



Australian Capital Territory

# **Health Professions Boards (Procedures) Act 1981**

**A1981-46**

**Republication No 2C**

**Effective: 5 September 1995 – 17 December 1995**

Republication date: 20 April 2009

Last amendment made by A1995-25

Authorised by the ACT Parliamentary Counsel

## **About this republication**

### **The republished law**

This is a republication of the *Health Professions Boards (Procedures) Act 1981* effective 5 September 1995 to 17 December 1995.

### **Kinds of republications**

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.



Australian Capital Territory

## **HEALTH PROFESSIONS BOARDS (PROCEDURES) ACT 1981**

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

### **TABLE OF PROVISIONS**

Section

#### **PART I—PRELIMINARY**

1. Short title
2. Application
3. Interpretation

#### **PART II—STATUS AND MEMBERSHIP OF BOARDS**

4. Status of Boards
5. Appointment of Chairperson and members
- 5A. Eligibility for appointment
6. Deputy Chairperson
7. Acting members
8. Term of office of appointed members
9. Term of office of elected members
10. Resignation
11. Vacation of office
12. Leave of absence
13. Remuneration
14. Vacancy in membership

*Health Professions Boards (Procedures) Act 1981*

**TABLE OF PROVISIONS—continued**

Section	
15.	Protection of members
<b>PART III—MEETINGS OF BOARDS</b>	
16.	Meetings of Boards
17.	Presiding member
18.	Quorum
19.	Voting
20.	Records
21.	Motions and resolutions
22.	Boards may determine procedures
22A.	Minister may direct Board to conduct proceeding
<b>PART IV—PROCEEDINGS BEFORE BOARDS</b>	
23.	Conduct of proceedings
24.	Notice of proceeding
25.	Procedure of Boards
26.	Proceedings to be in public
27.	Boards may inspect documents
28.	Powers of Boards
29.	Representation before Boards
30.	Opportunity to make submissions
31.	Decisions of Boards
32.	Assistance for Boards
33.	Protection of witnesses etc.
34.	Allowances to witnesses
35.	Failure of witness to attend
36.	Refusal to be sworn or to answer questions
<b>PART V—MISCELLANEOUS</b>	
38.	Evidence
39.	Disclosure of pecuniary interest
40.	Offences in relation to Boards
41.	Impartiality of Boards



Australian Capital Territory

## HEALTH PROFESSIONS BOARDS (PROCEDURES) ACT 1981

An Act relating to the procedures of certain professional registration boards

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Health Professions Boards (Procedures) Act 1981*.<sup>1</sup>

#### Application

2. The provisions of this Act shall not apply to, or in relation to, a Board until the date fixed by the Minister, by notice in the *Gazette*, as the date on and after which the provisions of this Act are to apply to, and in relation to, that Board.

#### Interpretation

3. In this Act, unless the contrary intention appears—

“barrister and solicitor” has the same meaning as in the *Legal Practitioners Act 1970*;

“Board” means—

- (aa) the Chiropractors and Osteopaths Board established under the Chiropractors and Osteopaths Act;
- (a) the Dental Board established under the Dentists Act;

*Health Professions Boards (Procedures) Act 1981*

- (b) the Medical Board established under the Medical Practitioners Act;
- (c) the Nurses Board established under the Nurses Act;
- (d) the Optometrists Board established under the Optometrists Act;
- (e) the Pharmacy Board established under the Pharmacy Act;
- (f) the Physiotherapists Board established under the Physiotherapists Act;
- (fa) the Podiatrists Board established under the Podiatrists Act;
- (fb) the Psychologists Board established under the Psychologists Act; or
- (g) the Veterinary Surgeons Board established under the Veterinary Surgeons Act;

“Chairperson” means the Chairperson of a Board;

“Chiropractors and Osteopaths Act” means the *Chiropractors and Osteopaths Act 1983*;

“Dentists Act” means the *Dentists Act 1931*;

“Deputy Chairperson” means the Deputy Chairperson of a Board;

“elected member” means a member of the Board elected in accordance with the Election Act;

“Election Act” means the *Health Professions Boards (Elections) Act 1980*;

“Medical Practitioners Act” means the *Medical Practitioners Act 1930*;

“member” means a member of a Board, and includes the Chairperson;

“Nurses Act” means the *Nurses Act 1988*;

“Optometrists Act” means the *Optometrists Act 1956*;

