



# **Health Legislation Amendment Act (No. 2) 2000**

**No. 6, 2000**



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**An Act to amend legislation relating to health, and  
for related purposes**

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## An Act to amend legislation relating to health, and for related purposes

[Assented to 7 March 2000]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Health Legislation Amendment Act (No. 2) 2000*.

### 2 Commencement

This Act commences on the day on which it receives the Royal Assent.

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### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## **Schedule 1—Amendment of the National Health and Medical Research Council Act 1992**

### **1 Section 4**

Insert:

*Chief Executive Officer* means the Chief Executive Officer referred to in section 44A.

### **2 Section 4 (paragraph (b) of the definition of *reviewable action*)**

Omit “Medical”.

### **3 Subsection 8(3)**

Omit “12, 13 and 14” (wherever occurring), substitute “13, 14, 14A and 14B”.

### **4 After section 11**

Insert:

#### **11A Publication of timetable**

A timetable and procedures to assist the Council to make recommendations to the Commonwealth on the application of the Reserve under paragraph 7(1)(c) must be published each year, in the manner and form specified in the regulations.

### **5 Sections 12 and 13**

Repeal the sections, substitute:

#### **12 Consultation by the Council before making a regulatory recommendation or engaging in certain other activities**

- (1) Subject to sections 14 and 14B, before the Council:
- (a) makes a regulatory recommendation; or

- (b) engages in any other prescribed activity (other than issuing guidelines);  
the Council must consult persons or bodies in accordance with the steps set out in this section.
- (2) As soon as practicable after deciding that, subject to consultation processes, it intends to make a regulatory recommendation or engage in a prescribed activity (other than issuing guidelines), the Council must publish a notice, in the manner and form specified in the regulations:
- (a) stating its intention to make the recommendation or engage in the activity; and
  - (b) inviting persons or bodies to make submissions relating to the proposed recommendation or activity in accordance with the procedures, and within the period, specified in the notice.
- (3) As soon as practicable after the end of the period specified under paragraph (2)(b), the Council must, having regard to any submissions received pursuant to the invitation referred to in that paragraph:
- (a) prepare a draft of the regulatory recommendation that the Council proposes to make or an outline of the prescribed activity in which the Council proposes to engage and publish a notice, in the manner and form specified in the regulations:
    - (i) containing a summary of the draft recommendation or the outline of the activity; and
    - (ii) stating, in the case of a draft recommendation, where copies of the draft recommendation can be obtained; and
    - (iii) inviting persons or bodies to make submissions relating to the draft recommendation or the outline of the activity in accordance with the procedures, and within the period, specified in the notice; or
  - (b) publish, in the manner and form specified in the regulations, a notice stating that it no longer proposes to make the recommendation or engage in the prescribed activity.
- (4) The Council must have regard to any submissions received pursuant to the invitation referred to in subparagraph (3)(a)(iii) before making the recommendation or engaging in the activity.
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**13 Consultation by the Council before issuing guidelines**

- (1) Subject to sections 14 and 14B, before the Council issues guidelines, the Council must:
  - (a) prepare a draft of the guidelines that the Council proposes to issue; and
  - (b) publish a notice, in the manner and form specified in the regulations:
    - (i) containing a summary of the draft guidelines; and
    - (ii) stating where copies of the draft guidelines can be obtained; and
    - (iii) inviting persons or bodies to make submissions relating to the draft guidelines in accordance with the procedures, and within the period, specified in the notice.
- (2) The Council must have regard to any submissions received pursuant to the invitation referred to in subparagraph (1)(b)(iii) before issuing the guidelines.

**6 Paragraph 14(1)(a)**

After “12”, insert “or 13”.

**7 Subsection 14(2)**

After “12(3)(a)”, insert “or 13(1)(b)”.

**8 After section 14**

Insert:

**14A Approval by Council of guidelines**

The Council may approve guidelines prepared by another person or body if, and only if, the Council is satisfied that the other person or body, before submitting the guidelines to the Council for its approval:

- (a) prepared a draft of the guidelines that it proposed to submit to the Council; and
- (b) published a notice, in a manner and form acceptable to the Council:

- (i) containing a summary of the draft guidelines; and
  - (ii) stating where copies of the draft guidelines could be obtained; and
  - (iii) inviting persons or bodies to make submissions relating to the draft in accordance with the procedures, and within the period, specified in the notice; and
- (c) had regard to any submissions received pursuant to the invitation referred to in subparagraph (b)(iii).

