



Australian Capital Territory

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

**A1981-46**

**Republication No 8**

**Effective: 10 January 2005**

Republication date: 10 January 2005

Last amendment made by A2004-60

Not all amendments are in force: see last endnote  
Uncommenced repeal: see endnote 3

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Health Professions Boards (Procedures) Act 1981* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 10 January 2005. It also includes any amendment, repeal or expiry affecting the republished law to 10 January 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### 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.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Health Professions Boards (Procedures) Act 1981

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R8  
10/01/05

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Australian Capital Territory

# Health Professions Boards (Procedures) Act 1981

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An Act relating to the procedures of certain professional registration boards

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10/01/05

Health Professions Boards (Procedures) Act 1981  
Effective: 10/01/05

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Health Professions Boards (Procedures) Act 1981*.

### **U** 3 Definitions for Act

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

**board** means—

- (a) the Chiropractors and Osteopaths Board established under the Chiropractors and Osteopaths Act; or
- (b) the Dental Board established under the Dentists Act; or
- (c) the Medical Board established under the Medical Practitioners Act; or
- (d) the Nurses Board established under the Nurses Act; or
- (e) the Optometrists Board established under the Optometrists Act; or
- (f) the Pharmacy Board established under the Pharmacy Act; or
- (g) the Physiotherapists Board established under the Physiotherapists Act; or
- (h) the Podiatrists Board established under the Podiatrists Act; or
- (i) the Psychologists Board established under the Psychologists Act; or
- (j) 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*.

***elected member*** means a member of the board elected in accordance with the Election Act.

***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*.

***proceeding*** means—

- (a) in relation to the Chiropractors and Osteopaths Board—an inquiry by the board under the Chiropractors and Osteopaths Act, section 32; or
- (b) in relation to the Dental Board—an inquiry by the board under the Dentists Act, section 31; or
- (c) in relation to the Medical Board—an inquiry by the board under the Medical Practitioners Act, section 42; or
- (d) in relation to the Nurses Board—an inquiry by the board under the Nurses Act, section 66; or
- (e) in relation to the Optometrists Board—an inquiry by the board under the Optometrists Act, section 40; or
- (f) in relation to the Pharmacy Board—an inquiry by the board under the Pharmacy Act, section 41; or

- (g) in relation to the Physiotherapists Board—an inquiry under the *Physiotherapists Act 1977*, section 30F; or
- (h) in relation to the Podiatrists Board—an inquiry by the board under the Podiatrists Act, section 38; or
- (i) in relation to the Psychologists Board—an inquiry by the board under the Psychologists Act, section 38; or
- (j) in relation to the Veterinary Surgeons Board—an inquiry by the board under the Veterinary Surgeons Act, section 45; or
- (k) in relation to the Podiatrists Board—an inquiry under the *Podiatrists Act 1994*, section 38.

***Psychologists Act*** means the *Psychologists Act 1994*.

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

## Part 2                      Status and membership of boards

### 4                      Status of boards

- (1) Each board—
  - (a) is a body corporate with perpetual succession; and
  - (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 attached to a document and shall presume that it was duly attached.

### 5                      Appointment of chairperson and members

The chairperson and each member of a board, other than a member of that board elected under the Election Act, shall be appointed in writing by the Minister.

*Note 1* For the making of appointments (including acting appointments), see Legislation Act, div 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

### 5A                      Eligibility for appointment

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.

## **6 Deputy chairperson**

- (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) As soon as practicable after the election of a deputy chairperson of a board, the chairperson of that board must give to the Minister written notice of the election of the deputy chairperson.
- (3) A deputy chairperson holds office for 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 given to the chairperson of that board.
- (5) Subject to this Act, a deputy chairperson has, and may exercise, all the powers and may exercise all the functions of the chairperson.
- (6) A notice under subsection (2) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

## **8 Term of office of appointed members**

- (1) Subject to this Act, a member appointed by the Minister under this Act holds office for the period, not exceeding 3 years, that is specified in the instrument of the person's appointment, but is eligible for reappointment.
- (2) This section does not apply to or in relation to the chairperson of the Veterinary Surgeons Board established under the Veterinary Surgeons Act.

