

NORTHERN TERRITORY OF AUSTRALIA

HEALTH AND COMMUNITY SERVICES COMPLAINTS
AMENDMENT ACT 2011

Act No. 13 of 2011

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Schedule Act further amended



NORTHERN TERRITORY OF AUSTRALIA

Act No. 13 of 2011

An Act to amend the *Health and Community Services Complaints Act*

[Assented to 18 April 2011]
[Second reading 23 February 2011]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Health and Community Services Complaints Amendment Act 2011*.

2 Commencement

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

3 Act amended

This Act amends the *Health and Community Services Complaints Act*.

4 Section 4 amended

(1) Section 4(1), definition *employee*

omit

-
- (2) Section 4(1)
insert (in alphabetical order)
contractor means:
(a) a person engaged by the Commissioner under section 14(2)(b); or
(b) an employee or other member of the staff of a person engaged by the Commissioner under section 14(2)(b).
staff member means a person:
(a) provided to the Commissioner under section 14(1); or
(b) used by the Commissioner under section 14(2)(a).
- (3) Section 4(1), definition **disability**, paragraphs (a) and (b), at the end
insert
and
- (4) Section 4(1), definition, **health service**, paragraph (b)
omit
service,
insert
service;
- (5) Section 4(1), definition **special needs group**
omit
includes:
insert
includes any of the following:
- (6) Section 4(1), definition **special needs group**, paragraph (c)(iii)
omit
and

5 Section 7 amended

Section 7(2)

omit

the employees of the Commission

insert

staff members

6 Section 9 amended

Section 9(1)

omit

, after receiving the recommendation of the Legislative Assembly,

7 Section 10 amended

(1) Section 10(1)

omit

during:

insert

during any of the following:

(2) Section 10(1)(b)

omit

or

(3) Section 10(2)

omit

unless the appointment is made on the recommendation of the Legislative Assembly

8 Section 11 amended

Section 11(1)

omit

an employee

insert

a staff member who is a public sector employee

9 Section 14 replaced

Section 14

repeal, insert

14 Staff and facilities for Commissioner

- (1) The Chief Executive Officer of the Agency administering this Act must provide the Commissioner with staff and facilities to enable the Commissioner to properly perform the Commissioner's functions.
- (2) To assist in the performance of the Commissioner's functions, the Commissioner may do either or both of the following:
 - (a) arrange with the Chief Executive Officer of any other Agency to use the staff or facilities of that Agency;
 - (b) engage consultants and make arrangements for the provision of advice and services to the Commissioner.
- (3) In exercising a power or performing a function under this Act, a staff member is subject to direction only from:
 - (a) the Commissioner; or
 - (b) another staff member.

10 Section 17 amended

- (1) Section 17, heading

omit

employees

insert

staff members

- (2) Section 17(1), (2), (4), (5) and (6)

omit

an employee

insert

a staff member

(3) Section 17(2)

omit

referred to

insert

mentioned

11 Section 46 amended

Section 46

omit

an employee

insert

a staff member or contractor

12 Section 47 amended

(1) Section 47(1)(b), (2) and (3)

omit

an employee referred to

insert

a staff member or contractor mentioned

(2) Section 47(2)

omit

by virtue of

insert

as permitted by

13 Section 95 amended

(1) Section 95(1)

omit

an employee

insert

a staff member or contractor

(2) Section 95(3)(b)

omit

matter,

insert

matter;

(3) Section 95(3)(e)

omit

action,

insert

action;

14 Section 97 amended

(1) Section 97(1)(a)

omit

the purposes of the Act;

insert

this Act; or

(2) Section 97(1)(b), at the end

insert

or

(3) Section 97(2), (3) and (4)

omit

the purposes of

(4) Section 97(4)(b)

omit, insert

(b) a staff member;

(ba) a contractor;

(5) Section 97(5)

omit

section, ***confidential information*** includes:

insert

section:

confidential information includes the following:

(6) Section 97(5)(c)

omit

and

15 Section 102 amended

(1) Section 102(1)

omit

or employee

insert

, staff member or contractor

(2) Section 102(2)

omit

referred to

insert

mentioned

(3) Section 102(3)

omit

is to

insert

must

16 Section 103 repealed

Section 103

repeal

17 Part 11 and Division 1 headings inserted

After section 106

insert

Part 11 Transitional matters

Division 1 Health and Community Services Complaints Act 1998

18 Part 11, Division 2 inserted

After section 107

insert

Division 2 Health and Community Services Complaints Amendment Act 2011

108 Definitions

In this Division:

2011 amendments means the amendments to the Act effected by the *Health and Community Services Complaints Amendment Act 2011*.

