



Australian National Preventive Health Agency Act 2010

No. 134, 2010

**An Act to establish the Australian National
Preventive Health Agency, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Australian National Preventive Health Agency Act 2010

No. 134, 2010

An Act to establish the Australian National Preventive Health Agency, and for related purposes

[Assented to 24 November 2010]

The Parliament of Australia enacts:

Australian National Preventive Health Agency Act 2010 No. 134, 2010 1

Section 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Australian National Preventive Health Agency Act 2010*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	24 November 2010
2. Sections 3 to 56	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 January 2011 (see F2010L03052)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in Column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

2A Objects and functions

- (1) The object of this Act is to establish an Agency to advise on and manage national preventive health programs.
- (2) The function of the Agency and its CEO are to be interpreted in accordance with the following objects:
 - (a) to effectively monitor, evaluate and build evidence in relation to preventive health strategies;
 - (b) to facilitate a national health prevention research infrastructure;
 - (c) to generate new partnerships for workplace, community and school interventions;
 - (d) to assist in the development of the health prevention workforce; and
 - (e) to coordinate and implement a national approach to social marketing for preventive health programs.

3 Definitions

In this Act:

Advisory Council means the Advisory Council of the ANPHA established by section 28.

ANPHA means the Australian National Preventive Health Agency established by section 6.

Australian Local Government Association means the Australian Local Government Association Limited (ABN 31 008 613 876).

CEO means the Chief Executive Officer of the ANPHA appointed in accordance with section 14.

Chair means the Chair of the Advisory Council.

committee means a committee established under section 42.

Deputy Chair means the Deputy Chair of the Advisory Council.

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member means a member of the Advisory Council appointed in accordance with section 31 (including the Chair and the Deputy Chair).

Ministerial Conference means the body known as the Australian Health Ministers' Conference on the day on which this definition commences.

4 Crown to be bound

This Act binds the Crown in each of its capacities.

5 Extension to external Territories

This Act extends to every external Territory other than Norfolk Island.

Part 2—Australian National Preventive Health Agency

6 Establishment

- (1) The Australian National Preventive Health Agency (*ANPHA*) is established by this section.
- (2) The ANPHA may also be known by a name specified in the regulations.

7 Constitution of the ANPHA

The ANPHA consists of:

- (a) the CEO; and
- (b) the staff of the ANPHA.

Note: The ANPHA does not have a legal identity separate from the Commonwealth.

8 Function of the ANPHA

The ANPHA's function is to assist the CEO in the performance of the CEO's functions.

9 ANPHA to have the privileges and immunities of the Crown

The ANPHA has the privileges and immunities of the Crown.

Part 3—Chief Executive Officer, staff and consultants

Division 1—The Chief Executive Officer

Subdivision A—Functions and powers

10 Chief Executive Officer

There is to be a Chief Executive Officer of the ANPHA.

11 Functions of the CEO

- (1) The CEO's functions are:
 - (a) if requested to do so by the Minister, or on his or her own initiative, to advise and make recommendations to the Minister on matters relating to preventive health; and
 - (b) if requested to do so, in writing, by the Chair of the Ministerial Conference, to advise and make recommendations to the Ministerial Conference on matters relating to preventive health; and
 - (c) if requested to do so, in writing, by a State or Territory government or the Australian Local Government Association, to advise and make recommendations to the State or Territory government or the Australian Local Government Association, as the case may be, on matters relating to preventive health; and
 - (d) to collect, analyse, interpret and disseminate information relating to preventive health; and
 - (e) every 2 years, starting in 2013, to publish a report on the state of preventive health in Australia; and
 - (f) to conduct educational, promotional and community awareness programs relating to preventive health, including:
 - (i) the promotion of a healthy lifestyle and good nutrition;
 - (ii) reducing tobacco use;

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- (iii) minimising the harmful drinking of alcohol;
 - (iv) discouraging substance abuse; and
 - (v) reducing the incidence of obesity amongst Australians;
and
 - (g) to make, on behalf of the Commonwealth, grants of financial assistance relating to preventive health; and
 - (h) to encourage initiatives relating to preventive health matters through partnerships with industry, non-governmental organisations and the community sector; and
 - (i) to develop national standards and codes of practice relating to preventive health matters; and
 - (j) to manage schemes that provide awards to participants to recognise excellent performance in matters relating to preventive health; and
 - (k) any other function relating to preventive health that is set out in a legislative instrument made by the Minister; and
 - (l) to do anything incidental to, or conducive to, the performance of any of the above functions.
- (2) The CEO has the power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions.
- (3) Paragraph (1)(b) only applies if:
- (a) the Ministerial Conference agrees to the request; and
 - (b) when making the request, the Chair of the Ministerial Conference states that the Ministerial Conference has agreed to the request.