## **9 Term of office of elected members**

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

- (2) If an elected member becomes 65 years old before the day his or her term of office would, apart from this subsection, end, his or her term of office shall end on the day he or she becomes 65 years old.
- (3) The term of office of an elected member shall begin—
- (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 the member is declared elected; or
    - (ii) if that day occurs before the end of the term of office of the previously elected members—on the day after the end of that term.
- (4) The term of office of an elected member shall end—
- (a) 3 years after the day his or her term of office began; or
  - (b) if the member was elected at an election held immediately after an election in relation to which the number of candidates elected was less than the number of candidates required to be elected—on the day the term of office of a member who was elected at that lastmentioned election ends; or
  - (c) if the member was elected under the Election Act, part 6—on the day his or her term of office would have ended if he or she had been declared elected in accordance with that Act, section 12 (1) or 25 (1), as the case requires; 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 because of the operation of subsection (2) or section 10 or 11—on the day the term of office of the other member would, apart from the operation of that subsection or section, as the case may be, have ended.

**10 Resignation**

A chairperson or other member may resign his or her office of chairperson or member by writing signed by him or her and given to the Minister.

**U 11 Vacation of office**

- (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; or
  - (b) is convicted in Australia of an offence punishable by imprisonment for 1 year or longer; or
  - (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) If a person who has been elected as a member in accordance with the Election Act ceases to be a registered practitioner before the day the term of office of the person as a member would, apart from this subsection, begin, the office to which the person has been elected shall, on that day, become vacant.
- (4) In this section:  
*registered practitioner* means—

- (a) 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; and
- (b) in relation to a member of the Dental Board—a person registered as a dentist under the Dentists Act; and
- (c) in relation to a member of the Medical Board—a person registered as a medical practitioner under the Medical Practitioners Act; and
- (d) in relation to a member of the Nurses Board—a person registered or enrolled as a nurse under the Nurses Act; and
- (e) in relation to a member of the Optometrists Board—a person registered as an optometrist under the Optometrists Act; and
- (f) in relation to a member of the Pharmacy Board—a person registered as a pharmacist under the Pharmacy Act; and
- (g) in relation to a member of the Physiotherapists Board—a person registered as a physiotherapist under the Physiotherapists Act; and
- (h) in relation to a member of the Podiatrists Board—a person registered as a podiatrist under the Podiatrists Act; and
- (i) in relation to a member of the Psychologists Board—a person registered as a psychologist under the Psychologists Act; and
- (j) in relation to a member of the Veterinary Surgeons Board—a person registered as a veterinary surgeon under the Veterinary Surgeons Act.

## **12 Leave of absence**

- (1) The Minister may grant leave of absence to a chairperson on the terms and conditions that the Minister determines.

- (2) The chairperson of a board may grant leave of absence to a member of that board for the period, not exceeding 1 year, and on the terms and conditions that the chairperson determines.

**13 Remuneration**

- (1) Subject to this section, a member is not entitled to be paid in relation to any duties or functions exercised 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 exercise of his or her duties or functions in his or her capacity as a member.
- (3) A member is entitled to remuneration for time spent sitting on the board for the hearing of a proceeding.

**14 Vacancy in membership**

The exercise of the functions of a board is not affected only because of there being a vacancy or vacancies in the membership of the board.

**15 Protection of members**

No action or suit shall be brought or maintained against a member of a board for or in relation to any act or thing done in good faith by the member in his or her capacity as a member.



## Part 3 Meetings of boards

### 16 Meetings of boards

- (1) A board shall hold the meetings necessary for the exercise of its functions.
- (2) The chairperson of a board may, at any time, by written notice to the other members of that board, call a meeting of that board at the time and place specified in the notice.
- (3) The Minister may, by written notice 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) If, at any time, a majority of the members of a board requests the chairperson in writing to call a meeting of that board, the chairperson shall call 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.

### 17 Presiding member

- (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.

## 18 Quorum

- (1) At a meeting of a board, a quorum consists of the member presiding at the meeting and the number of other members that, together with the member so presiding, constitute a majority of that board.
- (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, but, for the dental board, not including a member (or a vacancy in the position of a member) appointed under the *Dentists Act 1931*, section 7 (1) (c).

## 19 Voting

- (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 on 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.

## 20 Records

- (1) Each board shall keep records of its meetings, proceedings and decisions.

- (2) On 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.

## **21 Motions and resolutions**

- (1) A motion shall not be proposed at a meeting of a board unless written notice 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 include a motion of which notice has been given to him or her under subsection (1) in the notice calling the meeting.
- (3) No resolution passed, or any act, matter or thing done or authorised 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 calling that meeting.

