



Australian Institute of Health and Welfare Act 1987

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About this compilation

This compilation

This is a compilation of the *Australian Institute of Health and Welfare Act 1987* that shows the text of the law as amended and in force on 27 November 2018 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to establish an Australian Institute of Health and Welfare, and for related purposes

Part I—Preliminary

1 Short title

This Act may be cited as the *Australian Institute of Health and Welfare Act 1987*.

2 Commencement

This Act shall come into operation on a day to be fixed by Proclamation.

2A Simplified outline of this Act

This Act establishes the Australian Institute of Health and Welfare.

The main functions of the Institute are the following:

- (a) to collect and produce information and statistics relating to health and welfare;
- (b) to coordinate and provide assistance for the collection and production of information and statistics relating to health and welfare by other bodies or persons;
- (c) to conduct and promote research into the health of the people of Australia and their health services;
- (d) to publish reports on work carried out by or in association with the Institute;
- (e) to make recommendations to the Minister on the prevention and treatment of diseases and the improvement and promotion of the health and health awareness of the people of Australia.

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The Institute must perform its functions and exercise its powers in accordance with directions given by the Minister.

This Act also establishes the Board of the Institute. The Board's main functions are to ensure the proper, efficient and effective performance of the Institute's functions.

There is to be a Chief Executive Officer of the Institute. The CEO is responsible for the day-to-day administration of the Institute.

There is to be an Australian Institute of Health and Welfare Ethics Committee. The Institute may appoint other committees to assist the Institute in performing its functions.

This Act also deals with miscellaneous matters, including delegations, confidentiality and the power to make regulations.

3 Interpretation

In this Act, unless the contrary intention appears:

Board means the Board of the Institute.

CEO means the Chief Executive Officer of the Institute.

Chair means the Chair of the Board.

Deputy Chair means the Deputy Chair of the Board.

Ethics Committee means the Australian Institute of Health and Welfare Ethics Committee.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

health-related information and statistics means information and statistics collected and produced from data relevant to health or health services.

Institute means the Australian Institute of Health and Welfare.

member means a member of the Board, and includes the Chair and the Deputy Chair.

paid work means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

production means compilation, analysis and dissemination.

State Health Minister means:

- (a) the Minister of the Crown for a State;
- (b) the Minister of the Australian Capital Territory; or
- (c) the Minister of the Northern Territory;

who is responsible, or principally responsible, for the administration of matters relating to health in the State, the Australian Capital Territory or the Northern Territory, as the case may be.

State Housing Minister means:

- (a) the Minister of the Crown for a State; or
- (b) the Minister of the Australian Capital Territory; or
- (c) the Minister of the Northern Territory;

who is responsible, or principally responsible, for the administration of matters relating to housing in the State or Territory, as the case may be.

State or Territory agency means:

- (a) a Department of a State or Territory; or
- (b) a body (whether incorporated or not) established for a public purpose by or under a law of a State or Territory.

State Welfare Minister means:

- (a) the Minister of the Crown for a State; or
- (b) the Minister of the Australian Capital Territory; or
- (c) the Minister of the Northern Territory;

who is responsible, or principally responsible, for the administration of matters relating to welfare in the State or Territory, as the case may be.

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trust money means money received or held by the Institute on trust.

trust property means property received or held by the Institute on trust.

welfare-related information and statistics means information and statistics collected and produced from data relevant to the provision of welfare services.

welfare services includes:

- (a) aged care services; and
- (b) child care services (including services designed to encourage or support participation by parents in educational courses, training and the labour force); and
- (c) services for people with disabilities; and
- (d) housing assistance (including programs designed to provide access to secure housing in the long term and programs to provide access to crisis accommodation in the short term); and
- (e) child welfare services (including, in particular, child protection and substitute care services); and
- (f) other community services.

Part II—Australian Institute of Health and Welfare

Division 1—Establishment, functions and powers of Institute

4 Establishment of Institute

- (1) There is hereby established a body to be known as the Australian Institute of Health and Welfare.
- (2) The Institute:
 - (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal; and
 - (c) may sue and be sued in its corporate name.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Institute. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

- (3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the common seal of the Institute affixed to a document and shall presume that it was duly affixed.

