

**EXPLANATORY STATEMENT
AUSTRALIAN CAPITAL TERRITORY
COMMUNITY AND HEALTH SERVICE (CONSEQUENTIAL PROVISIONS) ORDINANCE 1988**

Ordinance No. 29 of 1988

The Community and Health Service (Consequential Provisions) Ordinance 1988 (the amending Ordinance) amends 16 Ordinances which referred to the A.C.T. Health Authority (the Authority) or its General Manager and the predecessors of that statutory corporation and chief executive by up-dating them in line with the Community and Health Service (Amendment) Ordinance 1988.

The Community and Health Service (Amendment) Ordinance 1988 changed the name of the A.C.T. Health Authority to A.C.T. Community and Health Service (the Service) to reflect an expansion of the functions of the statutory corporation.

The amending Ordinance also saves various instruments made, granted or issued, acts done and decisions made (under the various Ordinances which have been amended) which were current when the amending Ordinance commenced.

Details of the amending Ordinance are set out in the Attachment.

ATTACHMENT

Section 1 provides that the amending Ordinance shall have the short title Community and Health Service (Consequential Provisions) Ordinance 1988.

Section 2 provides that the amending Ordinance came into operation on 2 July 1988.

Section 3 amends the Ordinances in the manner specified in the Schedule.

Section 4 saves various instruments made, granted or issued, acts done and decisions made (under the various Ordinances which were amended) which were current when the amending Ordinance commenced.

The Schedule provides for the amendment of the following Ordinances:-

- Blood Donation (Acquired Immune Deficiency Syndrome) Ordinance 1985 (the Principal Ordinance)

The amending Ordinance amends section 2 of the Principal Ordinance by removing the definitions of "approval", "Authority" and "Chairman". The definition of approval refers to the Authority. The approval relates to the testing equipment and procedures used to detect the presence of the disease known as AIDS in blood. The amending Ordinance inserts definitions of "approval" and "Service" which refer to the Service.

- Cemeteries Ordinance 1933 (the Principal Ordinance)

The amending Ordinance amends subsection 2(1) of the Principal Ordinance by removing the definition of "Commissioner" and replacing it with a definition of the Service. The amending Ordinance also amends paragraph 16(b) of the Principal Ordinance by omitting the word "Commissioner" and substituting "Service". Paragraph 16(b) is concerning with permission required for the exhumation of bodies. The "Commissioner" was once the chief executive of the Capital Territory Health Commission established under the Health Commission Ordinance 1975.

- Children's Services Ordinance 1986 (the Principal Ordinance)

The amending Ordinance amends subsection 4(1) of the Principal Ordinance by removing the definition of "Health Authority" and replacing it with a definition of the Service. The amending Ordinance also amended paragraphs 13(2)(d), 103(2)(b) and subsection 162(1) by omitting "Health Authority" and substituting "Service". Paragraph 13(2)(d) provides for representation of the Authority on the Childrens Services Council, paragraph 103(2)(b) notifications in relation to children in need of care and child abuse by employees of the Authority and subsection 162(1) the power of the court to Order the Authority to provide welfare reports.

• Hawkers Ordinance 1936 (the Principal Ordinance)

The amending Ordinance amended subsection 4(1) of the Principal Ordinance by removing the definition of "Commissioner" and replacing it with a definition of the Service. The amending Ordinance also amended section 8A and subsection 12A(2) of the Principal Ordinance by omitting "Commissioner" and substituting "Service" and simplifying the wording of each provision. Section 8A and subsection 12A(2) provide for certification by the Commissioner that vehicles used in hawking food are suitable for that purpose.

• Health Professions Boards (Procedures) Ordinance, 1981 (the Principal Ordinance)

The amending Ordinance amends paragraphs 34(2)(a) and (b) and subsections 34(3) and (4) of the Principal Ordinance by omitting references to the Capital Territory Health Commission (established under the Health Commission Ordinance 1975) and substituting "Service". Paragraphs 34(2)(a) and (b) and subsections 34(2) and (4) give the organisation responsibility for the payment of the witness expenses of people who attend to give evidence at health professional board inquiries.

• Meat Ordinance 1931 (the Principal Ordinance)

The amending Ordinance amends section 4 of the Principal Ordinance by omitting the definitions of "authorized person" and "General Manager" and replacing them with definitions relevant to the Service. The definition of "authorized person" has been revised to enable the Service to appoint the "authorized person". This change frees the Minister from having to make appointments. The Ordinance also amends section 8, subsection 9(1) and section 9A by omitting "General Manager" and substituting "Service". Section 8, subsection 9(1) and section 9A provide that the General Manager's consent must be obtained to slaughter animals and that his decision is reviewable by the Administrative Appeals Tribunal. The term "General Manager" is substituted by "Service" because the powers of the Service resides with the statutory corporation and the General Manager constitutes the Service under subsection 9(1) of the Community and Health Authority Ordinance 1985.

