

Serial 88
Health and Community Services Complaints Amendment (Further
Investigations) Bill 2009
Mr Conlan

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

NORTHERN TERRITORY OF AUSTRALIA

HEALTH AND COMMUNITY SERVICES COMPLAINTS AMENDMENT
(FURTHER INVESTIGATIONS) ACT 2009

Act No. [] of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2009

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

[Assented to [] 2009]
[Second reading [] 2009]

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 (Further Investigations) Bill 2009*.

2 Act amended

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

3 Amendment of section 12 (Powers and functions of Commissioner)

Section 12(1)(a)

omit

or on a reference from the Minister or the Legislative Assembly:

substitute

, on a reference from the Minister or the Legislative Assembly or on the Commissioner's own initiative:

4 Amendment of Part 4 heading

Part 4, heading, after "**Commissioner**"

insert

and related matter

5 New section 21A

After section 21, in Part 4

insert

21A Matter to be investigated on Commissioner's own initiative

- (1) The Commissioner may decide to investigate any matter relating to a health service or community service on the Commissioner's own initiative.
- (2) As soon as practicable after deciding to investigate a matter as mentioned in subsection (1), the Commissioner must investigate the matter and make a report to the Minister on the investigation.

6 Amendment of section 48 (Matters that may be investigated)

Section 48(1)(a), after "or 21(1)"

insert

or the Commissioner has decided to investigate under section 21A

7 New sections 66A and 66B

After section 66

insert

66A Notice of action to person other than provider

- (1) This section applies if a report as mentioned in section 65(4) contains recommendations for action by a person other than by a provider.

Note for subsection (1)

The Commissioner may be required to give a provider a notice under section 66(2).

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- (2) The Commissioner must give a written notice to the person specifying the following:
 - (a) the recommendations;
 - (b) any actions the Commissioner considers the person ought to take in relation to the recommendations (the **endorsed actions**).
 - (3) A person given a notice under subsection (2) must, within 45 days after receiving it or any longer period the Commissioner allows under subsection (4), advise the Commissioner, in writing, of the steps the person has taken in relation to the recommendations, including the endorsed actions.

Maximum penalty: \$5 000.

- (4) The Commissioner may extend the period mentioned in subsection (3) by not more than 15 days on receiving a written request from the person before the end of the period.
- (5) If within a reasonable period after a notice is given to a person under subsection (2) and any extension under subsection (4), the Commissioner is not satisfied the person has taken the endorsed actions, the Commissioner may, after considering any comments made by or for the person, send to the Minister a copy of the notice under subsection (2) and any comments made by or for the person.
- (6) In addition to subsection (5), the Commissioner may give a report to the Minister on the matters to which the notice relates.
- (7) The Minister must table a copy of a report, given under subsection (6), in the Legislative Assembly within 3 sittings days after the Minister receives it.

66B Follow up by Commissioner after tabling of reports

- (1) This section applies to a report tabled under section 66(8) or 66A(7) because the Commissioner was not satisfied that a provider or person (including a provider or person by reference to an office or position occupied or held by the provider or person) took appropriate steps in relation to all recommendations in the report that were to be taken by the provider or person.
- (2) After 6 months after the date the Minister is, under section 66(7) or 66A(6), given a report that is tabled, the Commissioner may, by written notice to the provider or person (each of whom is a **responsible person**), ask the responsible person to give an explanation of the following:

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- (a) the steps taken by the responsible person in relation to the recommendations;
 - (b) the reasons for not taking steps in relation to any of the recommendations.
- (3) A responsible person given a notice under subsection (2) must, within 14 days after receiving the notice or any longer period the Commissioner allows under subsection (4), give the explanation requested by the notice under that subsection.

Maximum penalty: \$5 000.

- (4) The Commissioner may extend the period mentioned in subsection (3) by not more than 15 days on receiving a written request from the responsible person before the end of the period.
- (5) Subsection (6) applies if, within a reasonable period after a notice is given to a responsible person under subsection (2) and after considering any comments made by or for the responsible person, the Commissioner is not satisfied about either of the following:
- (a) the responsible person has taken appropriate steps in relation to the recommendations;
 - (b) the responsible person's reasons for not taking appropriate steps in relation to the recommendations were reasonable.
- (6) The Commissioner may:
- (a) further investigate any matter relating to any health service or community service with which the responsible person is involved on the Commissioner's own initiative as mentioned in section 21A; and
 - (b) send to the Minister the notice under subsection (2), a copy of any comments made by or for the responsible person and notice that the Commissioner is further investigating matters as mentioned in paragraph (a).
- (7) As soon as possible after investigating any matter relating to any health service or community service with which the responsible person is involved as mentioned in subsection (6)(a), the Commissioner may make another report to the Minister about any such health service or community service and include information, comments, opinions and recommendations for action that the Commissioner considers appropriate.

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- (8) The Minister must table a copy of a report, given under subsection (7), in the Legislative Assembly within 3 sittings days after the Minister receives it.

8 New Part 11

After section 107

insert

Part 11 Transitional matters for Health and Community Services Complaints Amendment (Further Investigations) Act 2009

108 Application of section 21A

Section 21A applies to a health service or community service provided on, after, or at any time within 2 years before, the date of the commencement of that section.