5 Functions of the Institute

Institute to have health-related and welfare-related functions

- (1AA) The functions of the Institute are:
- (a) the health-related functions conferred by subsection (1); and
 - (b) the welfare-related functions conferred by subsection (1A).

Health-related functions

- (1) The Institute's health-related functions are:
 - (a) to collect health-related information and statistics, in consultation with the Australian Bureau of Statistics if

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- necessary, whether by the Institute itself or in association with other bodies or persons;
- (b) to produce health-related information and statistics, whether by itself or in association with other bodies or persons;
 - (c) to co-ordinate the collection and production of health-related information and statistics by other bodies or persons;
 - (d) to provide assistance, including financial assistance, for the collection and production of health-related information and statistics by other bodies or persons;
 - (e) to develop methods and undertake studies designed to assess the provision, use, cost and effectiveness of health services and health technologies;
 - (f) to conduct and promote research into the health of the people of Australia and their health services;
 - (g) to develop, in consultation with the Australian Bureau of Statistics, specialised statistical standards and classifications relevant to health and health services, and advise the Bureau on the data to be used by it for the purposes of health-related statistics;
 - (h) subject to section 29, to enable researchers to have access to health-related information and statistics held by the Institute or by bodies or persons with whom contracts or arrangements have been entered into by the Institute;
 - (j) to publish methodological and substantive reports on work carried out by or in association with the Institute under this subsection;
 - (k) to make recommendations to the Minister on the prevention and treatment of diseases and the improvement and promotion of the health and health awareness of the people of Australia; and
 - (m) to do anything incidental to any of the foregoing.

Welfare-related functions

- (1A) The Institute's welfare-related functions are:
- (a) to collect welfare-related information and statistics, in consultation with the Australian Bureau of Statistics if

- necessary, whether by the Institute itself or in association with other bodies or persons; and
- (b) to produce welfare-related information and statistics (whether by itself or in association with other bodies or persons); and
 - (c) to co-ordinate the collection and production of welfare-related information and statistics by other bodies or persons; and
 - (d) to provide assistance (including financial assistance) for the collection and production of welfare-related information and statistics by other bodies or persons; and
 - (e) to develop, in consultation with the Australian Bureau of Statistics, specialised statistical standards and classifications relevant to welfare services; and
 - (f) subject to section 29, to enable researchers to have access to welfare-related information and statistics held by the Institute or by bodies or persons with whom contracts or arrangements have been entered into by the Institute; and
 - (g) to publish methodological and substantive reports on work carried out by or in association with the Institute under this subsection; and
 - (h) to do anything incidental to the functions conferred by paragraphs (a) to (g).

Functions of Australian Bureau of Statistics not limited by this section

- (3) This section is not intended to limit the functions of the Australian Bureau of Statistics.

6 Powers of Institute

The Institute has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, has power:

- (a) to enter into contracts or arrangements, including contracts or arrangements with bodies or persons to perform functions on behalf of the Institute;

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- (b) to acquire, hold and dispose of real or personal property;
- (c) to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Institute;
- (d) to appoint agents and attorneys and act as an agent for other persons;
- (e) to accept gifts, grants, devises and bequests made to the Institute, whether on trust or otherwise, and to act as trustee of money or other property vested in the Institute on trust;
- (f) subject to section 29, to:
 - (i) release data to other bodies or persons; and
 - (ii) publish the results of any of its work; and
- (g) to do anything incidental to any of its powers.

7 Directions by Minister

- (1) The Minister may, by notifiable instrument, give a direction to the Institute with respect to the performance of its functions or the exercise of its powers.
- (1A) The Minister must consult the Chair before giving any direction to the Institute.
- (1B) The Minister must consult each State Health Minister before giving the direction if the direction relates to the Institute's health-related functions.
- (1C) The Minister must consult each State Welfare Minister before giving the direction if the direction:
 - (a) relates to the Institute's welfare-related functions; and
 - (b) does not concern housing matters.
- (1D) The Minister must consult each State Housing Minister before giving the direction if the direction:
 - (a) relates to the Institute's welfare-related functions; and
 - (b) concerns housing matters.

