

2002

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**HEALTH AND COMMUNITY CARE SERVICES (REPEAL AND
CONSEQUENTIAL PROVISIONS) BILL 2002**

EXPLANATORY STATEMENT

Circulated by authority of

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Minister for Health

EXPLANATORY STATEMENT

Outline

This Bill repeals the *Health and Community Care Services Act 1996* and enacts consequential provisions in the *Drugs of Dependence Act 1989*; *Health Act 1993*; *Mental Health (Treatment and Care) Act 1994*; and *Victims of Crime Regulations 2000*. It abolishes the Health and Community Care Service ('the Service') established under the *Health and Community Care Services Act 1996* ('the HCCS Act') and bringing the Service's component parts, with the exception of disability services, into the Department of Health under a single Chief Executive.

Revenue/Cost Implications

There is no additional cost involved in the Bill as all infrastructure is in place under the existing regime.

Formal Clauses

Part 1- Preliminary

Clauses 1 and 2 are formal requirements. They deal with the short title of the Bill, and the commencement provisions.

Clause 3 identifies notes contained within the Bill as being explanatory in nature and do not form part of the Bill.

Clause 4 and 5 identifies the Act being repealed and the Acts being amended consequentially as outlined in Schedule 1.

Schedule 1 Consequential Amendments

Part 1.1 Drugs of Dependence Act 1989

Item 1.1 substitutes the definition for **director** to mean the Director, Alcohol and Drug Service at Section 3(1) of the Act.

Item 1.2 amends the definition of **treatment centre** by removing the words 'or a Territory Authority' at section 3(1) of the Act.

Item 1.3 substitutes the appointment provisions for the Director, Alcohol and Drug Service.

Item 1.4 omits the words ‘or a Territory Authority’ at section 80(1)(e) of the Act.

Item 1.5 amends the definition of *institution* at section 84(1) of the Act by deleting the words ‘or a Territory authority’.

Item 1.6 amends the definition of *approved treatment centre* at section 121 of the Act by deleting the words ‘or a Territory Authority’.

Item 1.7 omits section 150(1)(a)(iii) of the Act by deleting the words ‘subject to subsection (4)’.

Item 1.8 omits section 150(4) of the Act by deleting the words ‘Subsection (1) (a) (iii) does not apply to the Australian Capital Territory Health and Community Care Service’.

Item 1.9 omits the words ‘or a Territory Authority’ at section 164(4)(c) and 164(4)(d) of the Act.

Part 1.2 Health Act 1993

Item 1.10 deleted the word ‘certain’ from the Act’s title.

Item 1.11 amends section 5 objectives by removing the words “or arranging for the provision of” in the opening sentence.

Item 1.12 amends section 8(2)(a) by substituting ‘or arrange to be provided by the Territory or a territory authority’ with ‘the Territory’.

Item 1.13 substitutes new wording for section 8(2)(c) of the Act.

Item 1.14 amends sections 16 and 17 by removing the words ‘or a Territory authority, as the case requires’.

Item 1.15 inserts new sections 35, 36, 37, 38,

Section 35 provides that a reference to the Health and Community Care Service in any Act, instrument, contract or document means the Australian Capital Territory Health and Community Care Service established by the *Health and Community Care Service Act 1996* (repealed).

Section 36 provides for the determination of fees. Section 37 provides for the payment of fees and interest whilst section 38 provides for a regulation-making power.

Item 1.16 inserts a new **Part 8 Transitional provisions for repeal of Health and Community Care Services Act 1996**; and new sections 39 40, 41, 42, 43, 44.

Section 39 inserts a definition for Part 8 for *repealed Act* and *service*.

Section 40 inserts new provisions allowing for all assets, right and liabilities of the service to vest in the Territory.

Section 41 inserts new provisions for the registration of changes in ownership of certain assets in accordance with section 40. This clause also provides a definition for **statutory property register**.

Section 42 inserts new provisions relating to the proceedings and evidence and substitutes the Territory as a party for proceedings that may have begun before the commencement of this Part. This clause also provides a definition for **proceeding**.

Section 43 inserts a new section to provide for the continuation of determinations.

Section 44 inserts a new section to provide for transitional regulations and is additional to, and does not limit, section 45. The regulations may prescribe savings or transitional matters necessary or convenient to be prescribed because of the enactment of the *Health and Community Services (Repeal and Consequential Provisions) Act 2002*.

Section 45 inserts a new section to provide for regulations to modify **Part 8 – Transitional provisions for repeal of Health and Community Care Services Act 1996** where, in the Executive’s opinion, any matter is not adequately dealt with in this part.

Section 46 inserts a new section to provide for an expiry date of 1 year following commencement of **Part 8 – Transitional provisions for repeal of Health and Community Care Services Act 1996**.

Item 1.17 amends the dictionary definition of **health facility** by removing the words “or a Territory authority”.

Part 1.3 Mental Health (Treatment and Care) Act 1994

Item 1.18 substitutes the definition of **psychiatric institution** by deleting the words ‘or a Territory Authority’ from section 4 Definitions.

Item 1.19 omit the wording ‘or arranging for the provision of’ from section 8 of the Act.

Item 1.20 amend the definition of **responsible person** by deleting the words ‘or a Territory Authority’ from section 49 (b) of the Act.

Item 1.21 substitutes a new section 49(c) of the Act and deletes ‘(ii) a Territory authority—means the person having overall responsibility for the control of the facility’.

Item 1.22 amends section 53 of the Act by deleting the words ‘or a Territory Authority.

Item 1.23 amends section 89(1)(g) of the Act by deleting the words ‘or arranging for the provision of’.

Item 1.24 omits section 89(1)(h) of the Act by deleting the words ‘(h) in the case of a Territory authority providing treatment, care and protection for mentally dysfunctional persons (other than persons who have a mental illness)—the person having overall responsibility for the control of the facility in which the treatment, care or protection is given;’.

Item 1.25 provides for the renumbering of paragraphs within section 89 of the Act when next republished.

Item 1.26 amends section 94(h) of the Act by deleting the words ‘or arranging for the provision of’.

Item 1.27 omits section 94(i) of the Act by deleting ‘(i) in the case of a Territory authority providing treatment, care and protection for mentally dysfunctional persons (other than persons who have a mental illness)—the person having overall responsibility for the control of the facility in which the treatment, care or protection is given;’.

Item 1.28 provides for the renumbering of paragraphs within section 94 of the Act when next republished.

Item 1.29 substitutes section 112 regarding the appointment of the Chief Psychiatrist.

Item 1.30 omits sections 114, 115 and 117 by deletion the provisions relating to the terms of appointment, resignation and acting appointments.

Item 1.31 substitutes the delegation powers for the chief psychiatrist at section 118 of the Act.

Item 1.32 amend section 123 (b) of the Act by deleing the words ‘or a Territory Authority’.

Part 1.4 Victims of Crime Regulations 2000

Item 1.33 substitutes the reference to Health and Community Care Service with a reference to the chief executive for the Health Act 1993 (meaning the chief executive for the time being of the administrative unit responsible for administering the Health Act - see Legislation Act, s 163).