• Mental Health Ordinance 1983 (the Principal Ordinance)

The amending Ordinance amends subsection 4(1) of the Principal Ordinance by omitting the definitions of "Chairman" and "Commission" and replacing them with definitions of General Manager and the Service.

The amending Ordinance omits the word "Commission" and substitutes it with Service at subsections 6(1) and (3), 9(1) and (2), 10(1), (3) and (4), paragraph 12(2)(b), subsections 15(2), 17(1) and (2), 18(1) and (2), 19(2), 20(4) and 21(1) to (5), paragraph 21(5)(d), subsections 51(2) and (4), section 59 (paragraph (b) of the definition of "mental health facility"), subsections 61(1), (3) and (5), 62(2) and (4), 63(1) to (5), 65(1) to (3), 66(1) and (4) and 68(1), section 69, subsections 71(1) and (3) and section 78. In the Principal

Ordinance the "Commission" was defined to mean the Capital Territory Health Commission which was responsible for the general administration of the Ordinance. The provisions listed include numerous requirements of the Commission ranging from use of its premises to detain people who suffer mental illness (section 21) to an ability to grant licenses to people who own a mental health facility (section 61).

The amending Ordinance omits "Chairman" and substitutes the word "General Manager" at section 8 and subsection 10(5) which contain the Chairman's function of accepting resignations by officers appointed under the Principal Ordinance. The word "Commission" is substituted by "General Manager" at section 16 and subsections 61(2), 62(3) and 64(1). These provisions cover issues such as the acceptance of resignations, the lodgment of license applications and renewals and the surrender of licenses which should involve a natural person rather than the statutory corporation.

The amending Ordinance amends subsection 11(1) by omitting a reference to the Health Commission Ordinance 1975 and substituting it with Community and Health Service Ordinance 1985, (which is the new name of the Health Authority Ordinance 1985).

The amending Ordinance also amends paragraph 75(g) of the Principal Ordinance by omitting "Chairman of the Human Rights Commission" and substituting "the Human Rights Commissioner of the Human Rights and Equality of Opportunity Commission".

Milk Authority Ordinance 1971 (the Principal Ordinance)

The amending Ordinance deletes the definition of "Health Commission" at subsection 4(1) of the Principal Ordinance because the Principal Ordinance no longer refers to Health Commission or any other organisation performing the health function.

Poisons and Dangerous Drugs Ordinance 1933 (the Principal Ordinance)

The amending Ordinance amends subsection 5(1) of the Principal Ordinance by omitting the definition of "Commissioner" and inserting definitions of "General Manager" and "Service". The amending Ordinance repeals section 6 of the Principal Ordinance because the Minister has responsibility for the administration of the Ordinance. Section 6 provided that the Commissioner has charge of the administration of the Ordinance.

The amending Ordinance omits references to the Capital Territory Health Commission, Commission and Commissioner, at subsection 5(1) section 7, subsection 8(1) to (4), subsection 29(1) and (2), paragraphs 40B(e) and 40C(e) of the Principal Ordinance. In each case the reference has been substituted by "Service". These provisions covered various issues ranging from the power of the Commissioner to license people to sell or manufacture certain drugs to permission for authorised employees of the Capital Territory Health Commission to be supplied with certain drugs.

• Poisons and Narcotic Drugs Ordinance 1978 (the Principal Ordinance)

The amending Ordinance amends subsection 3(1) of the Principal Ordinance by omitting the definitions of "Authority" and "General Manager" and inserting definitions relevant to the Service. The amending Ordinance amends subparagraphs 9(c)(ii), and 29D(1)(b) of the Principal Ordinance by omitting references to the Authority and replacing them with references to the Service. The provisions provided for authorisation of Authority employees to possess narcotic drugs and the payment of a license fee to the Authority.

The amending Ordinance amends subsections 10(1) to (3), 29D(1) to (4), section 29G, paragraph 49(1)(a), subsections 49(1), 49A(1), 50 (4D) (second occurring) and 53(2) of the Principal Ordinance by omitting "General Manager" and substituting "Service". Except where a function must lie with a natural person (for example as a person to whom a substance or license can be surrendered as required under subsection 50(3) of the Principal Ordinance) the term "General Manager" has been substituted by "Service" because the powers of the Service reside with the statutory corporation and the General Manager constitutes the Service under subsection 9(1) of the Community and Health Service Ordinance 1985.

• Public Health Ordinance 1928 (the Principal Ordinance)

The amending Ordinance amends section 4 of the Principal Ordinance by omitting the definition of "Commissioner", changing the definition of "Authorised" to refer to "Service" rather than "Commissioner" and inserting definitions of "General Manager" and "Service". The amending Ordinance omits sections 7, 7A and 8 of the Principal Ordinance and re-inserts them in a re-drafted form as new sections 7 and 8.