- (1E) The Minister must cause a copy of any direction given under subsection (1) to be delivered, in writing, to the Chair as soon as practicable.
- (1F) A failure to comply with subsection (1E) does not affect the validity of the direction.
- (2) The Institute shall comply with any direction given under subsection (1).
- (3) This section does not affect the application, in relation to the Institute, of section 22 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the application of government policy to corporate Commonwealth entities).

Division 2—Board of the Institute

Subdivision A—Establishment and functions of the Board

8 Establishment of the Board

The Board of the Institute is established by this section.

8A Functions of the Board

- (1) The functions of the Board are:
 - (a) to ensure the proper, efficient and effective performance of the Institute's functions; and
 - (b) any other functions conferred on the Board by this Act.
- (2) The Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (3) Anything done in the name of, or on behalf of, the Institute by the Board, or with the authority of the Board, is taken to have been done by the Institute.

Subdivision B—Membership of the Board

9 Membership

The Board consists of the following members:

- (a) the Chair;
- (b) the Deputy Chair;
- (c) the CEO;
- (d) not more than 3 members nominated by State Health Ministers;
- (e) not more than 6 other members.

Subdivision C—Members of the Board

10 Application of this Subdivision

This Subdivision applies to members other than the CEO.

Note: Division 4 deals with the office of the CEO.

11 Appointment of members

Members

- (1) A member is to be appointed by the Minister by written instrument, on a part-time basis.

Chair and Deputy Chair

- (2) The Minister must appoint one member to be the Chair and another member to be the Deputy Chair.

Eligibility for appointment

- (3) A person is not eligible for appointment as a member unless the Minister is satisfied that the person has appropriate skills or experience, or significant standing, in one or more of the following fields:
 - (a) public administration in relation to health, welfare or housing;
 - (b) education;
 - (c) Aboriginal and Torres Strait Islander health and welfare;
 - (d) data and data standards;
 - (e) statistics and statistical methods;
 - (f) performance measurement and reporting;
 - (g) financial management;
 - (h) corporate management;
 - (i) consumer interests;
 - (j) law.

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11A Term of appointment

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

Note: A member may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

11B Acting appointments

- (1) The Deputy Chair is to act as the Chair:
 - (a) during a vacancy in the office of 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, by written instrument, appoint a member to act as the Deputy Chair:
 - (a) during a vacancy in the office of Deputy Chair (whether or not an appointment has previously been made to the office); or
 - or
 - (b) during any period, or during all periods, when the Deputy Chair:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- (3) The Minister may, by written instrument, appoint a person to act as a member (other than the Chair or the Deputy Chair):
 - (a) during a vacancy in the office of a member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when a member:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

12 Remuneration

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

12A Leave of absence

The Minister may grant a member leave of absence on such terms and conditions as to remuneration or otherwise as the Minister determines.

12B Outside employment

- (1) A member must not engage in any paid work that conflicts or could conflict with the proper performance of the member's duties.
- (2) Subsection (1) does not apply to a member who is an official of a State or Territory agency.

12C 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 by the Minister.

13 Resignation

- (1) A member may resign the member's appointment by giving the Minister a written resignation.

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- (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.

13A Termination of appointment

- (1) The Minister may terminate the appointment of a member:
- (a) for misbehaviour; or
 - (b) if the member is unable to perform the duties of the member's office because of physical or mental incapacity.
- (2) The Minister may terminate the appointment of the member if:
- (a) 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 the member's creditors; or
 - (iv) makes an assignment of the member's remuneration for the benefit of the member's creditors; or
 - (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
 - (c) the member engages in paid work that conflicts or could conflict with the proper performance of the member's duties (see section 12B).

Note: The appointment of a member may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

13B Disclosure of interests

Neither section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests), nor any rules made for the purposes of that section, apply to a member's interest if:

- (a) the member is an official of a State or Territory agency; and

- (b) the member only has the interest by reason of being an official of the State or Territory agency.

Subdivision D—Meetings of the Board

14 Convening of meetings

- (1) The Board must meet at least once every 4 months.
- (2) The Chair:
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting on receipt of a written request signed by at least 3 members.
- (3) The Minister may convene such meetings of the Board as the Minister considers necessary.

14A Presiding at meetings

- (1) The Chair must preside at all meetings of the Board at which the Chair is present.
- (2) If the Chair is not present at a meeting of the Board, the Deputy Chair must preside.