## **22 Boards may determine procedures**

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

## **22A Minister may direct board to conduct proceeding**

- (1) The Minister may, by written notice 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) If the Minister gives a direction under subsection (1) that a board conduct a proceeding, the board shall conduct the proceeding accordingly.

**Part 3** Meetings of boards

Section 22A

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- (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 4 Proceedings before boards

### 23 Conduct of proceedings

- (1) The chairperson of a board or, in the absence of the chairperson, the deputy chairperson of that board or any member who is a lawyer, 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 constitutes a majority of the members of that board.
- (3) For subsection (1), a member of the dental board appointed under the *Dentists Act 1931*, section 7 (1) (c) is taken to be a lawyer.

### 24 Notice of proceeding

- (1) A board shall not begin the hearing of a proceeding unless the chairperson has served a written notice 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; and
  - (b) identify the provisions of the Act under which the proceeding is instituted; and
  - (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.

**25 Procedure of boards**

- (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 law 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 the way it considers appropriate.
- (2) The chairperson or deputy chairperson presiding at a hearing of a proceeding before a board may, in relation to a matter not dealt with by this Act, give direction about the procedure to be followed at or in connection with the hearing.

**26 Proceedings to be in public**

- (1) Subject to this section, the hearing of a proceeding before a board shall be in public.
- (2) If a board is satisfied that it is desirable to do so because 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 about the persons who may be present; and
  - (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 under subsection (2) (b) or (c).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## **27 Boards may inspect documents**

A board may inspect any books, documents or writings that are relevant to a proceeding before the board, and may keep the books, documents or writings, and may make copies of the parts of them that it considers appropriate for the purposes of that proceeding.

## **28 Powers of boards**

- (1) A board may for the purposes of a proceeding before it—
- (a) take evidence on oath or affirmation; and
  - (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 the documents (if any) referred to in the summons; and
  - (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.

**29 Representation before boards**

- (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, if a request is made, the board may allow the person to be so represented.

**30 Opportunity to make submissions**

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.

**31 Decisions of boards**

If the members of a board are divided in opinion about 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.

**32 Assistance for boards**

- (1) The Minister may appoint a lawyer 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.

### **33 Protection of witnesses etc**

- (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 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.

### **34 Witness fees and travelling expenses**

- (1) This section applies to a person (the *witness*) who attends a hearing of the board to give evidence (whether voluntarily or under a summons).
- (2) The witness is entitled to receive the fees and travelling expenses that the presiding member directs in accordance with the scale and conditions applying to people who attend as witnesses before the Supreme Court.
- (3) The fees and expenses are payable by—
- (a) if the witness attended at the request of the Minister—the Territory; or
  - (b) in any other case—the person who requested the attendance of the witness.
- (4) However, if the board believes that it was reasonable for a person other than the Minister to request a person to appear before the board, the board may order that some or all of the fees and expenses be paid by the Territory.

**35 Failure of witness to attend**

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.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

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

- (1) A person appearing as a witness before a board shall not, without reasonable excuse—
  - (a) when required under section 28 either to take an oath or make an affirmation, refuse or fail to comply with the requirement; or
  - (b) fail, except as provided by the *Evidence Act 1971*, section 57, 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.
- (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.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## Part 5                      Miscellaneous

### 38                      Evidence

- (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.

### 39                      Disclosure of pecuniary interest

- (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—
  - (a) be present during any deliberation of the board in relation to that matter; or
  - (b) take part in any decision of the board in relation 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) If a member fails, without reasonable excuse, to comply with this section, the Minister shall remove the member from office.

#### **40 Offences in relation to boards**

A person shall not—

- (a) insult a member of a board in or in relation to the exercise of his or her functions as a member; or
- (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.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

#### **41 Impartiality of boards**

Subject to this Act, a chairperson or other member of a board shall not be subject to the direction of any other person in relation to any act or thing done in his or her capacity as chairperson or other member of that board.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Health Professions Boards (Procedures) Ordinance 1981* No 46 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

#### Legislation before becoming Territory enactment

##### **Health Professions Boards (Procedures) Act 1981 No 46**

notified 9 December 1981

commenced 9 December 1981

as amended by

##### **Health Professions Boards (Procedures) (Amendment) Ordinance 1982 No 85**

notified 20 October 1982

commenced 20 October 1982

##### **Health Professions Boards (Procedures) (Amendment) Ordinance 1983 64**

notified 30 December 1983

commenced 30 December 1983

##### **Health Professions Boards (Procedures) (Amendment) Ordinance 1986 No 68**

notified 24 October 1986

commenced 27 October 1986 (s 2 and Cwlth Gaz 1986 No S537)