New section 7 only refers to the Medical Officer of Health. The Principal Ordinance provided that both the Commissioner and Medical Officer of Health shall have powers as an inspector. It is now inappropriate for the General Manager to have those powers.

New section 8 provides for the delegation of the Service's powers under the Principal Ordinance. Section 7A of the Principal Ordinance did the same thing but was not as clearly expressed. Section 8 of the Principal Ordinance was unnecessary in that it provided that officers under the Ordinance may exercise powers and duties conferred by the Ordinance. Other provisions relating to the officers provide the necessary power and duties.

• Public Health (Prohibited Drugs) Ordinance 1957 (the Principal Ordinance)

The amending Ordinance amends section 2 of the Principal Ordinance by omitting the definition of "Commissioner" and inserting definitions of "General Manager" and "Service". The amending Ordinance omits references to "Commissioner" and substitutes them with "General Manager" at subsections 5(2) and section 6. It also omits references to Commissioner and substitutes them with Service at section 6, subsection 6A(1) and section 6B. These provisions are concerned with the delivery of prohibited drugs for the purpose of destruction and the authorisation of persons engaged in scientific or medical research to possess prohibited drugs.

• Radiation Ordinance 1983 (the Principal Ordinance)

The amending Ordinance amends subsection 5(1) of the Principal Ordinance by inserting definitions of "General Manager" and "Service". The amending Ordinance omits paragraphs 8(1)(d) and 8(1)(e) of the Principal Ordinance which provide for the membership of the Radiation Council. These paragraphs provided for nomination of members by the Capital Territory Health Commission and the Australian Capital Territory House of Assembly. As the House of Assembly no longer exists, the amending Ordinance only provides a substitute for paragraph 8(1)(d). The new paragraph will allow the Service to nominate a member for appointment to the Council.

The amending Ordinance substitutes a reference to the Chairman of the Capital Territory Health Commission with "Service" at subsection 9(1) and with "General Manager" at subsection 9(2) of the Principal Ordinance. Section 9 is concerned with the appointment and resignation of Radiation Council members.

The amending Ordinance amends subsection 19(4), paragraph 28(d), subsection 31(2), paragraph 48(5)(e) and subsection 50(2) of the Principal Ordinance by omitting "Capital Territory Health Commission" and substituting it with "Service". These provisions concerned the provision of compensation by the Capital Territory Health Commission for damage done as a result of the taking of samples and the payment of fees.

• Transplantation and Anatomy Ordinance 1978 (the Principal Ordinance)

The amending Ordinance amends subsection 4(1) of the Principal Ordinance by omitting the definition of "Commission" and replacing it with a definition of the "Service". The amending Ordinance re-drafts subsection 5(1) of the Principal Ordinance by allowing the Service rather than the Chief Medical Administrator to appoint designated officers. A designated officer has a variety of responsibilities under the Principal Ordinance, including the power to authorise the removal of tissue from dead bodies and the function of ensuring that tissue is not removed without proper consent.

The amending Ordinance amends subsection 5(2) of the Principal Ordinance by omitting a reference to Commission and replacing it with Service. Subsection 5(2) provided for the appointment of designated officers at non-Commission hospitals.

• Tuberculosis Ordinance 1950 (the Principal Ordinance)

The amending Ordinance amends section 3 of the Principal Ordinance by omitting the definition of "Commissioner" and inserting definitions of "General Manager" and "Service". The amending Ordinance amends subsection 4(1) of the Principal Ordinance by omitting "Commissioner" and substituting "General Manager". Subsection 4(1) provides for reporting incidences of tuberculosis.

The amending Ordinance deletes section 5 of the Principal Ordinance because it is unnecessary - it outlined the duties of the Commissioner concerning the investigation of tuberculosis and they do not need to be stated in legislation.

The amending Ordinance amends subsection 9(8) of the Principal Ordinance by omitting "Commissioner" and replacing it with the words "Service" and "General Manager". Subsection 9(8) is concerned with the question of to whom court orders relating to tuberculosis may be addressed.

Section 12 of the Principal Ordinance has been omitted and replaced with a more contemporary provision for the delegation of powers to the Service under the Ordinance.

Subsections 7(1) and (3), section 8, subsections 9(1), (2), (3), (5), (10) and (12) and 10(1) of the Principal Ordinance were amended by omitting "Commissioner" and substituting "Service". These provisions related to various responsibilities of the Commissioner under the Ordinance ranging from arranging medical examinations to the power to make applications for the compulsory treatment of those who suffer from the tuberculosis.

• Venereal Diseases Ordinance 1956 (the Principal Ordinance)

The amending Ordinance amends section 17 of the Principal Ordinance by omitting the words "Capital Territory Health Commission" and substituting them with "Australian Capital Territory Community and Health Service". Section 17 prevents a person from initiating legal action against the organisation concerning proceedings taken under the Principal Ordinance.
