

NORTHERN TERRITORY OF AUSTRALIA

HOSPITAL NETWORKS GOVERNING COUNCILS ACT 2012

Act No. 12 of 2012

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 12 of 2012

An Act to establish hospital networks in the Territory, and governing councils for those networks

[Assented to 27 April 2012]
[Second reading 22 February 2012]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Hospital Networks Governing Councils Act 2012*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Main purpose of Act

- (1) The main purpose of this Act is to achieve improved health outcomes for Territorians in the public hospital system.
- (2) This purpose is to be achieved by establishing local hospital networks for the National Health Reform Agreement and governing councils for those networks.
- (3) Part 2 establishes the local hospital networks to provide public hospital services to their communities.

- (4) Part 3 establishes a governing council for each hospital network as part of the governance arrangements of the network to achieve improved health outcomes for its community.

4 Definitions

In this Act:

annual work plan, for a governing council, see section 26(3).

CEO means the Chief Executive Officer of the Agency.

chairperson means a council member of a governing council appointed as the chairperson of the council under section 17(1).

COAG means the Council of Australian Governments.

community means:

- (a) in relation to a hospital network, the people in the geographic area within which the network is located, including groups of people in the area; and
- (b) in relation to a governing council, the people in the geographic area within which its network is located, including groups of people in the area.

council member means a person who is appointed as a member of a governing council under section 13(1).

Executive Director, of a hospital network, means the public sector employee appointed to manage the network.

governing council means the governing council of a hospital network.

hospital network means a local hospital network established by section 5.

Medicare Local, for the Territory, means the entity established as the Medicare Local for the Territory for the purposes of the National Health Reform Agreement.

National Health Reform Agreement means the agreement between the Commonwealth, States and Territories, that was agreed by COAG on 2 August 2011, as amended from time to time.

operating guidelines, see section 25.

Performance and Accountability Framework means the Performance and Accountability Framework mentioned in Schedule C to the National Health Reform Agreement.

repealed Act, for Part 5, see section 37.

Part 2 Hospital networks

5 Establishment of hospital networks

- (1) The Central Australian Hospital Network and the Top End Hospital Network are established as local hospital networks for the National Health Reform Agreement.
- (2) Each of the entities established by subsection (1) is a Government Business Division for the *Financial Management Act*.
- (3) However, subsection (2) does not require a hospital network to recover any of its operating costs through charges on users.

6 Composition of hospital networks

- (1) The Central Australian Hospital Network comprises the hospitals within the southern portion of the Territory from the border with South Australia to and including the town of Elliott.
- (2) The Top End Hospital Network comprises the hospitals in the remainder of the Territory.

Part 3 Governing councils

Division 1 Establishment, functions and powers

7 Establishment and role of governing councils

- (1) Each hospital network has a governing council.
- (2) The role of a governing council, as part of the governance arrangements of its hospital network, requires that the council is to:
 - (a) provide strategic direction for the network consistent with:
 - (i) the health needs of its community; and
 - (ii) the health priorities of the Territory Government; and
 - (iii) the priorities of the Agency; and

- (b) engage, and work collaboratively, with each of the following:
 - (i) its community;
 - (ii) the Executive Director of its network;
 - (iii) the other governing council;
 - (iv) the CEO;
 - (v) the Minister;
 - (vi) the Medicare Local for the Territory.

8 Strategic functions of governing councils

In providing strategic direction as mentioned in section 7(2)(a), a governing council of a hospital network is to:

- (a) in conjunction with the Executive Director of the network – lead the development of a strategic plan with a health improvement focus, including the development of vision, values and goals for the network; and
- (b) regularly review and update the strategic plan; and
- (c) encourage innovation to improve health outcomes; and
- (d) contribute, at a policy level, to:
 - (i) annual budget reviews and planning; and
 - (ii) long-term budget priorities, including master planning and capital budget planning; and
- (e) in conjunction with the Executive Director of the network – propose and consider strategies to improve the transition of patients between primary, secondary and tertiary health care providers.

9 Community leadership functions of governing councils

In engaging, and working collaboratively, with its community and other entities as mentioned in section 7(2)(b) a governing council of a hospital network is to provide community leadership to the network by:

- (a) promoting ethical behaviour in accordance with standards applicable to health consumer needs; and
- (b) promoting appropriate culture and values of the network; and

- (c) leading community engagement with and by the network, including being a key interface between the network and its stakeholders; and
- (d) understanding the physical, cultural and health needs of its community and seeking to ensure equity of access across the network; and
- (e) facilitating input by its community in planning and service improvement to achieve more effective ways to provide services, including to Aboriginal and Torres Strait Islanders and others with diverse cultural requirements in its community; and
- (f) encouraging innovation to improve health outcomes; and
- (g) leading systemic improvements in communication between the network and its community, and health consumers; and
- (h) providing advice to the Minister on issues identified through consultation with its community that are of strategic importance to the network; and
- (i) providing advice to the Minister regarding the performance of the network.