**Community and Health Services (Consequential Provisions)  
Ordinance 1988 No 29 sch**

notified 30 June 1988  
commenced 2 July 1988 (s 2)

**Health Professions Boards (Procedures) (Amendment) Ordinance  
1988 No 59**

notified 7 September 1988  
commenced 5 December 1988 (s 2 and Cwlth Gaz 1988 No S369)

**Self-Government (Consequential Amendments) Ordinance 1989  
No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)  
s 1, s 2 commenced 10 May 1989 (s 2 (1))  
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989  
No S164)

**Legislation after becoming Territory enactment****Health Services (Consequential Provisions) Act 1990 No 63 sch 1**

notified 28 December 1990 (Gaz 1990 No S102)  
s 1, s 2 commenced 28 December 1990 (s 2 (1))  
remainder commenced 31 January 1991 (s 2 (2) and see Gaz 1991  
No S4)

**Health (Consequential Provisions) Act 1993 No 14 sch 1**

notified 1 March 1993 (Gaz 1993 No S23)  
commenced 1 March 1993 (s 2)

**Administrative Appeals (Consequential Amendments) Act 1994 No 60  
sch 1**

notified 11 October 1994 (Gaz 1994 No S197)  
s 1, s 2 commenced 11 October 1994 (s 2 (1))  
sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994  
No S250)

**Health Legislation (Consequential Amendments) Act 1994 No 88 pt 2**

notified 15 December 1994 (Gaz 1994 No S280)  
ss 1-3 commenced 15 December 1994 (s 2 (1))  
remainder commenced 15 June 1995 (s 2 (3))

## Endnotes

3 Legislation history

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**Annual Reports (Government Agencies) (Consequential Provisions) Act 1995 No 25 sch**

notified 5 September 1995 (Gaz 1995 No S212)  
commenced 5 September 1995 (s 2)

**Statute Law Revision Act 1995 No 46 sch**

notified 18 December 1995 (Gaz 1995 No S306)  
amnds commenced 18 December 1995 (s 2)

**Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1**

notified 1 December 1997 (Gaz 1997 No S380)  
s 1, s 2 commenced 1 December 1997 (s 2 (1))  
sch 1 commenced 1 June 1998 (s 2 (2))

**Health Professions Boards (Procedures) Amendment Act 1997 No 105**

notified 24 December 1997 (Gaz 1997 No S420)  
commenced 24 December 1997 (s 2)

**Health Professions Boards (Procedures) Amendment Act (No 2) 1997 No 110**

notified 24 December 1997 (Gaz 1997 No S420)  
commenced 24 December 1997 (s 2)

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

**Health Legislation Amendment Act 2000 No 81 sch 1**

notified 21 December 2000 (Gaz 2000 No S69)  
commenced 21 December 2000 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 179**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 179 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)



**Statute Law Amendment Act 2002 No 30 pt 3.37**

notified LR 16 September 2002

s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))

pt 3.37 commenced 17 September 2002 (s 2 (1))

**Statute Law Amendment Act 2002 (No 2) No 49 pt 3.9**

notified LR 20 December 2002

s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))

pt 3.9 commenced 17 January 2003 (s 2 (1))

**Health Professionals Legislation Amendment Act 2004 A2004-39  
sch 1 pt 1.5**

notified LR 8 July 2004

s 1, s 2 commenced 8 July 2004 (LA s 75 (1))

sch 1 pt 1.5 awaiting commencement (s 2 and see Health Professionals Act 2004 A2004-38, s 2)

*Note* default commencement under s 2: 8 July 2005

**Court Procedures (Consequential Amendments) Act 2004 A2004-60  
sch 1 pt 1.29**

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

sch 1 pt 1.29 commenced 10 January 2005 (s 2 and see Court Procedures Act 2004 A2004-59, s 2 and CN2004-29)

as repealed by

**Health Professionals Act 2004 A2004-38 s 136**

notified LR 8 July 2004

s 1, s 2 commenced 8 July 2004 (LA s 75 (1))

s 136 awaiting commencement (s 2)

*Note 1* default commencement: 8 July 2005 (s 2 (2))