**14B Consultation by Council may be dispensed with or modified in certain circumstances**

- (1) If the Council is satisfied that a proposed regulatory recommendation, or proposed prescribed activity, referred to in section 12, or proposed guidelines referred to in section 13 or 14A, raise issues that are of minor significance only, the Council may omit all or any of the steps set out in section 12, 13 or 14A, as the case may be.
- (2) If the Council proposes to omit all or any of the steps set out in section 12, 13 or 14A, the Council must publish a notice, in the manner and form, and within the period, specified in the regulations, stating its reasons for so proposing.

**9 Subsection 16(6)**

Repeal the subsection.

**10 At the end of subsection 18(3)**

Add “This subsection has effect subject to subsection (6).”.

**11 Subsection 18(5)**

Repeal the subsection, substitute:

- (5) After receiving a strategic plan, the Minister must either:
  - (a) approve the plan; or
  - (b) give the plan back to the Council with a request for the Council to give the Minister a different strategic plan for the same period.

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- (6) If the Minister requests the Council to give him or her a different strategic plan, the Council must do so as soon as reasonably practicable.
- (7) A strategic plan comes into force:
- (a) immediately after the end of the period covered by the immediately preceding strategic plan that was in force; or
  - (b) when it is approved by the Minister, if the Minister approves it after the end of that period.
- (8) The Minister must cause to be laid before each House of the Parliament a copy of a strategic plan he or she has approved, within 15 sitting days of that House after he or she approves it.

Note: The heading to section 18 is replaced by the heading “**Approval, commencement and tabling of strategic plans**”.

## **12 Before subsection 19(1)**

Insert:

- (1A) During the period for which a strategic plan is in force, the Minister may request the Council to give him or her a variation of the plan.

## **13 At the end of subsection 19(1)**

Add “The Council may do so on its own initiative or as a result of the Minister requesting the Council to give him or her a variation of the plan.”.

## **14 After subsection 19(3)**

Insert:

- (3A) After receiving a variation of a strategic plan, the Minister must either:
- (a) approve the variation; or
  - (b) refuse to approve the variation.

## **15 Subsection 19(4)**

Omit “a variation of a strategic plan is given to the Minister”, substitute “the Minister approves the variation of the strategic plan”.

**16 Paragraph 19(4)(b)**

Omit “receipt”, substitute “approval”.

**17 Application**

The amendments of sections 16, 18 and 19 of the *National Health and Medical Research Council Act 1992* made by this Schedule apply in relation to strategic plans for periods starting after 30 June 2000.

**18 Paragraph 20(b)**

Repeal the paragraph, substitute:  
(b) the Chief Executive Officer;

**19 Section 22**

Repeal the section.

**20 Subsection 23(1)**

Omit “Secretary to the Council”, substitute “Chief Executive Officer”.

**21 After subsection 25(2)**

Insert:

(2A) Subsection (2) does not prevent remuneration of the Chief Executive Officer as described in section 44C.

**22 Section 35**

Omit “Medical Research Committee” (wherever occurring), substitute “Research Committee”.

**23 Paragraph 35(2)(c)**

After “medical research”, insert “and public health research”.

**24 Paragraph 37(2)(c)**

Repeal the paragraph, substitute:  
(c) the Chief Executive Officer;

**25 After section 37**

Insert:

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**37A Provisions relating to meetings of Principal Committees and the Executive Committee and appointment and duties of Deputy Chairpersons of those Committees**

- (1) The Chairperson of a Principal Committee or of the Executive Committee is to preside at any meeting of that Committee at which he or she is present.
- (2) A Principal Committee or the Executive Committee may, by resolution:
  - (a) appoint one of its members other than the Chairperson of that Committee to be the Deputy Chairperson of that Committee; and
  - (b) revoke an appointment so made.
- (3) In the absence of the Chairperson of a Principal Committee or the Executive Committee from the meeting of that Committee at which the Deputy Chairperson of that Committee is present, the Deputy Chairperson is to preside.
- (4) If the Chairperson of a Principal Committee or of the Executive Committee is absent from Australia or is unable because of illness or for any other reason to perform any of the functions or duties, or exercise any of the powers, of his or her office, the Deputy Chairperson of that Committee may perform those functions or duties or exercise those powers.
- (5) When the Deputy Chairperson of a Principal Committee or of the Executive Committee is performing functions or duties or exercising powers under subsection (4), a reference in this Act to the Chairperson of that Committee is taken to be a reference to the Deputy Chairperson of that Committee.