“Pharmacy Act” means the *Pharmacy Act 1931*;

“Physiotherapists Act” means the *Physiotherapists Act 1977*;

“Podiatrists Act” means the *Podiatrists Act 1994*;

*Health Professions Boards (Procedures) Act 1981*

“proceeding” means—

- (aa) in relation to the Chiropractors and Osteopaths Board—an inquiry by the Board under section 32 of the Chiropractors and Osteopaths Act;
- (a) in relation to the Dental Board—an inquiry by the Board under section 31 of the Dentists Act;
- (b) in relation to the Medical Board—an inquiry by the Board under section 42 of the Medical Practitioners Act;
- (c) in relation to the Nurses Board—an inquiry by the Board under section 40 of the Nurses Act;
- (d) in relation to the Optometrists Board—an inquiry by the Board under section 40 of the Optometrists Act;
- (e) in relation to the Pharmacy Board—an inquiry by the Board under section 41 of the Pharmacy Act;
- (f) in relation to the Physiotherapists Board—an inquiry under section 30F of the *Physiotherapists Act 1977*;
- (fa) in relation to the Podiatrists Board—an inquiry by the Board under section 38 of the Podiatrists Act;
- (fb) in relation to the Psychologists Board—an inquiry by the Board under section 38 of the Psychologists Act; or
- (g) in relation to the Veterinary Surgeons Board—an inquiry by the Board under section 25J of the Veterinary Surgeons Act;
- (h) in relation to the Podiatrists Board—an inquiry under section 38 of the *Podiatrists Act 1994*;

“Psychologists Act” means the *Psychologists Act 1994*;

“Veterinary Surgeons Act” means the *Veterinary Surgeons Act 1965*.

## **PART II—STATUS AND MEMBERSHIP OF BOARDS**

### **Status of Boards**

**4. (1)** Each Board—

- (a) is a body corporate with perpetual succession;

- (b) shall have a common seal; and
- (c) may sue and be sued in its corporate name.

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

### **Appointment of Chairperson and members**

5. (1) The Chairperson and each member of a Board, other than a member of that Board elected pursuant to the Election Act, shall be appointed by the Minister.

(2) The Minister shall cause a notice of each appointment made under subsection (1) to be published in the *Gazette*.

### **Eligibility for appointment**

5A. A person is not eligible for appointment as a member if the person is an elected member or is a candidate for an election under the Election Act.

### **Deputy Chairperson**

6. (1) The members of a Board shall, from time to time, as occasion requires, elect 1 of their number to be the Deputy Chairperson of that Board.

(2) Forthwith after the election of a Deputy Chairperson of a Board, the Chairperson of that Board shall—

- (a) inform the Minister in writing of the election of the Deputy Chairperson; and
- (b) cause a notice of the election of the Deputy Chairperson to be published in the *Gazette*.

(3) A Deputy Chairperson holds office for a period of 12 months from the date of his or her election, unless he or she sooner ceases to be a member, and is eligible for re-election.

(4) The Deputy Chairperson of a Board may resign his or her office of Deputy Chairperson by writing signed by him or her and delivered to the Chairperson of that Board.

(5) Subject to this Act, a Deputy Chairperson has, and may exercise, all the powers and may perform all the functions of the Chairperson.

**Acting members**

**7. (1)** The Minister may appoint a person to act as a member of a Board (otherwise than as Chairperson)—

- (a) during a vacancy in an office of a member, whether or not an appointment has previously been made, or a person has previously been elected, to the office; or
- (b) during any period, or during all periods, when a member is absent from duty or from the Territory or, for any other reason, is unable to perform the functions of this 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 to act as a member of a Board in accordance with subsection (1) unless the person is eligible for appointment by the Minister as a member of that Board.

**(3)** The Minister may at any time terminate the appointment of a person appointed to act in accordance with subsection (1).

**(4)** A person appointed under this section may resign his or her appointment by writing signed by him or her and delivered to the Minister.

**(5)** While a person is acting as a member of a Board in accordance with this section, the person has, and may exercise, all the powers and may perform all the functions of a member.

**(6)** The validity of anything done by a person purporting to act in accordance with this section shall not be called in question on the ground that the occasion for his or her appointment had not arisen, that there is a defect or irregularity in or in connection with his or her appointment, that the appointment had ceased to have effect or that the occasion for him or her to act had not arisen or had ceased.