Note: See section 55.

- (4) The Minister must not set out a function in a legislative instrument under paragraph (1)(k) unless the Ministerial Conference has agreed to the function.

Note: See section 55.

Constitutional limits

- (5) The CEO may perform the CEO's functions only:

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- (a) for purposes relating to a corporation to which paragraph 51(xx) of the Constitution applies; or
- (b) for purposes relating to the collection of statistics; or
- (c) for purposes relating to trade and commerce:
 - (i) between Australia and places outside Australia; or
 - (ii) among the States; or
 - (iii) within a Territory, between a State and a Territory or between 2 Territories; or
- (d) by way of the use of a postal, telegraphic, telephonic or other like service within the meaning of paragraph 51(v) of the Constitution; or
- (e) by way of the provision of a service to:
 - (i) the Commonwealth; or
 - (ii) an authority of the Commonwealth; for a purpose of the Commonwealth; or
- (f) for purposes relating to pharmaceutical, sickness and hospital benefits and medical and dental services; or
- (g) for purposes relating to the people of any race for whom it is deemed necessary to make special laws; or
- (h) for purposes relating to the granting of financial assistance to a State on such terms and conditions as the Parliament thinks fit; or
- (i) in, or for purposes relating to, a Territory; or
- (j) in or with respect to a Commonwealth place (within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*); or
- (k) for purposes relating to the implied power of the Parliament to make laws with respect to nationhood; or
- (l) for purposes relating to the executive power of the Commonwealth; or
- (m) for purposes relating to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth.

11A Publication

The CEO must cause a copy of any advice given or recommendations made in undertaking the CEO's functions under subsection 11(1) to be published on the ANPHA's web site within 12 months of providing the advice or making the recommendations.

12 Fees

- (1) The CEO may charge fees for things done in performing his or her function under paragraph 11(1)(c).
- (2) A legislative instrument under paragraph 11(1)(k) that sets out a function must specify whether the CEO may charge fees for things done in performing the function.
- (3) A fee must not be such as to amount to taxation.

13 Working with the Advisory Council

- (1) In performing his or her functions and exercising his or her powers, the CEO must have regard to the advice and recommendations given to him or her by the Advisory Council (whether or not the advice and recommendations were given in response to a request).
- (2) The CEO may attend Advisory Council meetings if invited by the Chair to do so.

Subdivision B—Terms and conditions of appointment

14 Appointment

- (1) The CEO is to be appointed by the Minister by written instrument, on a full-time basis.
- (2) A member is not eligible for appointment as the CEO.
- (3) Before making an appointment, the Minister must consult the Ministerial Conference.

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- (4) The appointment of a person as CEO is not invalid because of a defect or irregularity in connection with the person's appointment.

15 Term of appointment

The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Note: The CEO is eligible for reappointment: see the *Acts Interpretation Act 1901*.

16 Remuneration and allowances

- (1) The CEO 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 CEO is to be paid the remuneration that is prescribed by the regulations.
- (2) The CEO is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

17 Leave of absence

- (1) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant to the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines in writing.

18 Outside employment

The CEO must not engage in paid employment outside the duties of his or her office without the Minister's approval.

19 Disclosure of interests

The CEO must give written notice to the Minister of all interests, pecuniary or otherwise, that the CEO has or acquires and that

conflict or could conflict with the proper performance of the CEO's functions.

20 Other terms and conditions

The CEO holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined, in writing, by the Minister.

21 Resignation

- (1) The CEO may resign his or her appointment by giving the Minister a signed notice of resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

22 Termination of appointment

- (1) The Minister may terminate the appointment of the CEO:
 - (a) for misbehaviour or physical or mental incapacity; or
 - (b) if the CEO:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (c) if the CEO is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (d) if the CEO engages, without the Minister's approval, in paid employment outside the duties of his or her office (see section 18); or
 - (e) if the CEO fails, without reasonable excuse, to comply with section 19.
- (2) Before terminating a CEO's appointment, the Minister must consult the Ministerial Conference.

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23 Acting CEO

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

Note: See the *Acts Interpretation Act 1901*.

