

2005

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Health)

## Health Legislation Amendment Bill 2005

### Contents

---

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended—sch 1	2
4 Legislation repealed	2
<b>Schedule 1 Amendments</b>	<b>3</b>
<b>Part 1.1 Health Professionals Act 2004</b>	<b>3</b>
<b>Part 1.2 Health Professionals Legislation Amendment Act 2004</b>	<b>9</b>
<b>Part 1.3 Health Professionals Regulation 2004</b>	<b>13</b>
<b>Part 1.4 Medical Practitioners Act 1930</b>	<b>13</b>



2005

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Health)

## Health Legislation Amendment Bill 2005

---

### A Bill for

An Act to amend the law relating to health, and for other purposes

---

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

- 1    **1**        **Name of Act**
- 2            This Act is the *Health Legislation Amendment Act 2005*.
- 3    **2**        **Commencement**
- 4            This Act commences on the day after its notification day.
- 5            *Note*     The naming and commencement provisions automatically commence on
- 6                    the notification day (see Legislation Act, s 75 (1)).
- 7    **3**        **Legislation amended—sch 1**
- 8            This Act amends the legislation mentioned in schedule 1.
- 9    **4**        **Legislation repealed**
- 10            The *Medical Services (Fees) Act 1984* A1984-7 is repealed.

1 **Schedule 1**            **Amendments**

2 (see s 3)

3 **Part 1.1**                    **Health Professionals Act 2004**

4 **[1.1] Section 2 (2)**

5 *substitute*

- 6 (2) If this Act has not commenced before 9 July 2006, it automatically  
7 commences on that day.

8 **[1.2] Section 15 (2)**

9 *substitute*

- 10 (2) For the application of this Act in relation to a health professional  
11 who is a veterinary surgeon, a **health service** is a service provided to  
12 an animal (the **service user**) for any of the purposes mentioned in  
13 subsection (1) (a) or (b).
- 14 (3) Also, a health service includes a service provided by a health  
15 professional in the professional's capacity as a health professional.

16 **[1.3] Section 22 (4)**

17 *omit*

18 **[1.4] Section 26 (3)**

19 *substitute*

- 20 (3) If a health profession board wants a health professional's  
21 registration suspended or cancelled, the board cannot suspend or  
22 cancel the registration itself, but may apply to the health professions  
23 tribunal for suspension or cancellation.

- 1 **[1.5] Section 37 (5) (c)**
- 2 *substitute*
- 3 (c) when (in addition to the circumstances already prescribed
- 4 under this Act) a health profession board may apply for the
- 5 suspension or cancellation of registration; and
- 6 **[1.6] Section 37 (7)**
- 7 *omit*
- 8 **[1.7] Section 40 (2) (c)**
- 9 *substitute*
- 10 (c) to hear applications for review of decisions of health
- 11 profession boards and professional standards panels;
- 12 (d) to hear applications from health profession boards to suspend
- 13 or cancel the registration of health professionals.
- 14 **[1.8] Section 48**
- 15 *substitute*
- 16 **48 Parties to proceeding**
- 17 (1) The following are parties to the proceeding on an application
- 18 relating to a decision about a person (other than an application
- 19 mentioned in subsection (2)):
- 20 (a) the person;
- 21 (b) the health profession board that made the decision or that
- 22 established the professional standards panel that made the
- 23 decision;
- 24 (c) anyone else with the leave of the health professions tribunal.

- 1 (2) The following are parties to the proceeding on an application to  
2 suspend or cancel a health professional's registration:
- 3 (a) the health professional;
- 4 (b) the health profession board that made the application;
- 5 (c) anyone else with the leave of the health professions tribunal.

6 **[1.9] New section 49A**

7 *in division 7.3, insert*

8 **49A Application to suspend or cancel health professional's**  
9 **registration**

- 10 (1) This section applies to an application to suspend or cancel a health  
11 professional's registration.
- 12 (2) In deciding whether to suspend or cancel the registration, the health  
13 professions tribunal must consider whether—
- 14 (a) the health professional has contravened a standard of practice  
15 that applied to the health professional; or
- 16 (b) the health professional is putting, or has put, public safety at  
17 risk.