14B Quorum

- (1) At a meeting of the Board, a quorum is constituted by a majority of members, which must include the Chair or the Deputy Chair.
- (2) However, if:
 - (a) a member is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during deliberations, or to take part in any decision, of the Board with respect to a particular matter; and
 - (b) when the member leaves the meeting concerned there is no longer a quorum present;

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the remaining members at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

15 Voting at meetings

- (1) A question arising at a meeting of the Board is to be determined by a majority of the votes of the members present and voting.
- (2) The person presiding at a meeting of the Board has a deliberative vote and, if the votes are equal, a casting vote.

15A Conduct of meetings

Subject to this Act and the *Public Governance, Performance and Accountability Act 2013*, the Board may regulate the procedure of its meetings as it considers appropriate.

Note: Section 33B of the *Acts Interpretation Act 1901* contains further information about the ways in which members may participate in meetings.

15B Minutes

The Board must keep minutes of its meetings.

15C Decisions without meetings

- (1) The Board is taken to have made a decision at a meeting if:
 - (a) without meeting, a majority of the members entitled to vote on the proposed decision indicate agreement with the decision; and
 - (b) that agreement is indicated in accordance with the method determined by the Board under subsection (2); and
 - (c) all the members were informed of the proposed decision, or reasonable efforts were made to inform all the members of the proposed decision.
- (2) Subsection (1) applies only if the Board:

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- (a) has determined that it may make decisions of that kind without meeting; and
 - (b) has determined the method by which members are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(a), a member is not entitled to vote on a proposed decision if the member would not have been entitled to vote on that proposal if the matter had been considered at a meeting of the Board.
- (4) The Board must keep a record of decisions made in accordance with this section.

Division 3—Committees of Institute

16 Committees

- (1) The Institute shall appoint a committee to be known as the Australian Institute of Health and Welfare Ethics Committee.
- (2) The functions and composition of the Ethics Committee shall be as prescribed.
- (3) Regulations for the purpose of subsection (2) must not be inconsistent with recommendations of the CEO of the National Health and Medical Research Council.
- (4) The Institute may appoint such other committees as it thinks fit to assist it in performing its functions.
- (5) The functions and composition of a committee appointed under subsection (4) shall be as determined from time to time in writing by the Institute.
- (6) The succeeding subsections of this section apply in relation to a committee appointed under subsection (1) or (4).
- (7) The members of a committee may include members of the Board.
- (8) A member of a committee holds office for such period as is specified in the instrument of appointment.
- (9) A member of a committee may resign by instrument in writing delivered to the Institute.
- (10) Except where the Minister otherwise directs in writing, a member of a committee shall be paid such remuneration as is determined by the Remuneration Tribunal.
- (11) A member of a committee (other than a member of the Board) shall be paid such allowances as are prescribed.

- (12) Subsections (9) and (10) have effect subject to the *Remuneration Tribunal Act 1973*.
- (13) A member of a committee must disclose at a meeting of the committee any pecuniary or other interest:
- (a) that the member has directly or indirectly in a matter being considered, or about to be considered by the committee; and
 - (b) that would conflict with the proper performance of the member's functions in relation to the consideration of the matter.
- The member must make the disclosure as soon as practicable after he or she knows of the relevant facts.
- (14) The disclosure must be recorded in the minutes of the meeting.
- (15) Subsection (13) does not apply to an interest held by a member of the Board who is an official of a State or Territory agency, merely because the member is an official of the State or Territory agency.

Division 4—Chief Executive Officer of Institute

17 Chief Executive Officer

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

17A Functions of the CEO

- (1) The CEO is responsible for the day-to-day administration of the Institute.
- (2) The CEO has power to do all things necessary or convenient to be done for or in connection with the performance of the CEO's duties.
- (3) All acts and things done in the name of, or on behalf of, the Institute by the CEO shall be deemed to have been done by the Institute.
- (4) The CEO is to act in accordance with policies and strategies determined by the Board.

Board directions

- (5) The Board may give written directions to the CEO about the performance of the CEO's functions.
- (6) The CEO must comply with a direction under subsection (5).
- (7) A direction under subsection (5) is not a legislative instrument.