24 Delegation by the CEO

- (1) Subject to subsection (2), the CEO may delegate, in writing, all or any of the CEO's functions and powers to a person who is a member of the staff of the ANPHA.
- (2) The CEO must not delegate his or her function under paragraph 11(1)(i).
- (3) In exercising powers under a delegation, the delegate must comply with any written directions of the CEO.

Note: See the *Acts Interpretation Act 1901*.

Division 2—Staff and consultants

25 Staff

- (1) The staff of the ANPHA are to be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the CEO and the staff of the ANPHA together constitute a Statutory Agency; and
 - (b) the CEO is the Head of that Statutory Agency.

26 Staff to be made available to the CEO

- (1) The CEO is to be assisted by:
 - (a) officers and employees of Agencies (within the meaning of the *Public Service Act 1999*), and of authorities of the Commonwealth, whose services are made available to the ANPHA in connection with the performance of any of its functions; and
 - (b) persons whose services are so made available under arrangements made under subsection (2).
- (2) The CEO may make an arrangement with the appropriate authority or officer of a State or Territory government or government authority under which the government or government authority makes officers or employees available to the CEO to perform services in connection with the performance of any of the CEO's functions.
- (3) An arrangement under subsection (2) may provide for the Commonwealth to reimburse a State or Territory with respect to the services of a person or persons to whom the arrangement relates.
- (4) When performing services for the CEO under this section, a person is subject to the directions of the CEO.

Part 3 Chief Executive Officer, staff and consultants

Division 2 Staff and consultants

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27 Consultants

- (1) The CEO may engage a person (other than a member) who has suitable qualifications and experience as a consultant to the CEO.
- (2) The terms and conditions of engagement are to be determined, in writing, by the CEO.

Part 4—The Advisory Council

Division 1—Establishment, functions and powers

28 Establishment

The Advisory Council of the ANPHA is established by this section.

29 Membership

The Advisory Council is to consist of:

- (a) one member representing the Commonwealth; and
- (b) at least one member, but not more than 2 members, representing the governments of the States and Territories; and
- (c) at least 5, but not more than 8, other members with expertise relating to preventive health.

30 Function of Advisory Council

- (1) The Advisory Council's function is:
 - (a) on its own initiative, to provide advice and make recommendations to the CEO in relation to the CEO's functions under section 11; and
 - (b) at the request of the CEO, to provide advice and make recommendations to the CEO in relation to the CEO's functions under this Act.
- (2) When acting on its own initiative, the Advisory Council must carry out its function in a manner that is consistent with the strategic plan and annual operational plan (including any interim plan) that is in force.
- (3) The Advisory Council has power to do all things necessary or convenient to be done for or in connection with the performance of its function.

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Division 1 Establishment, functions and powers

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- (4) To avoid doubt, the Advisory Council cannot give any directions to the CEO.

Example: The Advisory Council could not direct the CEO in relation to the management of the ANPHA.

Division 2—Terms and conditions of appointment of members of the Advisory Council

31 Appointment

- (1) A member is to be appointed by the Minister by written instrument, on a part-time basis.
- (2) A person is eligible to be appointed as a member only if the person is ordinarily resident in Australia.
- (3) The Minister must appoint one member to be the Chair and another member to be the Deputy Chair.
- (4) The Minister must consult with the Ministerial Conference before appointing a person as a member, the Chair or the Deputy Chair.
- (5) A person's appointment as a member, the Chair or the Deputy Chair is not invalid because of a defect or irregularity in connection with the person's appointment.

32 Term of appointment

A member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: A member is eligible for reappointment: see the *Acts Interpretation Act 1901*.

33 Remuneration and allowances

- (1) A member 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 member is to be paid the remuneration that is prescribed by the regulations.
- (2) However, a member is not entitled to be paid remuneration if he or she holds an office or appointment, or is otherwise employed, on a full-time basis in the service or employment of:
 - (a) a State; or

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- (b) a corporation (a *public statutory corporation*) that:
 - (i) is established for a public purpose by a law of a State; and
 - (ii) is not a tertiary education institution; or
- (c) a company limited by guarantee, where the interests and rights of the members in or in relation to the company are beneficially owned by a State; or
- (d) a company in which all the stock or shares are beneficially owned by a State or by a public statutory corporation.

Note: A similar rule applies to a member who has a similar relationship with the Commonwealth or a Territory. See subsection 7(11) of the *Remuneration Tribunal Act 1973*.

- (3) A member is to be paid the allowances that are prescribed by the regulations.
- (4) This section (other than subsection (2)) has effect subject to the *Remuneration Tribunal Act 1973*.