109 Commissioner and acting Commissioner

The 2011 amendments do not affect the appointment of a person holding office as Commissioner, or acting in the office of Commissioner, at the commencement of sections 6 and 7 of the *Health and Community Services Complaints Amendment Act 2011*.

110 Staff and facilities

- (1) The 2011 amendments do not affect:
 - (a) the employment of any current employee; or
 - (b) any right, privilege, obligation or liability acquired, accrued or incurred by an employee before the commencement.
- (2) Without limiting subsection (1):
 - (a) at the commencement a current employee becomes a staff member; and
 - (b) an arrangement in force immediately before the commencement under section 14(2) (as then in force), continues as an arrangement under section 14(1) or (2)(a), as appropriate; and
 - (c) where the context permits, a reference in the Act to a staff member includes a reference to an employee.

- (3) In this section:

commencement means the commencement of section 14 of the *Health and Community Services Complaints Amendment Act 2011*.

current employee means a person who is an employee immediately before the commencement.

employee means a person employed to assist the Commissioner under section 14 as in force before the commencement.

19 Schedule 1 amended

- (1) Schedule 1, heading, after "**Schedule 1**"

insert

Appointment of Commissioner

(2) Schedule 1, clause 1, heading

omit, insert

1 Limitations on appointment of Commissioner

(3) Schedule 1, clause 1(3)

omit, insert

(3) The office of Commissioner may be held in conjunction with any other public office.

(4) Schedule 1, clause 2, heading

omit, insert

2 Term of appointment

(5) Schedule 1, clause 3, heading

omit, insert

3 Conditions of appointment

(6) Schedule 1, clause 3(1)(b)

omit

allowances,

insert

allowances;

(7) Schedule 1, clause 3(2)

omit

(8) Schedule 1, clause 3(3)

omit

an employee, within the meaning of the *Public Sector Employment and Management Act*,

insert

a public sector employee

-
- (9) Schedule 1, clause 3(4)
omit, insert
- (4) If a person ceases to be Commissioner and becomes a public sector employee, for determining his or her rights as a public sector employee, service as Commissioner is taken to be service in the Public Sector.
- (10) Schedule 1, clause 4, heading
omit, insert
- 4 Leave of absence**
- (11) Schedule 1, clause 5, heading
omit, insert
- 5 Resignation**
- (12) Schedule 1, clause 6, heading
omit, insert
- 6 Retirement**
- (13) Schedule 1, clause 7, heading
omit, insert
- 7 Termination or suspension of appointment**
- (14) Schedule 1, clause 7(1)(a), at the end
insert
- or
- (15) Schedule 1, clause 7(2)
omit

20 Act further amended

The Schedule has effect.

Schedule Act further amended

section 20

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Part 1, heading, at the end		matters
section 3(a)(i) to (iii) and (v), at the end		and
section 5(1)	is to have regard to	must have regard to the following
section 5(1)(a), (b), (d) and (e)	and	
section 5(1)(c)	Code; and	Code;
section 5(2)	to:	to any or all of the following:
section 5(2)(b)	Act; and	Act;
section 5(3)	to:	to either or both of the following:
section 5(3)(a)	Standards); and	Standards);
section 12(1)(f)(i), (j)(i), (k)(i) and (ii) and (n)(i), at the end		and
section 13(2)	is to	must
section 18(2)(a)(i) and (b)(i), at the end		or
section 18(2)(a)(ii) and (iii)	Territory of the Commonwealth	Territory