17B Appointment

The CEO is to be appointed by the Board by written instrument.

Note: The CEO may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

17C Term of appointment

The CEO holds office on a full-time basis for the period specified in the instrument of appointment. The period must not exceed 5 years.

17D Acting appointments

The Board may, by written instrument, appoint a person to act as the CEO:

- (a) during a vacancy in the office of CEO (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the CEO:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

18 Remuneration

- (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*.

18A Leave of absence

- (1) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.

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- (2) The Board may grant the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Board determines.

18B Outside employment

The CEO must not engage in paid work outside the duties of the CEO's office without the Board's approval.

18C 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 by the Board.

18D Resignation

- (1) The CEO may resign the CEO's appointment by giving the Board a written resignation.
- (2) The resignation takes effect on the day it is received by the Board or, if a later day is specified in the resignation, on that later day.

18E Termination of appointment

- (1) The Board may terminate the appointment of the CEO:
 - (a) for misbehaviour; or
 - (b) if the CEO is unable to perform the duties of the CEO's office because of physical or mental incapacity.
- (2) The Board may terminate the appointment of the CEO if:
 - (a) 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 the CEO's creditors; or
 - (iv) makes an assignment of the CEO's remuneration for the benefit of the CEO's creditors; or

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- (b) the CEO is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
- (c) the CEO engages, except with the Board's approval, in paid work outside the duties of the CEO's office (see section 18B).

Note: The appointment of the CEO may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

18F Certain decisions of the Board

The CEO must not be present during any deliberation, or take part in any decision, of the Board under this Division.

Division 5—Staff

19 Staff

- (1) The staff required for the purposes of this Act shall be:
 - (a) persons engaged under the *Public Service Act 1999*; and
 - (b) persons appointed or employed by the Institute.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the CEO and the APS employees assisting the CEO together constitute a Statutory Agency; and
 - (b) the CEO is the Head of that Statutory Agency.
- (3) The Institute may engage as advisers or consultants persons having suitable qualifications and experience.
- (4) The terms and conditions of appointment or employment of members of the staff referred to in paragraph (1)(b) are such as are determined by the Institute.
- (5) The terms and conditions of engagement of advisers or consultants are such as are determined by the Institute.

Part III—Finance

20 Money to be appropriated by Parliament

- (1) There is payable to the Institute such money as is appropriated by the Parliament for the purposes of the Institute.
- (2) The Finance Minister may give directions as to the means in which, and the times at which, money referred to in subsection (1) is to be paid to the Institute.

22 Money of Institute

- (1) The money of the Institute consists of:
 - (a) money paid to the Institute under an appropriation; and
 - (b) any other money, other than trust money, paid to the Institute.
- (2) The money of the Institute shall be applied only:
 - (a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Institute in the performance of its functions and the exercise of its powers;
 - (b) in payment of remuneration and allowances payable under this Act; and
 - (c) in making any other payments required or permitted to be made by the Institute.
- (3) Subsection (2) does not prevent investment, under section 59 of the *Public Governance, Performance and Accountability Act 2013*, of money that is not immediately required for the purposes of the Institute.

23 Contracts

The Institute must not enter into a lease of land for a period of 10 years or more without the written approval of the Minister.

Section 24

24 Annual report

The annual report prepared by the members and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include:

- (a) particulars of each direction given under subsection 7(1) that is applicable to the period; or
- (b) if the Board considers those particulars contain information concerning a person or are of a confidential nature—a statement that a direction under that subsection was given.

25 Trust money and trust property

The Institute:

- (a) shall pay trust money into an account or accounts containing no money other than trust money;
- (b) shall apply or deal with trust money and trust property only in accordance with the powers and duties of the Institute as trustee; and
- (c) may only invest trust money:
 - (i) in any manner in which the Institute is authorised to invest the money by the terms of the trust; or
 - (ii) in any manner in which trust money may be lawfully invested.

26 Exemption from taxation

The income, property and transactions of the Institute are not subject to taxation under any law of the Commonwealth or of a State or Territory.