10 Other functions of governing councils

- (1) A governing council of a hospital network is to:
 - (a) monitor the network's performance and accountability against the Performance and Accountability Framework, including in relation to hospital accreditation, risk management, compliance with service and financial systems; and
 - (b) make recommendations to the Executive Director of the network, the CEO and the Minister about any matter arising from the monitoring; and
 - (c) contribute to the development of Territory health policy and planning, including consideration of the requirements of health consumers across all aspects of the Territory health system.
- (2) A governing council of a hospital network is also to:
 - (a) consider reports on contemporary Australian Health Standards that are in place or being applied in the network;

- (b) monitor the network's application of those contemporary standards and, as the council considers appropriate, give advice to the Executive Director about their application.

11 Powers of governing councils

The governing council of a hospital network has the powers necessary to perform its functions for the network.

12 Limitation on powers of governing councils

A governing council of a hospital network must not do any of the following:

- (a) give directions or advice that is inconsistent with Territory legislation or a direction of the Minister;
- (b) give directions about the recruitment, management or discipline of the staff within the network;
- (c) give directions about the treatment or priority of access to be provided to a particular patient of the network;
- (d) involve itself in the financial management of the network.
- (e) enter into negotiations or arrangements with the Australian Government or an entity outside the Territory.

Note for paragraph (e)

The prohibition against entering into negotiations and arrangements does not preclude discussions with hospital partners outside the Territory on matters of mutual interest.

Division 2 Membership of governing councils

13 Membership of governing council

- (1) A governing council comprises at least 7 and not more than 9 persons appointed as council members by the Minister by *Gazette* notice.
- (2) A council member holds office for the period, not exceeding 3 years, stated in the *Gazette* notice.
- (3) A council member is eligible for reappointment but, subject to subsection (4), must not serve more than 2 consecutive terms.
- (4) Despite subsection (3), if the Minister is satisfied that exceptional circumstances warrant it, he or she may reappoint a person as a council member.

- (5) In appointing or reappointing a council member, the Minister must consider the need to stagger the period of appointment to ensure continuity of membership and corporate knowledge of the governing council.

14 Nominations for appointment of council member

- (1) Before appointing a person as a council member, the Minister must invite applications from persons for appointment.
- (2) The invitation may be made by public advertisement or in another way the Minister considers appropriate.
- (3) Applicants for appointment must provide written expressions of interest to the Minister.
- (4) A person who is an employee of a hospital network, or engaged on an ongoing contractual basis by the network, is not eligible for appointment as a member of the network's governing council.

15 Criteria for appointment

- (1) The Minister may appoint a person as a council member if the Minister is satisfied the person has appropriate skills, knowledge or experience, including in one or more of the following fields relevant to the health priorities of the population of the governing council's community:
- (a) indigenous health;
 - (b) community development;
 - (c) health leadership;
 - (d) business or finance;
 - (e) community engagement;
 - (f) academic teaching or research;
 - (g) primary health care;
 - (h) governance.
- (2) The Minister may also, if he or she is satisfied it is appropriate to do so, appoint as a council member a person with local knowledge of the council's community or a region within the geographic area within which the council's network is located.

16 Selection for appointment

- (1) The CEO must establish a panel comprised of representatives from the Agency and stakeholders of the relevant hospital network to:
 - (a) undertake a merit based selection process; and
 - (b) provide recommendations to the Minister about the most suitable applicants for appointment as council members.
- (2) To the extent practicable, the recommendations must have regard to balancing:
 - (a) representation from the community and regions within the community including for indigenous health within the community and regions; and
 - (b) skills, knowledge and experience mentioned in section 15(1).

17 Chairperson and deputy chairperson

- (1) The Minister must appoint a council member of a governing council to be the chairperson of the council.
- (2) The members of a governing council must elect a council member to be the deputy chairperson of the council.