section 22(j)	a person, other than a person referred to in paragraphs (a) to (h) (inclusive)	any other person
section 23(1)(h)	referred to	mentioned
section 23(2)	failing:	failing to do any of the following:
section 23(2)(g)	received; or	received;
section 23(3)	(1)(h), <i>manager</i>	(1)(h): <i>manager</i>
sections 24(2) and 25(2)	is to	must
section 26(a)(i) and (b)(i), at the end		or
section 27(2)	must:	must do one of the following:
section 27(2)(c)	Part; or	Part;
section 27(3)(a)	referred to in section 22;	mentioned in section 22; and
section 27(3)(b)	referred to	mentioned
section 27(3)(c)	of the Commonwealth body,	body;
section 27(3)	, as the case may be	
section 27(4)	referred to (<i>all references</i>) of the Commonwealth , as the case may be	mentioned
section 27(4)(a) and (aa), at the end		or
section 27(4)(c)	body,	body;
section 28(1)	the purposes of	

section 28(2)	is to	must
section 28(4)	not contravene or fail to	
section 30(1)	that:	that any of the following apply:
section 30(1)(a) and (b)	referred to	mentioned
section 30(1)(e)	if any,	
section 30(1)(g)	faith; or	faith;
section 30(2)	referred to	mentioned
section 30(3)	of the Commonwealth	
section 30(6)(a), at the end		and
sections 32(1)(a) to (c) and 33(1)(a) and (b), at the end		or
section 34(2)(a) and (b)	referred to	mentioned
section 38(1)(a) to (c), at the end		and
sections 38(2) and 39(1), (3) and (4)	referred to	mentioned
section 40(2)(a) and (b), at the end		and
section 42(2)	is to	must
sections 42(2)(a) and 43(2)(a), at the end		and
section 45(4)(b)	referred to	mentioned
Part 7, Division 1, heading, at the end		matters
section 48(1)(a), at the end		or
sections 48(2) and 52(6)	referred to	mentioned

section 53	is to	must
section 55(2)	to:	to do one or more of the following:
section 55(2)(a)	in the case of	if the person is
section 55(2)(b)	notice; or	notice;
section 55(3)	is to	must
sections 55(4) and 56(2)	not contravene or fail to	
section 57(1)	of the Commonwealth	
section 58(1)(b)(ii)	referred to	mentioned
section 58(3)	necessary:	necessary, to do any of the following:
section 58(3)(g)	and	
section 58(4)	is to	must
section 58(6)(a), at the end		or
section 59(2)	notice in the <i>Gazette</i>	<i>Gazette</i> notice
section 64(2)	is to <i>(first reference)</i> , and is to be heard in Chambers	must
section 65(2)(a)	the case may be;	appropriate; or
section 65(2)(b)	Board; and	Board; or
section 65(3)(d)	of the Commonwealth	
section 66(3)	is to	must
section 66(3)(a), at the end		and
section 66(3)(b)	, as the case may be	
section 66(5)	referred to	mentioned

section 66(6)	the comments (if any)	any comments
section 67(2)(a), at the end		or
section 69(1)	referred to in (<i>all references</i>)	mentioned in
section 69(2)	is to	must
section 70(1)	the purposes of	
section 72(2)(a), at the end		and
section 78(3)(a)	is to	must
section 78(3)(a), at the end		and
section 78(3)(b) and (c)	are to	must
section 79(1)	are:	are as follows:
sections 79(2)(a) and 81(2)(a) to (c), at the end		or
section 81(2)(e)	functions,	functions;
section 81(3)(b)	in any other case	otherwise
section 84(5)	section, <i>interest</i>	section: <i>interest</i>
section 85	is to	must
section 87(2)	(1), <i>Chief</i>	(1): <i>Chief</i>
sections 91 and 92, heading	, &c.	
sections 92(1)(a) and (b) and (2)(a), 93(1)(a) to (c) and 94(1)(a), at the end		or
section 94(2)	includes:	includes any of the following:

section 94(2)(b)	and	
sections 94(4)(a) and 99(1)(a), at the end		and
section 99(1)(c)	referred to	mentioned
section 101	is to be commenced within 12 months after:	must be commenced within 12 months after the later of the following:
	all the words from "or" to "later."	(b) the offence coming to the knowledge of the Commissioner.
section 104(2)(a)	is to	must
section 106(1)	thereafter	then
section 106(2)	is to	must