Part IV—Miscellaneous

27 Delegation by Institute

- (1) The Institute may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal:
 - (a) delegate to a member;
 - (b) delegate to a member of the staff of the Institute; and
 - (c) with the approval of the Minister—delegate to any other person or body;all or any of the Institute's powers or functions under this Act, other than this power of delegation.
- (2) A power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Institute.
- (3) A delegation does not prevent the exercise of a power or performance of a function by the Institute.

28 Delegation by the CEO

- (1) The CEO may, in writing, delegate all or any of the CEO's functions or powers under this Act to:
 - (a) a member of the staff of the Institute; or
 - (b) with the written approval of the Board—any other person or body.
- (2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the CEO.

29 Confidentiality

- (1) Subject to this section, a person (in this subsection called the *informed person*) who has:

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- (a) any information concerning another person (which person is in this section called an *information subject*), being information acquired by the informed person because of:
 - (i) holding an office, engagement or appointment, or being employed, under this Act;
 - (ii) performing a duty or function, or exercising a power, under or in connection with this Act; or
 - (iii) doing any act or thing under an agreement or arrangement entered into by the Institute; or
 - (b) any document relating to another person (which person is in this section also called an *information subject*), being a document furnished for the purposes of this Act;
- shall not, except for the purposes of this Act, either directly or indirectly:
- (c) make a record of any of that information or divulge or communicate any of that information to any person (including an information subject);
 - (d) produce that document to any person (including an information subject); or
 - (e) be required to divulge or communicate any of that information to a court or to produce that document in a court.

Penalty: Imprisonment for 12 months or 20 penalty units, or both.

- (2) Subject to subsections (2A) and (2B), nothing in this section prohibits:
 - (a) a person from divulging or communicating information, or producing a document, to the Minister if it does not identify an information subject;
 - (b) a person from divulging or communicating information, or producing a document, to a person specified in writing by the person (in this subsection called the *information provider*) who divulged or communicated the information, or produced the document, directly to the Institute;

- (c) a person from divulging or communicating information, or producing a document, to a person specified in writing by the Ethics Committee if to do so is not contrary to the written terms and conditions (if any) upon which the information provider divulged or communicated the information, or produced the document, directly to the Institute; or
 - (d) the publication of conclusions based on statistics derived from, or of particulars of procedures used in, the work of the Institute, if:
 - (i) to do so is not contrary to the written terms and conditions (if any) upon which an information provider divulged or communicated information relevant to the publication, or produced a document relevant to the publication, directly to the Institute; and
 - (ii) the publication does not identify the information subject.
- (2A) Paragraph (2)(c) applies only to information that is health-related or welfare-related information and statistics.
- (2B) Paragraph (2)(c) applies to a document only to the extent to which the document contains health-related or welfare-related information and statistics.
- (3) A person to whom information is divulged or communicated, or a document is produced, under paragraph (2)(a), (b) or (c), and any person under the control of that person is, in respect of that information or document, subject to subsection (1) as if the person were a person exercising powers, or performing duties or functions, under this Act and had acquired the information or document in the exercise of those powers or the performance of those duties or functions.
- (4) In this section:
- (a) **court** includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

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- (b) **person** includes a body or association of persons, whether incorporated or not, and also includes:
 - (i) in the case of an information provider—a body politic; or
 - (ii) in the case of an information subject—a deceased person;
- (c) **produce** includes permit access to;
- (d) **publication**, in relation to conclusions, statistics or particulars, includes:
 - (i) the divulging or communication to a court of the conclusions, statistics or particulars; and
 - (ii) the production to a court of a document containing the conclusions, statistics or particulars; and
- (e) a reference to information concerning a person includes:
 - (i) a reference to information as to the whereabouts, existence or non-existence of a document concerning a person; and
 - (ii) a reference to information identifying a person or body providing information concerning a person.

30 Restricted application of the *Epidemiological Studies (Confidentiality) Act 1981*

- (1) The *Epidemiological Studies (Confidentiality) Act 1981* (in this section called the **Confidentiality Act**) does not apply to anything done in the exercise of a power or performance of a function under this Act.
- (2) Notwithstanding the Confidentiality Act, a person who has assisted, or is assisting in, the conduct of a prescribed study or an epidemiological study may, at the written request of the Institute:
 - (a) communicate to the Institute any information acquired by the person because of having assisted, or assisting, in the conduct of that study; and
 - (b) give the Institute access to documents prepared or obtained in the conduct of that study.