18 When member ceases to hold office

- (1) A council member ceases to hold office if:
 - (a) the member resigns by giving written notice of resignation to the Minister; or
 - (b) the member's term of office comes to an end and the member is not reappointed; or
 - (c) the member is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (d) the member is absent, except on leave granted by the governing council, from 3 consecutive meetings of the council; or
 - (e) the member is removed from office under subsection (2) or section 28(3).
- (2) The Minister may remove a council member from office for:
 - (a) mental or physical incapacity to carry out official duties satisfactorily; or

- (b) neglect of duty; or
- (c) breach of a condition of appointment; or
- (d) dishonest or dishonourable conduct.

Division 3 Conduct of business

19 Holding meetings

- (1) A governing council must meet as often as is necessary for the performance of its functions.
- (2) However, the governing council must meet:
 - (a) at least 8 times in each financial year; and
 - (b) at least once in each financial year – at each place where a hospital within the hospital network is located.

Examples for subsection (2)(b)

- 1 *The governing council for the Top End Hospital Network must meet in Katherine at least once in each financial year and in Nhulunbuy at least once in each financial year.*
- 2 *The governing council for the Central Australian Hospital Network must meet in Tennant Creek at least once in each financial year.*

- (3) The chairperson of the governing council must make the necessary arrangements to enable the council to meet.
- (4) The chairperson of the governing council of a hospital network:
 - (a) may call an extraordinary meeting at any time; and
 - (b) must call a meeting at the request of the Minister, the CEO, the Executive Director of the network or 3 or more council members.

20 Presiding member at meetings

- (1) The chairperson of a governing council must preside at all meetings of the council at which he or she is present.
- (2) If the chairperson is absent from a meeting, the deputy chairperson of the governing council must preside.
- (3) If the chairperson and deputy chairperson are both absent from a meeting, the other council members must elect a council member to preside.

21 Procedures at meetings

- (1) A quorum for a meeting of a governing council is the lowest whole number of persons that exceeds 50% of the current number of council members.
- (2) A question arising for decision at a meeting of a governing council must be resolved according to the votes of a majority of the council members present at the meeting and, if they are equally divided, the presiding member has a casting vote.
- (3) A governing council may hold meetings, or allow council members to take part in meetings, by telephone, video conference or other form of communication and a council member participating in that manner is taken to be present at the meeting.
- (4) A governing council must keep proper minutes of its proceedings and decisions.
- (5) The chairperson of a governing council may invite any person to attend a meeting of the council to provide information or advice in relation to any matter that is, or may be, of interest to the council in performing its functions.

22 Resolution without meeting

A resolution of a governing council is valid even though not passed at a meeting, if:

- (a) notice of the proposed resolution was given to all council members in accordance with the operating guidelines; and
- (b) a majority of council members agree in writing to the proposed resolution.

23 Notification of meeting outcomes

A governing council must prepare and publish on the Agency's website a summary of resolutions and meeting outcomes within 10 working days after the ratification of the minutes of a meeting or of a resolution as mentioned in section 22.

24 Disclosure of interest

- (1) If a council member has a direct or indirect interest in a matter being considered or about to be considered by the governing council, the member must disclose the nature of the interest at a council meeting as soon as practicable after the relevant facts come to the member's knowledge.

- (2) The disclosure must be recorded in the governing council's minutes.
- (3) The member must not, while having that interest:
 - (a) take part in any decision of the governing council relating to that matter; or
 - (b) form part of the quorum for a meeting of the council in any decision of the council relating to that matter.
- (4) However, if a council member who has declared an interest in a matter also has particular expertise in relation to the matter, the member may, with the approval of the governing council, participate in the council's discussion.

Example for subsection (4)

A council member who has tendered to supply an item of equipment to the hospital network may be invited to explain to the other council members the advantages and disadvantages of alternative versions of the equipment, but he or she must not take part in a vote on the matter.

Division 4 Administrative matters

25 Operating guidelines

- (1) To assist governing councils in the performance of their functions, the Minister must make guidelines about the operation of the councils (the *operating guidelines*).
- (2) Without limiting subsection (1), the operating guidelines must be made about the following:
 - (a) relationships with the governing councils' communities and the other entities mentioned in section 7(2)(b);
 - (b) resourcing for the councils;
 - (c) Agency representation at meetings of the councils;
 - (d) management of complaints made to a council;
 - (e) meetings between the chairperson and the Minister;
 - (f) a code of conduct for the council members;
 - (g) matters relating to the performance of each council against its annual work plan;
 - (h) selection of council members;

(i) matters relating to remuneration of council members.

- (3) A governing council and its council members must have regard to the operating guidelines as approved from time to time by the Minister.