18 **[1.10] Section 84 (2) (e) and (3)**

19 *omit*

20 period

21 *substitute*

22 maximum period

- 1 **[1.11] Section 86 (3) (b)**
- 2 *substitute*
- 3 (b) apply to the tribunal for the suspension or cancellation of the
- 4 registration of the health professional to whom the matter
- 5 relates;
- 6 **[1.12] Section 122 (2) (i)**
- 7 *substitute*
- 8 (i) refer the report, complaint, or application for a condition
- 9 review, to the health profession board with—
- 10 (i) a recommendation that an application be made to the
- 11 health professions tribunal for the suspension or
- 12 cancellation of the health professional’s registration; and
- 13 (ii) the standards inquiry report on which the
- 14 recommendation is based;
- 15 **[1.13] Section 122 (3)**
- 16 *substitute*
- 17 (3) If the professional standards panel acts under subsection (2) (other
- 18 than under paragraph (i)), the act is an act of the health profession
- 19 board.
- 20 **[1.14] Section 136 (1) (l)**
- 21 *substitute*
- 22 (l) *Psychologists Act 1994 A 1994-87*
- 23 (m) *Veterinary Surgeons Act 1965 A1965-3.*



1 **[1.15] Section 136 (2)**

2 *omit*

3 or (l)

4 *substitute*

5 , (l) or (m)

6 **[1.16] Section 137 (1)**

7 *substitute*

8 (1) This section applies to a health profession regulated under a  
9 repealed Act.

10 **[1.17] New section 137 (3)**

11 *insert*

12 (3) To remove any doubt, midwifery is a health profession that was  
13 regulated under the *Nurses Act 1988*.

14 **[1.18] Section 139 (1)**

15 *substitute*

16 (1) This section applies if a person was registered under a repealed Act  
17 immediately before its repeal and the registration was subject to a  
18 condition.

19 **[1.19] New sections 150A to 150D**

20 *insert*

21 **150A People previously registered under repealed Act**

22 A reference in section 77 (Meaning of *registered health professional*  
23 for div 9.2) to a person who was registered at the time of an act or  
24 omission includes a reference to a person who was registered under  
25 a repealed Act at that time, whether or not the person is, or has at  
26 any time been, registered under this Act.

1 **150B People previously registered under Act or repealed Act**

2 In this Act:

3 *registered health professional*, in relation to a report under  
4 division 9.2 or a complaint, includes a person who was registered  
5 under this Act or a repealed Act at the time of the act or omission  
6 reported or complained about.

7 **150C Existing inquiries**

8 To remove any doubt, in an inquiry to which section 140 applies,  
9 anything done by a board in relation to a person registered at any  
10 time by the board, as part of an inquiry or otherwise, may, but need  
11 not, be done again under this Act by the health profession board that  
12 regulates a profession in relation to which the board was established.

13 **150D Appointment and election of health profession board**  
14 **members before Act fully commenced**

15 (1) This section applies to any of the following powers under this Act  
16 that are to be, or have been, exercised in relation to a health  
17 profession board:

- 18 (a) a power to make an appointment to the board;
- 19 (b) a power to make a statutory instrument for the purposes of the  
20 board;
- 21 (c) a power to do anything in relation to the conduct of an election  
22 for members of the board.

23 *Note* A reference to an Act includes a reference to the statutory instruments  
24 made or in force under the Act, including any regulation (see  
25 Legislation Act, s 104).

26 (2) To remove any doubt, the Legislation Act, section 81 (Exercise of  
27 powers between notification and commencement) is taken to apply,  
28 or is taken to have applied, to the exercise of the power even if—

- 1 (a) the power was exercised before the commencement of this  
2 section; or  
3 (b) the power is exercised before this Act has fully commenced.  
4 (3) For the exercise of the power, this Act is taken to have fully  
5 commenced at the time of the exercise of the power.  
6 (4) Anything done, or purported to have been done, under this Act  
7 before the commencement of this section has effect after that  
8 commencement as if this section (and every other provision of this  
9 Act) had been in force when the thing was done.  
10 *Note* A reference to an Act includes a reference to the statutory instruments  
11 made or in force under the Act, including any regulation (see  
12 Legislation Act, s 104).  
13 (5) Subsection (4) is additional to subsections (2) and (3).  
14 (6) This section is additional to the Legislation Act, section 81.

15 **[1.20] Dictionary, new definition of *public***

16 *insert*

17 *public*, in relation to health services provided by veterinary  
18 surgeons, includes animals.

19 **Part 1.2 Health Professionals Legislation**  
20 **Amendment Act 2004**

21 **[1.21] Section 2 (1), table 2, new item 11**

22 *insert*

11 sch 11A (Veterinary surgeons) s 136 (m)

1 **[1.22] Section 2 (1), note, paragraph (l)**

2 *substitute*

3 (l) *Psychologists Act 1994* A1994-87

4 (m) *Veterinary Surgeons Act 1965* A1965-3.

5 **[1.23] Schedule 1, amendment 1.18, new section 3, definition of**  
6 ***election*, note**

7 *substitute*

8 *Note* The *Health Professionals Act 2004*, s 136 repeals the Acts mentioned in  
9 this definition.