*Note 2* default commencement under LA s 79 does not apply to this Act

**4 Amendment history****Application**

s 2

om 2001 No 44 amdt 1.2059

## Endnotes

### 4 Amendment history

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#### Definitions for Act

- s 3 def **barrister and solicitor** om 1997 No 96 sch 1  
def **board** am 1986 No 68 s 4; 1994 No 88 s 4 and sch 1;  
1988 No 59 s 4; pars renum R5 LA  
sub A2004-39 amdt 1.25  
def **chairperson** am 1988 No 59 s 4  
sub 1994 No 88 sch 1  
def **Chiropractors Act** ins 1986 No 68 s 4  
sub 1994 No 88 sch 1  
def **Dentists Act** am 1994 No 88 sch 1  
def **deputy chairman** am 1988 No 59 s 4  
sub 1994 No 88 sch 1  
def **elected member** ins 1988 No 59 s 4  
def **Medical Practitioners Act** am 1994 No 88 sch 1  
def **member** am 1994 No 88 sch 1  
def **Nurses Act** am 1988 No 59 s 4  
def **Physiotherapists Act** am 1994 No 88 sch 1  
def **Podiatrists Act** ins 1994 No 88 s 4  
def **proceeding** am 1986 No 68 s 4; 1988 No 59 s 4; 1994  
No 88 s 4 and sch 1; 1995 No 46 sch; pars renum R5 LA  
sub A2004-39 amdt 1.26  
def **Psychologists Act** ins 1994 No 88 s 4  
def **service** ins 1988 No 29 sch  
om 1990 No 63 sch 1  
def **Veterinary Surgeons Act** ins 1994 No 88 sch 1

#### Appointment of chairperson and members

- s 5 am 1994 No 88 sch 1; 2001 No 44 amdt 1.2060, amdt 1.2061;  
2002 No 49 amdt 3.57, amdt 3.58

#### Eligibility for appointment

- s 5A ins 1988 No 59 s 5

#### Deputy chairperson

- s 6 am 1994 No 88 sch 1; 2001 No 44 amdt 1.2062, amdt 1.2063

#### Acting members

- s 7 am 1994 No 88 sch 1  
om 2000 No 81 amdt 1.6

#### Term of office of appointed members

- s 8 am 1994 No 88 sch 1; 1997 No 105 s 4; 2000 No 81 amdt 1.7;  
ss renum R5 LA

#### Term of office of elected members

- s 9 am 1988 No 59 s 6; 1994 No 88 sch 1

#### Resignation

- s 10 am 1994 No 88 sch 1

**Vacation of office**

s 11 am 1986 No 68 s 5; 1988 No 59 s 7; 1994 No 88 s 5 and sch 1; 2000 No 81 amdt 1.8; pars renum R5 LA; [A2004-39 amdt 1.27](#)

**Leave of absence**

s 12 am 1994 No 88 sch 1

**Remuneration**

s 13 am 1994 No 88 sch 1; 1997 No 110 s 4

**Protection of members**

s 15 am 1994 No 88 sch 1

**Meetings of boards**

s 16 am 1994 No 88 sch 1

**Presiding member**

s 17 am 1994 No 88 sch 1

**Quorum**

s 18 am 2000 No 81 amdt 1.9

**Voting**

s 19 am 1994 No 88 sch 1

**Motions and resolutions**

s 21 am 1994 No 88 sch 1

**Minister may direct board to conduct proceeding**

s 22A ins 1983 No 64 s 3  
am 1994 No 88 sch 1

**Conduct of proceedings**

s 23 am 1994 No 88 sch 1; 1997 No 110 s 5; 2000 No 81 amdt 1.10, amdt 1.11

**Notice of proceeding**

s 24 am 1994 No 88 sch 1

**Procedure of boards**

s 25 am 1994 No 88 sch 1; 2001 No 44 amdt 1.2064, amdt 1.2065

**Proceedings to be in public**

s 26 am 1982 No 85 s 2; 1998 No 54 sch

**Powers of boards**

s 28 am 1994 No 88 sch 1

**Representation before boards**

s 29 am 1994 No 88 sch 1

**Opportunity to make submissions**

s 30 am 1994 No 88 sch 1

## Endnotes

### 4 Amendment history

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#### **Decisions of boards**

s 31 am 1988 No 59 s 8; 1994 No 60 sch 1; 1994 No 88 sch 1

#### **Assistance for boards**

s 32 am 1986 No 68 s 6; 1989 No 38 sch 1; 1994 No 88 sch 1;  
1997 No 96 sch 1

#### **Protection of witnesses etc**

s 33 am 1986 No 68 s 7; 1997 No 96 sch 1

#### **Allowances to witnesses**

s 34 am 1988 No 29 sch; 1990 No 63 sch 1; 1993 No 14 sch 1;  
1994 No 88 sch 1  
sub 2002 No 30 amdt 3.403  
am A2004-60 amdt 1.155