- (3) It is a defence to a prosecution under the Confidentiality Act if it is established that the information was communicated or access to a document was given, as the case may be, in accordance with a written request by the Institute.
- (4) In this section:
- (a) *epidemiological study* has the same meaning as in the Confidentiality Act; and
 - (b) *prescribed study* has the same meaning as in the Confidentiality Act.

31 Periodical reports

- (1) The Institute shall prepare and, as soon as practicable, and in any event within 6 months:
- (a) after 31 December 1987—shall submit to the Minister a health report for the period commencing on the commencement of this Act and ending on that date; and
 - (b) after 31 December 1989 and every second 31 December thereafter—shall submit to the Minister a health report for the 2 year period ending on that 31 December.
- (1A) The Institute must submit to the Minister:
- (a) as soon as practicable after (and in any event within 6 months of) 30 June 1993, a welfare report prepared by the Institute for the period:
 - (i) beginning on the day on which the *Australian Institute of Health Amendment Act 1992* commences; and
 - (ii) ending on 30 June 1993; and
 - (b) as soon as practicable after (and in any event within 6 months of) 30 June 1995 and every second 30 June thereafter, a welfare report for the 2 year period ending on that 30 June.
- (2) The Institute may at any time submit to the Minister:
- (a) a health or welfare report for any period; or

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- (b) a report in respect of any matter relating to the exercise of the powers, or the performance of the functions, of the Institute or its committees under this Act.
- (3) A health report shall provide:
 - (a) statistics and related information concerning the health of the people of Australia; and
 - (b) an outline of the development of health-related information and statistics by the Institute, whether by itself or in association with other persons or bodies;during the period to which the report relates.
- (3A) A welfare report must provide:
 - (a) statistics and related information concerning the provision of welfare services to the Australian people; and
 - (b) an outline of the development of welfare-related information and statistics by the Institute, whether by itself or in association with other persons or bodies;during the period to which the report relates.
- (4) The Minister shall cause a copy of a report submitted under subsection (1) or (1A) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.
- (5) The Minister may cause a copy of a report submitted under subsection (2) to be laid before each House of the Parliament.

32 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters required or permitted by this Act to be prescribed.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Institute of Health Act 1987	41, 1987	5 June 1987	1 July 1987 (s 2 and gaz 1987, No S144)	
Community Services and Health Legislation Amendment Act 1988	79, 1988	24 June 1988	s 8 and 9: 24 June 1988 (s 2(1))	—
Community Services and Health Legislation Amendment Act 1989	95, 1989	28 June 1989	s 4–6: 28 June 1989 (s 2(1))	—
Industrial Relations Legislation Amendment Act 1991	122, 1991	27 June 1991	s 31(2) and Sch: 10 Dec 1991 (s 2(3) and gaz 1991, No S332)	s 31(2)
Prime Minister and Cabinet Legislation Amendment Act 1991	199, 1991	18 Dec 1991	Sch 2: 18 Dec 1991 (s 2)	—
Australian Institute of Health Amendment Act 1992	16, 1992	6 Apr 1992	4 May 1992	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (items 324–337): 1 Jan 1998 (s 2(2))	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 195–197): 5 Dec 1999 (s 2(1), (2))	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Sch 10 (items 35–37): 13 Mar 2000 (s 2(2)(c) and gaz 2000, No S114)	—
Health Legislation Amendment Act (No. 2) 2001	59, 2001	28 June 2001	Sch 1: 28 June 2001 (s 2(1))	Sch 1 (items 4, 9)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	Sch 1 (items 16, 97): 29 Oct 2001 (s 2(1))	Sch 1 (item 97)
National Health and Medical Research Council Amendment Act 2006	50, 2006	9 June 2006	Sch 1 (items 110, 124–143): 1 July 2006 (s 2(1) items 2, 4)	Sch 1 (items 124–143)
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Sch 5 (item 22) and Sch 6 (items 5–11): 14 Sept 2006 (s 2(1) item 4)	Sch 6 (items 5–11)
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 5 (items 28, 29) and Sch 7 (item 21): 19 Apr 2011 (s 2(1) items 13, 18)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 174–178) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 3, 12)	Sch 3 (items 10, 11)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 7 (items 273–283) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
as amended by Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (item 50): 21 Oct 2016 (s 2(1) item 1)	—
Australian Institute of Health and Welfare Amendment Act 2018	105, 2018	21 Sept 2018	27 Nov 2018 (s 2(1) item 1)	Sch 1 (items 26–31)