26 Annual work plan for governing councils

- (1) A governing council of a hospital network must propose a work plan (the *proposed work plan*) consistent with the service priorities of the network, regional health priorities of the geographic area within which the network is located and Agency priorities.
- (2) The proposed work plan for the upcoming financial year must be presented to the Minister for his or her approval by 1 May before the financial year starts.
- (3) If the Minister approves the proposed work plan, the plan is the *annual work plan* for the governing council.

27 Access to information

- (1) The Executive Director of a hospital network must give the council members of the network's governing council the information necessary to enable the members to properly perform their functions as council members.
- (2) Subsection (1) does not extend to confidential patient information unless the information is given as part of aggregated data for statistical purposes and individual patients are not identified.

28 Confidentiality

- (1) A council member must not disclose information obtained in the course of his or her duties as a council member unless the disclosure is made in the course of those duties.
- (2) A council member who participates in an advisory group must not disclose to that group information obtained in the course of his or her duties as a council member unless the disclosure is approved by the governing council.
- (3) The Minister may terminate a person's appointment as a council member if the Minister considers the person has contravened subsection (1) or (2).

Division 5 Reports

29 Chairperson's report about annual work plan

The chairperson of the governing council of a hospital network must report to the Minister each 6 months about the council's performance in relation to matters set out in the council's annual work plan.

30 Annual report

- (1) A governing council of a hospital network must provide the Minister with an annual report by 31 October each year.
- (2) The report must address:
 - (a) the matters in the governing council's annual work plan for the past financial year; and
 - (b) the activities and achievements of the network.
- (3) The report must also include an audited financial statement in relation to any trust money held by the governing council.
- (4) The Minister must table a copy of the report in the Legislative Assembly within 10 sitting days after the Minister receives the report.

Division 6 Other matters

31 Governing council may seek additional expertise

A governing council of a hospital network may seek advice, from persons within or outside the network, to assist it to perform its functions.

32 Advisory groups

- (1) A governing council of a hospital network may establish advisory groups from interested persons, including persons employed within the network, to assist the council to perform its functions.
- (2) In establishing an advisory group, the governing council must provide the group with terms of reference that include the way for the group to report to the council.
- (3) An advisory group must include a member of the governing council.
- (4) Membership of an advisory group is not a remunerated position.

- (5) A person who participates in an advisory group must not disclose information obtained as a participant in the group unless the disclosure is made for the purposes of the group's activities.

33 Management of complaints received by governing council

- (1) This section applies if the governing council of a hospital network receives a complaint about any services provided by a hospital in the network.
- (2) The governing council must refer the complaint to the Executive Director of the hospital network for investigation and resolution of the complaint.

34 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a council member or a participant in an advisory group.
- (2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the governing council in the exercise of a power or performance of a function under this Act.
- (3) Subsections (1) and (2) do not affect any liability the Territory would, apart from those subsections, have for the act or omission.
- (4) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

35 Donations

- (1) The governing council of a hospital network must deal with any money donated to the network or a hospital within the network as trust money.
- (2) If a donor identified the purpose for which a donation may be used, the donation must be managed by the governing council in accordance with that purpose.
- (3) If no purpose was identified by the donor, the governing council must manage the donation in accordance with a purpose consistent with the priorities in the council's annual work plan.

Part 4 Miscellaneous matters

36 Regulations

The Administrator may make regulations under this Act.

Part 5 Repeal and transitional provisions

Division 1 Repeal

37 Repeal

- (1) The *Hospital Boards Act 2009* (Act No. 30 of 2009) (the *repealed Act*) is repealed.
- (2) The boards established under the repealed Act are abolished.

Division 2 Transitional matters

38 Money held in trust

- (1) This section applies if a hospital board established under the repealed Act was, immediately before the commencement of this section, holding trust money from donations or otherwise.
- (2) On the commencement, the money is taken to be held on trust by the governing council of the hospital network to which the hospital belongs, and the council must make the arrangements to transfer the trust money into a trust account in the council's name.

39 Proposed work plan for first year

In the first year of operation of the governing councils, the proposed work plan for each council must be submitted to the Minister by 1st of September of that year.

40 Transitional regulations

- (1) A regulation may provide for a matter of a transitional nature:
 - (a) because of the enactment of this Act; or
 - (b) to otherwise allow or facilitate the transition from the operation of the repealed Act to this Act.
- (2) The regulation may have retrospective operation to a day not earlier than the day on which this section commences (the *commencement day*).

- (3) However, to the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Territory or a Territory authority) by:
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (4) The regulation must declare it is made under this section.
- (5) This section, and each regulation made under it, expires 1 year after the commencement day.