34 Leave of absence

- (1) The Minister may grant leave of absence to the Chair on the terms and conditions that the Minister determines.
- (2) The Chair may grant leave of absence to another member on the terms and conditions that the Chair determines.
- (3) The Chair must notify the Minister if the Chair grants leave of absence to a member for a period of more than 6 months.

35 Outside employment

A member must not engage in any paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of his or her duties.

36 Standing obligation to disclose interests

- (1) A member must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that

conflict or could conflict with the proper performance of the Advisory Council's function.

- (2) The notice must be given to the Minister as soon as practicable after the member becomes aware of the potential for conflict of interest.

37 Other terms and conditions

A member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined, in writing, by the Minister.

38 Resignation

- (1) A member may resign his or her appointment by giving the Minister a signed notice of resignation.
- (2) The Chair may resign his or her appointment as the Chair without resigning his or her appointment as a member.
- (3) The Deputy Chair may resign his or her appointment as the Deputy Chair without resigning his or her appointment as a member.
- (4) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

39 Termination of appointment

- (1) The Minister may terminate the appointment of a member:
 - (a) for misbehaviour or physical or mental incapacity; or
 - (b) if the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or

Part 4 The Advisory Council

Division 2 Terms and conditions of appointment of members of the Advisory Council

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- (c) if the member is absent, except on leave of absence, from 3 consecutive meetings of the Advisory Council; or
 - (d) if the member engages in paid employment that the Minister thinks conflicts, or may conflict, with the proper performance of the member's duties (see section 35); or
 - (e) if the member fails, without reasonable excuse, to comply with section 36.
- (2) Before terminating a member's appointment, the Minister must consult the Ministerial Conference.

40 Acting appointments

- (1) The Minister may appoint a member to act as the Chair if the Deputy Chair is unable to act as the Chair:
- (a) during a vacancy in the office of the Chair, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chair:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- (2) The Minister may appoint a person to act as a member (other than the Chair):
- (a) during a vacancy in the office of a member (other than the Chair), whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when a member (other than the Chair):
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- (3) If:
- (a) a member is to act as the Chair; or
 - (b) a person is to act as a member (other than the Chair);
- for more than 6 months, the Minister must consult with the Ministerial Conference before appointing the member or person.

- (4) If:
- (a) a person is to act as a member (other than the Chair); and
 - (b) the person is to represent the governments of the States and Territories;
- the Minister must consult with the Ministerial Conference before appointing the person.
- (5) 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 is 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.

Note: See the *Acts Interpretation Act 1901*.

Division 3—Advisory Council procedures

41 Meetings of the Advisory Council

Holding meetings

- (1) The Chair:
 - (a) may convene meetings of the Advisory Council during the period beginning on the day this section commences (the ***commencement day***) and ending on the last day of the financial year in which the commencement day occurs; and
 - (b) except if paragraph (a) applies—must convene 4 meetings of the Advisory Council in each financial year; and
 - (c) may convene such meetings as are necessary for the efficient performance of the Advisory Council’s function.

Procedure of meetings

- (2) Subject to subsection (4), the CEO may, by writing, determine matters relating to the operation of the Advisory Council.
- (3) Subject to subsection (4), if no determination is in force for the purposes of subsection (2), the Advisory Council may operate in the way it determines.
- (4) The Chair must ensure that minutes of meetings are kept.

Disclosure of interest by a member

- (5) If a member has a direct or indirect financial interest in a matter being considered, or about to be considered, at a meeting, being an interest that could conflict with the proper performance of the Advisory Council’s function, then the member must disclose that interest to the other members as soon as practicable.

Disclosure to be recorded in the minutes of the meeting

- (6) Any disclosure under subsection (5), and any decision made by the Advisory Council in relation to the disclosure, must be recorded in the minutes of the meeting.

Attendance by CEO

- (7) The Chair may invite the CEO to attend all or part of an Advisory Council meeting.

Determination not a legislative instrument

- (8) A determination made under subsection (2) is not a legislative instrument.

Part 5—Committees

42 Committees

- (1) The CEO may, by writing, establish committees to assist:
 - (a) the CEO in the performance of his or her functions; or
 - (b) the Advisory Council in the performance of its function.
- (2) A committee is to consist of such persons (whether members or not) as the CEO determines.
- (3) The CEO must determine, in relation to a committee established under this section, the terms and conditions of appointment of the members of the committee.
- (4) The CEO may determine, in relation to a committee established under this section:
 - (a) the committee's terms of reference; and
 - (b) the procedures to be followed by the committee.
- (5) An instrument made under subsection (1) is not a legislative instrument.