**Term of office of appointed members**

**8. (1)** Subject to this Act, a member appointed by the Minister shall hold office for such period, not exceeding 3 years, as is specified in the instrument of the person's appointment, but is eligible for re-appointment.

**(2)** A person who has attained the age of 65 years shall not be appointed or re-appointed as a member and a person shall not be appointed or re-appointed

as a member for a period that extends beyond the date on which he or she will attain the age of 65 years.

(3) This section does not apply to or in relation to the Chairperson of the Veterinary Surgeons Board established under the Veterinary Surgeons Act.

**Term of office of elected members**

9. (1) Subject to this Act, an elected member shall hold office for such period as is determined in accordance with this section, but is eligible for re-election.

(2) If an elected member attains the age of 65 years before the day on which his or her term of office would, but for this subsection, expire, his or her term of office shall expire on the day on which he or she attains that age.

(3) The term of office of an elected member shall commence—

- (a) if the member was elected at the first election of members—on a date to be determined by the Minister; and
- (b) in any other case—
  - (i) on the day on which the member is declared elected; or
  - (ii) if that day occurs before the expiration of the term of office of the previously elected members, on the day after the expiration of that term.

(4) The term of office of an elected member shall expire—

- (a) 3 years after the day on which his or her term of office commenced;
- (b) if the member was elected at an election held immediately succeeding an election in respect of which the number of candidates elected was less than the number of candidates required to be elected—on the day on which the term of office of a member who was elected at that last-mentioned election expires;
- (c) if the member was elected in pursuance of Part VI of the Election Act—on the day on which his or her term of office would have expired if he or she had been declared elected in accordance with subsection 12 (1) or 25 (1) of that Act, as the case required; or
- (d) if the member was elected at an election held for the purpose of filling the office of a member that had become vacant by virtue of the operation of subsection (2) or section 10 or 11—on the day on which

the term of office of the other member would, but for the operation of that subsection or section, as the case may be, have expired.

### **Resignation**

**10.** A Chairperson or other member may resign his or her office of Chairperson or member, as the case may be, by writing signed by him or her and delivered to the Minister.

### **Vacation of office**

**11. (1)** The Minister may at any time remove a member from office for misbehaviour or physical or mental incapacity.

**(2)** If a member—

- (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) is convicted in Australia of an offence punishable by imprisonment for 1 year or longer;
- (c) is absent without leave granted under section 12 from 3 consecutive meetings of the Board of which he or she is a member; or
- (d) ceases to be a registered practitioner,

the Minister shall remove the member from office.

**(3)** Where a person who has been elected as a member in accordance with the Election Act ceases to be a registered practitioner before the day on which the term of office of the person as a member would, but for this subsection, commence, the office to which the person has been elected shall, on that day, become vacant.

**(4)** In this section, “registered practitioner” means—

- (aa) in relation to a member of the Chiropractors and Osteopaths Board—a person registered as a chiropractor or osteopath under the Chiropractors and Osteopaths Act;
- (a) in relation to a member of the Dental Board—a person registered as a dentist under the Dentists Act;
- (b) in relation to a member of the Medical Board—a person registered as a medical practitioner under the Medical Practitioners Act;

*Health Professions Boards (Procedures) Act 1981*

- (c) in relation to a member of the Nurses Board—a person registered or enrolled as a nurse under the Nurses Act;
- (d) in relation to a member of the Optometrists Board—a person registered as an optometrist under the Optometrists Act;
- (e) in relation to a member of the Pharmacy Board—a person registered as a pharmacist under the Pharmacy Act;
- (f) in relation to a member of the Physiotherapists Board—a person registered as a physiotherapist under the Physiotherapists Act;
- (fa) in relation to a member of the Podiatrists Board—a person registered as a podiatrist under the Podiatrists Act;
- (fb) in relation to a member of the Psychologists Board—a person registered as a podiatrist under the Psychologists Act; and
- (g) in relation to a member of the Veterinary Surgeons Board—a person registered as a veterinary surgeon under the Veterinary Surgeons Act.

**Leave of absence**

**12. (1)** The Minister may grant leave of absence to a Chairperson upon such terms and conditions as the Minister determines.

**(2)** The Chairperson of a Board may grant leave of absence to a member of that Board for such period, not exceeding 1 year, and upon such terms and conditions as the Chairperson determines.

**Remuneration**

**13. (1)** Subject to this section, a member is not entitled to be paid in respect of any duties or functions performed by him or her in his or her capacity as a member.