**26 Subparagraph 38(b)(iii)**

After “Chairperson”, insert “and the Deputy Chairperson”.

**27 Subsection 39(1)**

Omit “A Principal”, substitute “The Council or a Principal”.

**28 Subsection 39(2)**

After “appointed by”, insert “the Council or”.

**29 Subsection 39(5)**

Omit all the words before paragraph (a), substitute:

If the Council or a Principal Committee establishes a working committee under subsection (1), the Council or the Principal Committee, as the case may be, must determine:

**30 After subsection 42(2)**

Insert:

- (2A) The Chairperson of the Council may grant a member of a working committee established by the Council leave of absence from his or her duties on the working committee on such terms and conditions as the Chairperson of the Council determines.

**31 Subsection 43(3)**

Repeal the subsection, substitute:

- (3) A member of a working committee established by the Council may resign his or her office by delivering to the Chairperson of the Council a written notice signed by the member.
- (4) A member of a working committee established by a Principal Committee may resign his or her office by delivering to the Chairperson of that Principal Committee a written notice signed by the member.

**32 Subsection 44(4) (paragraph (c) of the definition of *appropriate authority*)**

Repeal the paragraph, substitute:

- (c) in the case of a working committee established by the Council—the Chairperson of the Council;
- (d) in the case of a working committee established by a Principal Committee—the Chairperson of that Principal Committee.

**33 After Part 5**

Insert:

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## **Part 5A—Chief Executive Officer**

### **44A Chief Executive Officer**

- (1) There is to be a Chief Executive Officer of the Council.
- (2) The Chief Executive Officer is the executive officer of the Council having responsibility for its day-to-day activities.
- (3) The Chief Executive Officer is to act in accordance with:
  - (a) the policies (if any) determined in writing by the Council;  
and
  - (b) the directions (if any) given in writing by the Council to the Chief Executive Officer.

### **44B Appointment**

- (1) The Chief Executive Officer is to be appointed by the Minister by written instrument.
- (2) The Chief Executive Officer holds office on a full-time basis.
- (3) The Chief Executive Officer holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

### **44C Remuneration**

- (1) The Chief Executive Officer is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Chief Executive Officer is to be paid the remuneration that is prescribed.
- (2) The Chief Executive Officer is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

#### **44D Resignation**

The Chief Executive Officer may resign his or her appointment by giving the Minister a written resignation.

#### **44E Other terms and conditions**

The Chief Executive Officer holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister. The terms and conditions that the Minister may determine include terms and conditions relating to termination of appointment.

#### **44F Acting appointment**

- (1) The Minister may appoint a person to act as the Chief Executive Officer:
  - (a) during a vacancy in the office of Chief Executive Officer, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the Chief Executive Officer is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
  - (a) the occasion for the appointment had not arisen; or
  - (b) there was a defect or irregularity in connection with the appointment; or
  - (c) the appointment had ceased to have effect; or
  - (d) the occasion to act had not arisen or had ceased.

#### **34 At the end of section 45**

Add:

- (3) Each of the following persons must perform his or her functions or duties in accordance with the directions of the Chief Executive Officer:
  - (a) a member of the staff of the Council;



- (b) an officer or employee of the Department performing services under arrangements made under subsection (2);
- (c) an officer or employee mentioned in paragraph 48(1)(d) performing services under arrangements with a person mentioned in paragraph 48(1)(a) or (b).

**35 Subsection 51(2)**

Omit “Assistance”, substitute “Subject to subsection (2A), assistance”.

**36 After subsection 51(2)**

Insert:

- (2A) The Chief Executive Officer must notify the recipients of grants of assistance by the date set out in the timetable published under section 11A for that category of grants.

**37 Paragraph 56(2)(c)**

Omit “Medical”.

**38 Paragraph 67(1)(a)**

Omit “Medical”.

**39 Paragraph 81(2)(e)**

Repeal the paragraph, substitute:

- (e) the Chief Executive Officer;

**40 Before paragraph 82(2)(a)**

Insert:

- (aa) the Chairperson of the Council;

**41 After paragraph 82(2)(b)**

Insert:

- (ba) a working committee established by the Council;

**42 Paragraph 82(2)(c)**

Repeal the paragraph, substitute:

- (c) the Chief Executive Officer.

**Schedule 1** Amendment of the National Health and Medical Research Council Act  
1992

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*[Minister's second reading speech made in—  
House of Representatives on 26 November 1998  
Senate on 7 December 1998]*

(148/98)