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Title	am No 16, 1992
Part I	
s 1	am No 16, 1992
s 2A.....	ad No 105, 2018
s 3	am No 95, 1989; No 16, 1992; No 152, 1997; No 59, 2001; No 5, 2011; No 62, 2014; No 105, 2018
Part II	
Part II heading.....	am No 16, 1992
Division 1	
s 4	am No 16, 1992; No 152, 1997; No 62, 2014
s 5	am No 16, 1992; No 105, 2018
	ed C13
s 7	am No 95, 1989; No 16, 1992; No 152, 1997; No 62, 2014; No 105, 2018
Division 2	
Division 2	rs No 105, 2018
Subdivision A	
s 8	am No 16, 1992; No 59, 2001; No 159, 2001; No 5, 2011
	rs No 105, 2018
s 8A.....	ad No 105, 2018
Subdivision B	
s 9	am No 46, 2011
	rs No 105, 2018
Subdivision C	
s 10	am No 16, 1992
	rs No 105, 2018
s 11	rs No 122, 1991
	am No 146, 1999
	rs No 105, 2018

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 11A.....	ad No 105, 2018
s 11B.....	ad No 105, 2018
s 12	rs No 105, 2018
s 12A.....	ad No 105, 2018
s 12B.....	ad No 105, 2018
s 12C.....	ad No 105, 2018
s 13	am No 122, 1991; No 16, 1992; No 152, 1997; No 156, 1999; No 62, 2014 rs No 105, 2018
s 13A.....	ad No 105, 2018
s 13B.....	ad No 105, 2018
Subdivision D	
s 14	am No 79, 1988; No 16, 1992; No 152, 1997; No 156, 1999 rs No 62, 2014; No 105, 2018
s 14A.....	ad No 105, 2018
s 14B.....	ad No 105, 2018
s 15	rs No 105, 2018
s 15A.....	ad No 105, 2018
s 15B.....	ad No 105, 2018
s 15C.....	ad No 105, 2018
Division 3	
s 16	am No 16, 1992; No 152, 1997; No 59, 2001; No 50, 2006; No 105, 2018
Division 4	
Division 4	rs No 105, 2018
s 17	am No 16, 1992 rs No 105, 2018
s 17A.....	ad No 105, 2018
s 17B.....	ad No 105, 2018
s 17C.....	ad No 105, 2018
s 17D.....	ad No 105, 2018
s 18	rs No 105, 2018
s 18A.....	ad No 105, 2018

Endnote 4—Amendment history

Provision affected	How affected
s 18B.....	ad No 105, 2018
s 18C.....	ad No 105, 2018
s 18D.....	ad No 105, 2018
s 18E.....	ad No 105, 2018
s 18F.....	ad No 105, 2018
Division 5	
s 19.....	am No 199, 1991; No 146, 1999; No 105, 2018
Part III	
s 20.....	am No 5, 2011
s 21.....	rep No 152, 1997
s 22.....	am No 152, 1997; No 62, 2014
s 23.....	rs No 105, 2018
s 24.....	am No 79, 1988; No 152, 1997 rs No 62, 2014 am No 105, 2018
s 25.....	am No 152, 1997; No 62, 2014
s 26.....	am No 101, 2006
Part IV	
s 28.....	rs No 105, 2018
s 29.....	am No 95, 1989; No 16, 1992; No 59, 2001; No 61, 2016
s 31.....	am No 16, 1992
Schedule.....	ad No 16, 1992 rep No 59, 2001

Endnotes

Endnote 5—Editorial changes

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Subsections 5(1AA), (1), (1A) and (3) (headings)

Kind of editorial change

Changes to punctuation

Details of editorial change

This compilation was editorially changed to omit the square brackets around the subsection headings in subsections 5(1AA), (1), (1A) and (3) to bring it into line with legislative drafting practice.