**(2)** A member is entitled to reimbursement for any expenses reasonably incurred by him or her in the performance of his or her duties or functions in his or her capacity as a member.

**Vacancy in membership**

**14.** The performance of the functions, or the exercise of the powers of a Board is not affected by reason only of there being a vacancy or vacancies in the membership of the Board.

**Protection of members**

**15.** No action or suit shall be brought or maintained against a member of a Board for or in respect of any act or thing done in good faith by the member in his or her capacity as a member.

**PART III—MEETINGS OF BOARDS**

**Meetings of Boards**

**16. (1)** A Board shall hold such meetings as are necessary for the performance of its functions.

**(2)** The Chairperson of a Board may, at any time, by notice in writing to the other members of that Board, convene a meeting of that Board at the time and place specified in the notice.

**(3)** The Minister may, by notice in writing to each member of a Board, direct that a meeting of that Board be held at the time and place specified in the notice.

**(4)** Where, at any time, a majority of the members of a Board requests the Chairperson in writing to convene a meeting of that Board, the Chairperson shall convene a meeting of that Board in accordance with the request.

**(5)** A Board may invite a person to attend a meeting of the Board for the purpose of advising or informing the Board on any matter.

**Presiding member**

**17. (1)** The Chairperson of a Board shall preside at all meetings of that Board at which he or she is present.

**(2)** In the absence of the Chairperson from any meeting, the Deputy Chairperson shall preside.

**(3)** In the absence of the Chairperson and the Deputy Chairperson from any meeting, the members present and constituting a quorum shall elect 1 of their number to preside at the meeting.

**Quorum**

**18. (1)** At a meeting of a Board, a quorum consists of the member presiding at the meeting and such number of other members as, together with the member so presiding, constitute a majority of that Board.

*Health Professions Boards (Procedures) Act 1981*

(2) In this section, “majority” in relation to a Board means a majority of members calculated on the basis of the total membership of that Board, including any vacancies in the membership.

**Voting**

19. (1) Subject to this section, questions arising at a meeting of a Board shall be determined by a majority of the votes of the members present and voting.

(2) At a meeting of a Board at which he or she is presiding, the Chairperson or the Deputy Chairperson has a deliberative vote, and, in the event of equality of voting, a casting vote.

(3) If, at a meeting of a Board at which the Chairperson or the Deputy Chairperson is not presiding, the members present differ upon a question, the determination of that question shall be postponed until the next meeting of the Board.

(4) Voting at a meeting of a Board shall be by show of hands or, if a vote by ballot is called for by a member present at the meeting, by ballot.

**Records**

20. (1) Each Board shall keep records of its meetings, proceedings and decisions.

(2) Upon the signing of the record of any meeting of a Board by the member presiding at a subsequent meeting of the Board, that record shall be treated by the Board as binding and conclusive.

**Motions and resolutions**

21. (1) A motion shall not be proposed at a meeting of a Board unless notice in writing of the motion has been given to the Chairperson at least 7 days before the date fixed for holding the meeting.

(2) The Chairperson shall cause a motion of which notice has been given to him or her under subsection (1) to be included in the notice convening the meeting.

(3) No resolution passed, or any act, matter or thing done or authorized to be done, by or at any meeting of a Board, shall be rescinded, amended, cancelled or revoked at any subsequent meeting unless a notice of the proposed

rescission, amendment, cancellation or revocation has been given in the notice convening that meeting.

**Boards may determine procedures**

**22.** Subject to this Act, the procedure for the purposes of a meeting of each Board shall be as that Board determines.

**Minister may direct Board to conduct proceeding**

**22A. (1)** The Minister may, by notice in writing to the Chairperson or, in the absence of the Chairperson, to the Deputy Chairperson of a Board, direct that the Board conduct a proceeding in relation to the matter specified in the notice.

**(2)** Where the Minister gives a direction under subsection (1) that a Board conduct a proceeding, the Board shall conduct the proceeding accordingly.

**(3)** Nothing in this section shall be construed as limiting the power of a Board to conduct a proceeding without a direction being given by the Minister under subsection (1).

**PART IV—PROCEEDINGS BEFORE BOARDS**

**Conduct of proceedings**

**23. (1)** The Chairperson of a Board or, in the absence of the Chairperson, the Deputy Chairperson of that Board, shall preside at a hearing of a proceeding before that Board.

