

PHARMACEUTICAL BENEFITS.

No. 11 of 1944.

An Act to make provision for the Supply
of Pharmaceutical Benefits.

[Assented to 5th April, 1944.]

BE it enacted by the King's Most Excellent Majesty, the Senate,
and the House of Representatives of the Commonwealth of
Australia, as follows :—

1. This Act may be cited as the *Pharmaceutical Benefits Act 1944*. Short title.
2. This Act shall commence on a date to be fixed by Proclamation. Commencement.

Non-application
of Act to
certain parts
of the
Commonwealth.

3. The Governor-General may, by Proclamation, declare that this Act shall not have effect in any part of the Commonwealth specified in the Proclamation (being a part of the Commonwealth to which the National Security (Emergency Control) Regulations apply) and, so long as the Proclamation continues in force, this Act shall not have effect in that part.

Definitions.

4. In this Act, unless the contrary intention appears—

“approved hospital authority” means a hospital authority for the time being approved under section eleven of this Act;

“approved pharmaceutical chemist” means a pharmaceutical chemist for the time being approved under section ten of this Act;

“hospital authority” means the governing body of a public hospital or the owner of a private hospital;

“medical practitioner” means a medical practitioner registered or licensed under any law of the Commonwealth or of a State or Territory of the Commonwealth providing for the registration or licensing of medical practitioners;

“pharmaceutical benefits” means pharmaceutical benefits specified in section seven of this Act;

“pharmaceutical chemist” means any person registered as a pharmacist or pharmaceutical chemist under any law of the Commonwealth or of a State or Territory of the Commonwealth providing for the registration of pharmacists or pharmaceutical chemists, and includes any friendly society or other body of persons (whether corporate or unincorporate) carrying on business as a pharmaceutical chemist in accordance with the law of the Commonwealth or of a State or Territory of the Commonwealth;

“the Director-General” means the Director-General of Health;

“this Act” includes the regulations.

Administration.

5. The Director-General shall, subject to any direction of the Minister, have the general administration of this Act.

Delegation.

6.—(1.) The Minister may, by writing under his hand, delegate all or any of his powers and functions under this Act (except this power of delegation) so that the delegate may exercise the powers and functions specified in the instrument of delegation.

(2.) The Director-General may, by writing under his hand, delegate all or any of his powers and functions under this Act (except this power of delegation) so that the delegate may exercise the powers and functions specified in the instrument of delegation.

(3.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Minister or by the Director-General, as the case may be.

7. The pharmaceutical benefits referred to in this Act shall consist of— Pharmaceutical benefits.

- (a) uncompounded medicines the names of which, and medicinal compounds the formulae of which, are contained in a prescribed formulary to be known as the Commonwealth Pharmaceutical Formulary; and
- (b) materials and appliances (not being uncompounded medicines or medicinal compounds) the names of which are contained in a prescribed addendum to the Commonwealth Pharmaceutical Formulary.

8.—(1.) Subject to this Act, every person ordinarily resident in the Commonwealth shall be entitled to receive pharmaceutical benefits. Provision of pharmaceutical benefits.

(2.) A person receiving any pharmaceutical benefit in accordance with this Act shall not be under any obligation to make any payment therefor to the person supplying the pharmaceutical benefit.

(3.) Notwithstanding the provisions of the last preceding sub-section, a person supplying a pharmaceutical benefit in accordance with this Act shall be entitled to make such special charges (if any) as are prescribed.

(4.) A person shall not be disqualified from receiving any pharmaceutical benefit by reason of his sickness having been caused by his own misconduct.

9.—(1.) Subject to sub-section (4.) of this section, a person shall not be entitled to receive any pharmaceutical benefit except— Pharmaceutical benefits to be provided on prescriptions.

- (a) from an approved pharmaceutical chemist; and
- (b) on presentation of a written and signed prescription or order (which shall be in accordance with the prescribed form and written on a form supplied by the Commonwealth) of a medical practitioner.