Part 6—Strategic and annual operational plans

Division 1—Strategic plans

43 Development of strategic plan

- (1) The CEO must develop, and prepare in written form, a strategic plan, for a 5-year period, that:
 - (a) defines the CEO's principal objectives in performing his or her functions during that 5-year period; and
 - (b) gives a broad outline of the strategies to be pursued by the CEO to achieve those objectives.
- (2) The CEO must consult the Advisory Council when developing and preparing a strategic plan.
- (3) A strategic plan is to relate to:
 - (a) for the first strategic plan—the period beginning on the day this section commences and ending on 30 June 2015; and
 - (b) for later strategic plans—a period beginning on the 1 July immediately following the end of the 5-year period to which the previous plan related.
- (4) For the purposes of this Division, the period beginning on the day this section commences and ending on 30 June 2015 is taken to be a 5-year period.
- (5) A strategic plan prepared under subsection (1) is not a legislative instrument.

44 Approval of strategic plan

- (1) The CEO must give a copy of a strategic plan to the Minister for approval on or before:
 - (a) for the first strategic plan—the end of 4 months after the day this section commences; and
 - (b) for later strategic plans—either:

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- (i) 31 January in the last year of the 5-year period to which the previous plan related; or
 - (ii) a later day, but not later than 31 March, in the last year of the 5-year period to which the previous plan related, as allowed by the Minister.
- (2) The Minister must not approve a strategic plan unless the Ministerial Conference has agreed to the plan.
- (3) However, the Minister may approve an interim strategic plan if the Ministerial Conference does not agree:
 - (a) to the first strategic plan by the end of 6 months after the day this section commences; or
 - (b) to a later strategic plan by 31 May in the last year of the 5-year period to which the previous plan related.
- (4) A strategic plan or interim strategic plan comes into force on:
 - (a) the day on which it is approved by the Minister; or
 - (b) the first day of the period to which it relates;whichever is the later.

45 Variation of strategic plans

- (1) The CEO may, at any time, review a strategic plan, whether or not it has come into force, and consider whether a variation to the plan is necessary.

Note: See also subsection 48(2).
- (2) The CEO may, with the approval of the Minister, vary a strategic plan.
- (3) The Minister may, at any time, request the CEO to vary a strategic plan, whether or not it has come into force.
- (4) If the Minister requests a variation of a strategic plan, the CEO must, with the approval of the Minister, vary the plan accordingly.
- (5) The Minister must not approve a variation of a strategic plan unless the Ministerial Conference has agreed to the variation.

- (6) However, the Minister may approve a variation of a strategic plan if the Ministerial Conference does not agree to the variation within 6 months of the variation being put to it.
- (7) If a variation of a strategic plan is approved by the Minister after the plan has come into force, the plan as so varied continues in force on and after the day on which the variation is so approved.

Division 2—Annual operational plans

46 Development of annual operational plan

- (1) The CEO must give the Minister an annual operational plan relating to the 12 month period:
 - (a) beginning on the day this section commences and ending on 30 June 2012—before the end of 4 months after the day this section commences; and
 - (b) beginning on 1 July 2012—before 30 April 2012; and
 - (c) beginning on 1 July in a later calendar year—before 30 April in that calendar year.
- (2) An annual operational plan must:
 - (a) set out particulars of the action that the CEO intends to take during the period to which the plan relates in order to give effect to, or further, the goals set out in the strategic plan applicable to the period; and
 - (b) include such performance indicators as the CEO considers appropriate against which the ANPHA's performance can be assessed during the period to which the plan relates.
- (3) The CEO must consult the Advisory Council when preparing an operational plan.
- (4) For the purposes of this Division, the period beginning on the day this section commences and ending on 30 June 2012 is taken to be a 12 month period.
- (5) An annual operational plan is not a legislative instrument.