**(2)** A Board shall not conduct a hearing of a proceeding unless the number of members present for the purpose of conducting that hearing, together with the Chairperson or the Deputy Chairperson presiding at the hearing, constitutes a majority of the members of that Board.

**Notice of proceeding**

**24. (1)** A Board shall not begin the hearing of a proceeding unless the Chairperson has caused a notice in writing to be served on each party to the proceeding.

**(2)** A notice under subsection (1) shall—

**(a)** state the date, time and place of the hearing of the proceeding;

*Health Professions Boards (Procedures) Act 1981*

- (b) identify the provisions of the Act under which the proceeding is instituted;
- (c) contain, where practicable, a statement of the matters to be considered at the hearing of the proceeding; and
- (d) be served on each party to the proceeding a reasonable time before the date referred to in paragraph (a).

(3) A notice under subsection (1) may be served on a person by delivery to that person personally or by post addressed to that person at his or her professional or residential address last known to the Chairperson or the Deputy Chairperson.

**Procedure of Boards**

**25. (1)** In a proceeding before a Board—

- (a) the proceeding shall be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act and of every other relevant enactment and a proper consideration of the matters before the Board permit; and
- (b) The Board is not bound by the rules of evidence but may inform itself of any matter in such manner as it thinks appropriate.

(2) The Chairperson or Deputy Chairperson presiding at a hearing of a proceeding before a Board may, in respect of a matter not dealt with by this Act, give direction as to the procedure to be followed at or in connection with the hearing.

(3) In this section, “enactment” means—

- (a) an Act;
- (b) an Ordinance of a Territory; or
- (c) an instrument (including rules, regulations or by-laws) made under an Act or an Ordinance,

and includes an enactment as amended by another enactment.

**Proceedings to be in public**

**26. (1)** Subject to this section, the hearing of a proceeding before a Board shall be in public.

*Health Professions Boards (Procedures) Act 1981*

(2) Where a Board is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or for any other reason, the Board may—

- (a) direct that a hearing or part of a hearing shall take place in private and give directions as to the persons who may be present;
- (b) give directions prohibiting or restricting the publication of evidence given before the Board, whether in public or in private, or of matters contained in documents lodged with the Board or received in evidence by the Board; and
- (c) give directions prohibiting or restricting the disclosure to some or all of the parties to a proceeding of evidence given before the Board, or of the contents of a document lodged with the Board, in relation to the proceedings.

(3) A person shall not fail to comply with a direction given by the Board in pursuance of paragraph (2) (b) or (c).

Penalty: \$1,000 or imprisonment for 6 months.

**Boards may inspect documents**

27. A Board may inspect any books, documents or writings that are relevant to a proceeding before the Board, and may retain such books, documents or writings, and may make copies of such parts of them as it thinks fit for the purposes of that proceeding.

**Powers of Boards**

28. (1) A Board may for the purposes of a proceeding before it—

- (a) take evidence on oath or affirmation;
- (b) proceed in the absence of a party who has had reasonable notice of the proceeding; and
- (c) adjourn the proceeding from time to time.

(2) The Chairperson of a Board may, for the purposes of the hearing of a proceeding before that Board—

- (a) summon a person to appear before the Board at that hearing to give evidence and to produce such documents (if any) as are referred to in the summons;

*Health Professions Boards (Procedures) Act 1981*

- (b) require a person appearing before the Board at that hearing to give evidence either to take an oath or to make an affirmation; and
- (c) administer an oath or affirmation to a person so appearing before the Board.

(3) A summons under this section may be served on a person by delivery to that person personally or by post addressed to that person at his or her professional or residential address last known to the Chairperson or the Deputy Chairperson.

### **Representation before Boards**

29. (1) At the hearing of a proceeding before a Board, a party to the proceeding may appear in person or may be represented by some other person.

(2) A person summoned to appear before a Board under section 28 may request that he or she be represented by some other person and, upon such request being made, the Board may allow such person to be so represented.

### **Opportunity to make submissions**

30. Subject to section 26, a Board shall ensure that every party to a proceeding before the Board is given a reasonable opportunity to present his or her case and, in particular, to inspect any documents to which the Board proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to those documents.

### **Decisions of Boards**

31. Where the members of a Board are divided in opinion as to the decision to be made—

- (a) if there is a majority of the one opinion—the decision shall be made according to the opinion of the majority; or
- (b) in any other case—the decision shall be made according to the opinion of the Chairperson.