(2.) Where any person has received any pharmaceutical benefit in accordance with a prescription or order therefor, that person shall not be entitled to receive the pharmaceutical benefit again on that prescription or order unless a direction to that effect in the handwriting of the medical practitioner concerned is included in or added to the prescription or order in accordance with the regulations.

(3.) Where an approved pharmaceutical chemist suspects that a prescription or order has not been signed by a medical practitioner or has been forged or fraudulently obtained, he shall be entitled, before supplying the pharmaceutical benefit specified in the prescription or order, to require the person presenting the prescription or order to furnish him with a statement in accordance with the prescribed form.

(4.) The Director-General may, in respect of any place where there is no approved pharmaceutical chemist, approve of the supply of pharmaceutical benefits by any medical practitioner in accordance with such conditions as are prescribed.

Approved
pharmaceutical
chemists.

10.—(1.) The Director-General shall, on application by a pharmaceutical chemist who is willing to supply on demand pharmaceutical benefits, approve that pharmaceutical chemist for the purposes of this Act.

(2.) Every approved pharmaceutical chemist shall display, at each of the places at which he carries on business, a sign, in accordance with the prescribed form, indicating that he has been approved under this Act.

Approved
hospital
authorities.

11.—(1.) A hospital authority may make application to the Director-General for approval to supply pharmaceutical benefits.

(2.) Every such application shall state the person who will dispense or supply the pharmaceutical benefits on behalf of the hospital authority.

(3.) The Director-General may, in his discretion, approve a hospital authority for the purposes of this Act.

Suspension,
&c., of
approval.

12.—(1.) The Director-General may, for good cause shown, and in accordance with the regulations, suspend or revoke his approval of a pharmaceutical chemist or hospital authority under section ten or eleven of this Act and may at any time remove any such suspension or revocation.

(2.) Any pharmaceutical chemist the approval of whom, or any hospital authority the approval of which, by the Director-General has been suspended or revoked under this section may appeal to the Minister, who may confirm, vary or reverse the decision of the Director-General.

(3.) The Director-General may, at the request of an approved pharmaceutical chemist or approved hospital authority, revoke his approval of that pharmaceutical chemist or hospital authority under section ten or eleven of this Act.

Payments for
supply of
pharmaceutical
benefits.

13.—(1.) An approved pharmaceutical chemist or a medical practitioner who has supplied any pharmaceutical benefit in accordance with the provisions of this Act shall be entitled to payment in respect thereof from the Commonwealth at the prescribed rate.

(2.) An approved hospital authority shall, subject to this Act, be entitled to payment from the Commonwealth, at the rates prescribed in respect of the supply of pharmaceutical benefits by hospital authorities, in respect of all pharmaceutical benefits supplied by the hospital authority in accordance with the provisions of this Act.

(3.) The regulations may provide that an approved hospital authority shall be entitled to payment from the Commonwealth, at the prescribed rates, in respect of the supply of prescribed uncompound medicines, medicinal compounds, materials and appliances which are not pharmaceutical benefits.

State public
hospitals.

14. The Governor-General may enter into an arrangement with the Governor in Council of a State in respect of the supply of pharmaceutical benefits by any hospital administered by the Government of that State.

15.—(1.) The Minister may make such special arrangements as he thinks fit for the purpose of providing that adequate service in lieu of all or any of the benefits provided for by this Act will be available to persons living in isolated areas or under such special conditions that those benefits cannot be efficiently provided in accordance with the general provisions of this Act.

Special arrangements for persons in isolated areas, &c.

(2.) Where special arrangements are made in accordance with the last preceding sub-section, any provisions of this Act inconsistent therewith shall not be applicable in relation to the persons provided for by the special arrangements.

16. The Minister may, on behalf of the Commonwealth, enter into an agreement (on such terms as to remuneration, allowances and otherwise as he thinks fit) with any medical practitioner providing that the services of the medical practitioner shall be available without charge to members of the public for the purpose of furnishing prescriptions and orders for the purposes of this Act.

Arrangements for provision of medical services.