10 **[1.24] Schedule 1, amendment 1.19, new section 3, definition of**  
11 ***prescribed Act*, note**

12 *substitute*

13 *Note* The *Health Professionals Act 2004*, s 136 repeals the Acts mentioned in  
14 this definition.

15 **[1.25] Schedule 1, amendment 1.20, new section 3, definition of**  
16 ***register*, note**

17 *substitute*

18 *Note* The *Health Professionals Act 2004*, s 136 repeals the Acts mentioned in  
19 this definition.

20 **[1.26] Schedule 1, amendment 1.21, new section 3, definition of**  
21 ***registered practitioner*, note**

22 *substitute*

23 *Note* The *Health Professionals Act 2004*, s 136 repeals the Acts mentioned in  
24 this definition.

25 **[1.27] Schedule 1, amendment 1.23, new section 8 (3), note**

26 *substitute*

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

1 **[1.28] Schedule 1, amendment 1.25, new section 3, definition of**  
2 **board, note**

3 *substitute*

4 *Note* The *Health Professionals Act 2004*, s 136 repeals the Acts mentioned in  
5 this definition.

6 **[1.29] Schedule 1, amendment 1.26, new section 3, definition of**  
7 **proceeding, note**

8 *substitute*

9 *Note* The *Health Professionals Act 2004*, s 136 repeals the Acts mentioned in  
10 this definition.

11 **[1.30] Schedule 1, amendment 1.27, new section 11 (4), note**

12 *substitute*

13 *Note* The *Health Professionals Act 2004*, s 136 repeals the Acts mentioned in  
14 this definition.

15 **[1.31] Schedule 1, amendment 1.33, new modification 15,**  
16 **definition of *Health Professionals Act*, paragraph (b) (ix)**

17 *substitute*

18 (ix) *Psychologists Act 1994*;

19 (x) *Veterinary Surgeons Act 1965*.

20 **[1.32] Schedule 5, part 5.11**

21 *omit*

22 **[1.33] New schedule 11A**

23 *insert*

24 **Schedule 11A Veterinary surgeons**

25 (see s 3)

1 **Part 11A.1 Legislation Act 2001**

2 **[11A.1] Dictionary, part 1, definition of *veterinary surgeon***

3 *substitute*

4 *veterinary surgeon*—

5 (a) means a person unconditionally registered as a veterinary  
6 surgeon under the *Health Professionals Act 2004*; and

7 (b) for an activity, includes a person conditionally registered as a  
8 veterinary surgeon under the *Health Professionals Act 2004* to  
9 the extent that the person is allowed to do the activity under the  
10 person's conditional registration.

11 **Part 11A.2 Drugs of Dependence Act 1989**

12 **[11A.2] Section 3 (1), definition of *veterinary surgeon***

13 *omit*

14 **Part 11A.3 Pharmacy Act 1931**

15 **[11A.3] Section 2 (1), definition of *veterinary surgeon***

16 *omit*

17 **Part 11A.4 Repeal of legislation**  
18 **consequential on repeal of**  
19 **Veterinary Surgeons Act 1965**

- 20 • *Veterinary Surgeons Determination of Fees 2003 (No1)*  
21 DI2003-113

22 **[1.34] Schedule 12, part 12.1**

23 *omit*

1 **Part 1.3** **Health Professionals**  
2 **Regulation 2004**

3 **[1.35] Section 2 (3)**

4 *omit*

5 8 July 2005

6 *substitute*

7 9 July 2006

8 **[1.36] Section 158**

9 *omit*

10 **[1.37] Schedule 15**

11 *omit*

12 **Part 1.4** **Medical Practitioners Act 1930**

13 **[1.38] Section 55A heading**

14 *omit*

15 pt 4B

16 *substitute*

17 pt 5A

18 **[1.39] Section 55B heading**

19 *omit*

20 medical practitioner

21 *substitute*

22 doctor

- 1 **[1.40] Section 55B**
- 2 *omit*
- 3 registered medical practitioner
- 4 *substitute*
- 5 doctor
- 6 **[1.41] Section 55C**
- 7 *omit*
- 8 section 55D (1)
- 9 *substitute*
- 10 section 30D (1)
- 11 **[1.42] Part 4B (as amended)**
- 12 *relocate to Health Act 1993 as part 5A (section 30A to section 30E)*
- 

## Endnotes

- 1 Presentation speech**  
Presentation speech made in the Legislative Assembly on 2005.
- 2 Notification**  
Notified under the Legislation Act on 2005.
- 3 Republications of amended laws**  
For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).
-