### **Assistance for Boards**

32. (1) The Minister may appoint a barrister and solicitor to assist a Board in a proceeding before it.

(2) The Chairperson may appoint a person to assist the Board in a proceeding before it.

**Protection of witnesses etc.**

**33. (1)** A person who represents a party in proceedings before a Board, or who assists the Board in a proceeding before it, has the same protection and immunity as a barrister and solicitor has in appearing for a party in proceedings in the Supreme Court.

**(2)** A witness in proceedings before a Board has the same protection as a witness in proceedings in the Supreme Court.

**Allowances to witnesses**

**34. (1)** A person who attends for the purpose of giving evidence before a Board is entitled to receive such fees and travelling expenses in accordance with the scale in the Second Schedule to the Public Works Committee Regulations as in force from time to time under the *Public Works Committee Act 1969* of the Commonwealth as the Chairperson of that Board determines.

**(2)** Subject to this section, fees and expenses payable to a person in accordance with subsection (1) are payable—

- (a) in the case of a person who attends before a Board, whether on summons or not, by reason of a request by a person other than the Minister—by the person at whose request the first-mentioned person attended; or
- (b) in any other case—by the Territory.

**(3)** Where, in a case to which paragraph (2) (a) applies, it was, in the opinion of the Board, reasonable for the request by reason of which the person attended before the Board to have been made, the Board may order that the fees and expenses of the person shall be paid, in whole or in part, by the Territory.

**(4)** Where a Board makes an order under subsection (3) for the payment of fees and expenses, the fees and expenses are payable by the Territory.

**Failure of witness to attend**

**35.** A person served with a summons to appear as a witness before a Board shall not, without reasonable excuse—

- (a) fail to attend as required by the summons; or
- (b) fail to appear and report himself or herself from day to day unless excused, or released from further attendance, by a member.

Penalty: \$1,000 or imprisonment for 6 months.

**Refusal to be sworn or to answer questions**

**36. (1)** A person appearing as a witness before a Board shall not, without reasonable excuse—

- (a) when required in pursuance of section 28 either to take an oath or make an affirmation—refuse or fail to comply with the requirement;
- (b) refuse or fail, except as provided by section 57 of the *Evidence Ordinance 1971*, to answer a question that he or she is required to answer by the Chairperson presiding at the proceeding; or
- (c) refuse or fail to produce a document that is relevant to the proceeding before the Board and that he or she was required to produce by a summons served on him or her under this Act.

Penalty: \$1,000 or imprisonment for 6 months.

**(2)** A statement or disclosure made before a Board by a witness is not, except in proceedings for giving false testimony at the hearing of a proceeding by the Board, admissible in evidence against him or her in civil or criminal proceedings in a court.

**PART V—MISCELLANEOUS**

**Evidence**

**38. (1)** A document that purports to be signed by a Chairperson or a Deputy Chairperson shall be taken to be so signed unless the contrary is proved.

**(2)** A document that purports to be a record of the terms of a decision of a Board, and to be certified by the Chairperson or Deputy Chairperson of the Board to be a true record of the decision is, in any proceedings, *prima facie* evidence of the decision.

**Disclosure of pecuniary interest**

**39. (1)** A member of a Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by that Board shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Board.

**(2)** A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not, unless the Minister or the Board otherwise determines—

*Health Professions Boards (Procedures) Act 1981*

- (a) be present during any deliberation of the Board with respect to that matter; or
- (b) take part in any decision of the Board with respect to that matter.

**(3)** For the purpose of the making of a determination by a Board under subsection (2) in relation to a member of that Board who has made a disclosure under subsection (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the Board for the purpose of making the determination; or
- (b) take part in the making by the Board of the determination.

**(4)** Where a member fails, without reasonable excuse, to comply with this section, the Minister shall remove the member from office.

**Offences in relation to Boards**

**40.** A person shall not—

- (a) insult a member of a Board in or in relation to the exercise of his or her powers or functions as a member;
- (b) interrupt the proceedings of a Board; or
- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where a Board is sitting.

Penalty: \$1,000 or imprisonment for 6 months.

**Impartiality of Boards**

**41.** Subject to this Act, a Chairperson or other member of a Board shall not be subject to the direction of any other person in respect of any act or thing done in his or her capacity as Chairperson or other member of that Board.