17. Payments in respect of pharmaceutical benefits shall be made out of the Trust Account established under the *National Welfare Fund Act 1943* and known as the National Welfare Fund.

Payment of benefits to be made from National Welfare Fund.

18. For the purposes of this Act there shall be a Consultative Council consisting of six persons appointed by the Minister.

Consultative Council.

19. For the purposes of this Act there shall be a Formulary Committee consisting of six persons appointed by the Minister of whom two shall be practising medical practitioners, two shall be practising pharmaceutical chemists, and one (if available) shall be a pharmacologist.

Formulary Committee.

20. The Minister may appoint in each State a Pharmaceutical Benefits Committee and may refer to any such Committee, for advice or report, any matter arising under this Act.

Pharmaceutical Benefits Committee.

21. Subject to sub-section (3.) of section eight of this Act, a person shall not demand or receive any payment in respect of any pharmaceutical benefit supplied in accordance with this Act from the person to whom the benefit was supplied.

Payments not to be demanded for pharmaceutical benefits.

Penalty : Fifty pounds or imprisonment for three months.

22. A medical practitioner shall not write a prescription in accordance with any prescribed form unless he is satisfied, by personal examination of the person in respect of whom the prescription is written, that the pharmaceutical benefit specified in the prescription is necessary for the treatment of that person.

Prescriptions not to be issued for persons not under personal attention.

Penalty : Fifty pounds or imprisonment for three months.

23.—(1.) A person shall not—

Offences.

(a) make or present to the Director-General or to any officer or person doing duty under this Act any statement or document which is false or misleading in any particular ;

- (b) obtain any pharmaceutical benefit to which he is not entitled ;
- (c) obtain payment in respect of the supply of any pharmaceutical benefit which is not payable ;
- (d) not being a medical practitioner, write a prescription in accordance with the prescribed form ;
- (e) by means of impersonation, or any false or misleading statement, or any fraudulent device, obtain any pharmaceutical benefit or any payment in respect of a pharmaceutical benefit ; or
- (f) by any false or misleading representation, aid or abet any person to obtain any pharmaceutical benefit or any payment in respect of a pharmaceutical benefit.

Penalty : Fifty pounds or imprisonment for three months.

(2.) Any person convicted of an offence against this section may, in addition to the penalty imposed for the offence, be ordered to repay to the Commonwealth the value of any pharmaceutical benefit received by that person, or any amount received by that person in respect of the supply of a pharmaceutical benefit, in consequence of the act in respect of which he was convicted.

Consent to prosecution.

24. An offence against this Act shall not be prosecuted without the written consent of the Minister.

Powers of authorized persons.

25. For the purposes of this Act, any person authorized by the Minister or the Director-General to act under this section may—

- (a) enter at all reasonable times the premises of any approved pharmaceutical chemist ;
- (b) make such examination and inquiry as he thinks fit for the purposes of ascertaining whether the provisions of this Act are being complied with ;
- (c) take samples of drugs, medicines, substances, materials or appliances which may be supplied as pharmaceutical benefits ;
- (d) examine any person employed in any such premises with respect to any matter under this Act ; and
- (e) exercise such powers and functions as are prescribed.

Annual report.

26. The Director-General shall, within three months after the end of each financial year, prepare and furnish to the Minister, for presentation to the Parliament, a report as to the administration and operation of this Act.

Regulations.

27. The Governor-General may make regulations not inconsistent with this Act prescribing all matters which are by this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for—

- (a) prescribing the terms and conditions subject to which pharmaceutical benefits shall be supplied ;

- (b) prescribing the terms and conditions subject to which payment in respect of the supply of pharmaceutical benefits will be made and the method of making such payments ;
 - (c) prescribing the standards of composition or purity of pharmaceutical benefits subject to which payment in respect of the supply thereof will be made ;
 - (d) prescribing the functions and regulating the conduct of any Council or Committee appointed under this Act and for prescribing the fees and allowances to be paid to members thereof ; and
 - (e) prescribing penalties not exceeding Fifty pounds or imprisonment for three months for offences against the regulations.
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