

Serial 152  
Health and Community Services Complaints Amendment Bill 2011  
Mr Vatskalis

A Bill for an Act to amend the *Health and Community Services Complaints Act*

NORTHERN TERRITORY OF AUSTRALIA

HEALTH AND COMMUNITY SERVICES COMPLAINTS  
AMENDMENT ACT 2011

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Act No. [ ] of 2011

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**Schedule Act further amended**



# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2011

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

[Assented to [ ] 2011]  
[Second reading [ ] 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*.

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**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**

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(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.

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**Schedule Act further amended**

section 20

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Part 1, heading, at the end		<b>matters</b>
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

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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	

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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		<b>matters</b>
section 48(1)(a), at the end		or
sections 48(2) and 52(6)	referred to	mentioned



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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

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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:

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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

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