*Health Professions Boards (Procedures) Act 1981*

**NOTE**

1. The *Health Professions Boards (Procedures) Act 1981* as shown in this reprint comprises Act No. 46, 1981 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

**Table of Ordinances**

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Health Professions Boards (Procedures) Ordinance 1981</i>	46, 1981	9 Dec 1981	9 Dec 1981	
<i>Health Professions Boards (Procedures) (Amendment) Ordinance 1982</i>	85, 1982	20 Oct 1982	20 Oct 1982	—
<i>Health Professions Boards (Procedures) (Amendment) Ordinance 1983</i>	64, 1983	30 Dec 1983	30 Dec 1983	—
<i>Health Professions Boards (Procedures) (Amendment) Ordinance 1986</i>	68, 1986	24 Oct 1986	27 Oct 1986 (see <i>Gazette</i> 1986, No. S537)	—
<i>Community and Health Service (Consequential Provisions) Ordinance 1988</i>	29, 1988	30 June 1988	2 July 1988	S. 4
<i>Health Professions Boards (Procedures) (Amendment) Ordinance 1988</i>	59, 1988	7 Sept 1988	5 Dec 1988 (see <i>Gazette</i> 1988, No. S369)	—
<i>Self-Government (Consequential Amendments) Ordinance 1989</i>	38, 1989	10 May 1989	Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164)	—

**Self-Government day 11 May 1989**

*Health Professions Boards (Procedures) Act 1981*

**NOTE—continued**

Table 2

**Table of Acts**

Act	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Health Services (Consequential Provisions) Act 1990</i>	63, 1990	28 Dec 1990	Ss. 1 and 2: 28 Dec 1990 Remainder: 31 Jan 1991 (see s. 2 (2) and <i>Gazette</i> 1991, No. S4)	Ss. 6-17
<i>Health (Consequential Provisions) Act 1993</i>	14, 1993	1 Mar 1993	1 Mar 1993 (see s. 2)	Parts IV-VI (ss. 14-34)
<i>Administrative Appeals (Consequential Amendments) Act 1994</i>	60, 1994	11 Oct 1994	Ss. 1 and 2: 11 Oct 1994 Remainder: 14 Nov 1994 (see s. 2 (2) and <i>Gazette</i> 1994, No. S250)	—
<i>Health Legislation (Consequential Amendments) Act 1994</i>	88, 1994	15 Dec 1994	Ss. 1-3: 15 Dec 1994 Remainder: 15 June 1995	—
<i>Annual Reports (Government Agencies) (Consequential Provisions) Act 1995</i>	25, 1995	5 Sept 1995	5 Sept 1995	—

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
S. 3 .....	am. No. 68, 1986; Nos. 29 and 59, 1988; Act No. 63, 1990; No. 88, 1994
S. 5 .....	am. Act No. 88, 1994
S. 5A .....	ad. No. 59, 1988
Ss. 6-8 .....	am. Act No. 88, 1994
S. 9 .....	am. No. 59, 1988; Act No. 88, 1994
S. 10 .....	am. Act No. 88, 1994
S. 11 .....	am. No. 68, 1986; No. 59, 1988; Act No. 88, 1994
Ss. 12, 13.....	am. Act No. 88, 1994
Ss. 15-17 .....	am. Act No. 88, 1994
S. 19 .....	am. Act No. 88, 1994
S. 21 .....	am. Act No. 88, 1994
S. 22A.....	ad. No. 64, 1983 am. Act No. 88, 1994

*Health Professions Board (Procedures) Act 1981*

**NOTE**—continued

**Table of Amendments**—continued

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

---

Provision	How affected
Ss. 23-25 .....	am. Act No. 88, 1994
S. 26 .....	am. No. 85, 1982
Ss. 28-30 .....	am. Act No. 88, 1994
S. 31 .....	am. No. 59, 1988; Acts Nos. 60 and 88, 1994
S. 32 .....	am. No. 68, 1986; No. 38, 1989; Act No. 88, 1994
S. 33 .....	am. No. 68, 1986
S. 34 .....	am. No. 29, 1988; Act No. 63, 1990; No. 14, 1993; No. 88, 1994
Ss. 35, 36.....	am. Act No. 88, 1994
S. 37 .....	am. Act No. 88, 1994 rep. No. 25, 1995
Ss. 38-40 .....	am. Act No. 88, 1994
S. 41 .....	am. No. 64, 1983; Act No. 88, 1994
S. 42 .....	rep. No. 59, 1988

---

© Australian Capital Territory 2009