47 Approval of annual operational plan

- (1) The Minister may, by written notice given to the CEO:
 - (a) approve an annual operational plan; or
 - (b) if the Minister thinks that the plan is inconsistent with the provisions of the relevant strategic plan—request the CEO to revise the annual operational plan appropriately.
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- (2) The Minister must not approve an annual operational plan unless the Ministerial Conference has agreed to the plan.
- (3) However, the Minister may approve an interim annual operational plan if the Ministerial Conference does not agree to an annual operational plan for the 12 month period:
 - (a) beginning on the day this section commences and ending on 30 June 2012—by the end of 6 months after the day this section commences; and
 - (b) beginning on 1 July 2012—by 31 May 2012; and
 - (c) beginning on 1 July in a later calendar year—by 31 May in that calendar year.
- (4) If the Minister makes a request under paragraph (1)(b), the Minister is to set out the reasons for the request in the notice.
- (5) The CEO must consider a request under paragraph (1)(b) and the statement of reasons, make such revision of the annual operational plan as he or she considers appropriate and submit the revised plan to the Minister for approval.
- (6) An annual operational plan or an interim annual operational plan comes into force:
 - (a) at the beginning of the period to which the plan relates; or
 - (b) on the day on which the CEO receives written notice of the Minister's approval;whichever is the later.

48 Variation of annual operational plan

- (1) Section 45 applies to annual operational plans in the same way as it applies to strategic plans, except that the Minister may approve a variation of an annual operational plan if the Ministerial Conference does not agree to the variation within 3 months of the variation being put to it.
- (2) When submitting to the Minister proposals for variation of a strategic plan, the CEO must also submit to the Minister proposals for any consequential variations of a relevant annual operational plan.

Part 6 Strategic and annual operational plans

Division 3 Compliance with plans

Section 49

Division 3—Compliance with plans

49 Compliance with plans

When performing his or her functions and exercising his or her powers, the CEO must take into account the strategic plan and annual operational plan (including any interim plan) that is in force.

Part 7—Finance and reporting requirements

Division 1—ANPHA Special Account

50 ANPHA Special Account

- (1) The ANPHA Special Account is established by this section.
- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

51 Credits to the Account

There may be credited to the Account amounts equal to the following:

- (a) fees paid to the Commonwealth in accordance with section 12;
- (b) amounts received by the Commonwealth in connection with the performance of the CEO's functions under this Act;
- (c) amounts received by the Commonwealth in relation to property paid for with amounts debited from the Account;
- (d) amounts of any gifts given or bequests made for the purposes of the Account.

Note: An Appropriation Act provides for amounts to be credited to a Special Account if any of the purposes of the Account is a purpose that is covered by an item in the Appropriation Act.

52 Purposes of the Account

The purposes of the Account are as follows:

- (a) paying or discharging the costs, expenses and other obligations incurred by the Commonwealth in the performance of the CEO's functions;
- (b) paying any remuneration and allowances payable to any person under this Act;
- (c) meeting the expenses of administering the Account.

Part 7 Finance and reporting requirements

Division 1 ANPHA Special Account

Section 52

Note: See section 21 of the *Financial Management and Accountability Act 1997* (debits from Special Accounts).

Division 2—Annual report

53 Annual report

Annual report to be given to Minister

- (1) The CEO must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report (an **annual report**) on the CEO's operations during that year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains provisions about annual reports.

- (2) For the purposes of subsection (1), the period beginning on the day this section commences and ending on 30 June 2012 is taken to be a financial year.

Contents of annual report

- (3) The CEO must include in a report relating to a financial year the following:
 - (a) an assessment of the extent to which the CEO's operations during the year have contributed:
 - (i) to the objectives set out in the strategic plan applicable for the year; and
 - (ii) to the objectives set out in the annual operational plan for the year;
 - (b) particulars of variations (if any) of the strategic plan and the annual operational plan taking effect during the year;
 - (c) an evaluation of the ANPHA's overall performance during the year against the performance indicators set out in the annual operational plan for the year;
 - (d) the financial statements required by section 49 of the *Financial Management and Accountability Act 1997*;
 - (e) an audit report on those statements under section 57 of the *Financial Management and Accountability Act 1997*.

Part 8—Grants

54 Grants

Scope

- (1) This section applies to a grant of financial assistance to a State, Territory or person if:
 - (a) the grant is made by the CEO on behalf of the Commonwealth; and
 - (b) the grant relates to preventive health.

Terms and conditions

- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the State, Territory or person (as the case requires).
- (3) An agreement under subsection (2) may be entered into by the CEO on behalf of the Commonwealth.

Part 9—Miscellaneous

55 How the Ministerial Conference gives agreement

The Ministerial Conference is to give its agreement, for the purposes of a provision of this Act, by resolution of the Conference passed in accordance with the procedures determined by the Conference.

56 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
House of Representatives on 29 September 2010
Senate on 15 November 2010]*