#### **Failure of witness to attend**

s 35 am 1994 No 88 sch 1; 1998 No 54 sch

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

s 36 am 1994 No 88 sch 1; 1998 No 54 sch

#### **Annual reports**

s 37 am 1994 No 88 sch 1  
om 1995 No 25 sch

#### **Evidence**

s 38 am 1994 No 88 sch 1

#### **Disclosure of pecuniary interest**

s 39 am 1994 No 88 sch 1

#### **Offences in relation to boards**

s 40 am 1994 No 88 sch 1; 1998 No 54 sch

#### **Impartiality of boards**

s 41 am 1983 No 64 s 4; 1994 No 88 sch 1

#### **Amendment of Seat of Government (Administration) Ordinance 1930**

s 42 om 1988 No 59 s 9

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1990 No 63	31 July 1991
2	Act 1993 No 14	31 January 1994
3	Act 1995 No 46	1 January 1996
4	Act 1997 No 110	1 June 1998
5	Act 2001 No 44	20 June 2002
6	Act 2002 No 30	10 October 2002
7	A2002-49	17 January 2003

## 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

<p><b>Health Professionals Legislation Amendment Act 2004 A2004-39 sch 1 pt 1.5</b></p>
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### [1.25] Section 3, definition of *board*

*substitute*

*board* means 1 of the following boards, unless the board has ceased to exist:

- (a) the chiropractors and osteopaths board established under the Chiropractors and Osteopaths Act;
- (b) the dental board established under the Dentists Act;

## Endnotes

6 Uncommenced amendments

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- (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;
- (g) the podiatrists board established under the Podiatrists Act;
- (h) the psychologists board established under the Psychologists Act;
- (i) the veterinary surgeons board established under the Veterinary Surgeons Act.

*Note* The *Health Professions Act 2004*, s 136 repeals the Acts mentioned in pars (a) – (h).

### **[1.26] Section 3, definition of *proceeding***

*substitute*

***proceeding*** means the following:

- (a) in relation to the chiropractors and osteopaths board—an inquiry by the board under the Chiropractors and Osteopaths Act, section 32;
- (b) in relation to the dental board—an inquiry by the board under the Dentists Act, section 31;
- (c) in relation to the nurses board—an inquiry by the board under the Nurses Act, section 66;
- (d) in relation to the optometrists board—an inquiry by the board under the Optometrists Act, section 40;
- (e) in relation to the pharmacy board—an inquiry by the board under the Pharmacy Act, section 41;

- (f) in relation to the physiotherapists board—an inquiry under the Physiotherapists Act, section 30F;
- (g) in relation to the podiatrists board—an inquiry by the board under the Podiatrists Act, section 38;
- (h) in relation to the psychologists board—an inquiry by the board under the Psychologists Act, section 38;
- (i) in relation to the veterinary surgeons board—an inquiry by the board under the Veterinary Surgeons Act, section 45.

*Note* The *Health Professions Act 2004*, s 136 repeals the Acts mentioned in pars (a) – (h).

#### **[1.27] Section 11 (4)**

*substitute*

- (4) In this section:

***registered practitioner*** means the following:

- (a) 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;
- (b) in relation to a member of the dental board—a person registered as a dentist under the Dentists Act;
- (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) relation to a member of the physiotherapists board—a person registered as a physiotherapist under the Physiotherapists Act;

## Endnotes

6 Uncommenced amendments

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- (g) in relation to a member of the podiatrists board—a person registered as a podiatrist under the Podiatrists Act;
- (h) in relation to a member of the psychologists board—a person registered as a psychologist under the Psychologists Act;
- (i) in relation to a member of the veterinary surgeons board—a person registered as a veterinary surgeon under the Veterinary Surgeons Act.

*Note* The *Health Professionals Act 2004*, s 136 repeals the Acts mentioned in pars (a) – (h).

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