Chairman”.

### **Interpretation**

**14.** Section 33 of the Principal Ordinance is amended by omitting from the definition of “Staff Council” in sub-section (1) “Capital Territory Health Commission” and substituting “Australian Capital Territory Health Authority”.

### **Heading to Division 2 of Part V**

**15.** The heading to Division 2 of Part V of the Principal Ordinance is amended by omitting “*Commission*” and substituting “*Authority*”.

### **Excess officer**

**16.** Section 47 of the Principal Ordinance is amended by omitting from sub-section (1) “Commission’s” and substituting “Authority’s”.

### **Staff Council**

**17.** Section 53 of the Principal Ordinance is amended by omitting “Capital Territory Health Commission” and substituting “Australian Capital Territory Health Authority”.

**18.** Section 97 of the Principal Ordinance is repealed and the following section substituted:

### **Interpretation**

“97. In this Part—

‘Board’ means the Canberra Hospitals Management Board preserved and continued in existence under the *Canberra Hospitals Ordinance 1938*;

‘Commission’ means the Capital Territory Health Commission.”.

### **Further amendments**

**19.** The Principal Ordinance is amended—

- (a) by omitting “Commission” (wherever occurring other than in subsection 33 (1), Part IX or a provision amended or repealed by this Ordinance) and substituting “Authority”; and
- (b) by omitting “Commissioner” and “Commissioners” (wherever occurring) and substituting “Authority member” and “Authority members”, respectively.

### **PART III—TRANSITIONAL PROVISIONS**

#### **Interpretation**

**20.** In this Part, unless the contrary intention appears—

“commencement date” means the date of commencement of this Ordinance;

“Commission” means the Capital Territory Health Commission as in existence immediately before the commencement date.

#### **Legal Proceedings**

**21. (1)** Where, before the commencement date, a cause of action by or against the Commission and arisen but proceedings in respect of that cause of action had not been instituted before that date, proceedings in respect of that cause of action may be instituted by or against the Authority.

**(2)** Where, before the commencement date, proceedings by or against the Commission has been instituted in a court, tribunal, commission or other body but those proceedings had not been completed before that date, those proceedings may be continued by or against the Authority.

**(3)** In proceedings instituted or continued pursuant to this section, each party to the proceedings has the same rights, and is subject to the same obligations, as if the Authority were the Commission and the proceedings had been continued by or against the Commission.

#### **Bank accounts**

**22.** A bank account maintained, immediately before the commencement date, by and in the name of the Commission shall, on and after that date, be deemed to be an account maintained by and in the name of the Authority.

#### **Rights and liabilities**

**23.** The rights, privileges, obligations and liabilities of the Commission immediately before the commencement date are, on and after that date, the rights, privileges, obligations and liabilities of the Authority.

### **Vesting of property**

**24.** All property, whether real or personal, moneys and other assets vested in the Commission immediately before the commencement date are, on that date, vested in the Authority on the same terms and conditions and subject to the same rights and liabilities.

### **Contracts and agreements**

**25.** A contract or agreement entered into by the Commission and in force immediately before the commencement date continues in force and has effect, on and after that date, as if—

- (a) the Authority were substituted for the Commission as a party to the contract or agreement; and
- (b) any reference in the contract or agreement to the Commission were (except in relation to matters that occurred before that date) a reference to the Authority.

### **Staff**

**26.** A person who was an officer or a temporary employee of the Commission immediately before the commencement date, shall, on and after that date, be deemed to be an officer or employee of the Authority and to have been appointed or engaged on terms and conditions that are the same as the terms and conditions applicable to the person immediately before that date.

### **Regulations and other instruments**

**27.** An instrument (including regulations) made, granted or issued under the Principal Ordinance and in force immediately before the commencement date has effect on and after that date as if a reference in that instrument to the Commission were a reference to the Authority.

### **Officers of Staff Council**

**28.** A person who was, immediately before the commencement date, the Chairman, the Deputy Chairman or a member of the Staff Council of the Commission under the Principal Ordinance shall be deemed to have been elected or appointed, as the case requires, as the Chairman, the Deputy Chairman or a member of the Staff Council of the Authority under the Principal Ordinance as amended by this Ordinance and holds office, subject to the

Principal Ordinance as so amended, for the remainder of the period for which the person was so appointed or elected.

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**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 18 February 1985.
2. No. 16, 1975 as amended by Nos. 33 and 46, 1978; Nos. 6 and 21, 1981; No. 39, 1982; No. 65, 1983; Nos. 20, 42 and 70, 1984.