

PHARMACEUTICAL BENEFITS.

No. 33 of 1947.

An Act relating to Pharmaceutical Benefits.

[Assented to 12th June, 1947.]

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

- Short title.** **1.** This Act may be cited as the *Pharmaceutical Benefits Act* 1947.
- Commencement.** **2.**—(1.) Sections one to six (inclusive), nine, ten, eleven, twelve, fifteen, sixteen, eighteen, twenty and twenty-three of this Act shall come into operation on the day on which this Act receives the Royal Assent.
- (2.) The remaining sections of this Act shall come into operation on a date to be fixed by Proclamation.
- Repeal.** **3.** The *Pharmaceutical Benefits Act* 1944 and the *Pharmaceutical Benefits Act* 1945 are repealed.
- Definitions.** **4.**—(1.) In this Act, unless the contrary intention appears—
- “approved hospital authority” means a hospital authority for the time being approved under section twelve of this Act ;
- “approved medical practitioner” means a medical practitioner 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 nine of this Act ;
- “hospital authority” means the governing body of a public hospital or the proprietor 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 six of this Act ;
- “pharmaceutical chemist” means a 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—
- (a) a friendly society or other body of persons (whether corporate or unincorporate) carrying on business as a pharmaceutical chemist ; and

(b) the legal personal representative of a deceased pharmaceutical chemist carrying on the business of that deceased pharmaceutical chemist ;

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

“ this Act ” includes the regulations.

(2.) In this Act, any reference to the supply, obtaining or receipt of a pharmaceutical benefit shall, unless the contrary intention appears, be read as a reference to the supply, obtaining or receipt of that pharmaceutical benefit in accordance with this Act.

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

(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 Director-General.

6. 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.

7.—(1.) Subject to this Act, every person (not being a patient occupying a bed in a public ward in a public hospital) ordinarily resident in the Commonwealth shall be entitled to receive pharmaceutical benefits. Provision of pharmaceutical benefits.

(2.) Subject to sub-section (4.) of this section, a person receiving a pharmaceutical benefit shall not be under any obligation to make any payment therefor to the person supplying the pharmaceutical benefit.

(3.) Subject to the next succeeding sub-section, an approved pharmaceutical chemist, approved medical practitioner or approved hospital authority shall not demand or receive a payment (other than a payment from the Commonwealth) or other valuable consideration in respect of the supply of a pharmaceutical benefit.

Penalty : Fifty pounds or imprisonment for three months.

(4.) An approved pharmaceutical chemist, approved medical practitioner or approved hospital authority shall be entitled to make such special charges (if any) in respect of the supply of pharmaceutical benefits as are prescribed.

Pharmaceutical
benefits to be
provided on
prescriptions.

8.—(1.) A person shall not be entitled to receive a pharmaceutical benefit from an approved pharmaceutical chemist except—

- (a) at or from premises in respect of which that pharmaceutical chemist is for the time being approved ; and
- (b) on presentation of a written and signed prescription (which shall be in accordance with the prescribed form and, except as prescribed, written on a form supplied by the Commonwealth) of a medical practitioner.

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

(3.) Where an approved pharmaceutical chemist suspects that a prescription in accordance with the prescribed form 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, to require that there be furnished to him a statement in accordance with the prescribed form.

Approved
pharmaceutical
chemists.

9.—(1.) The Director-General shall, on application by a pharmaceutical chemist who is willing to supply pharmaceutical benefits on demand at any premises, approve that pharmaceutical chemist for the purpose of supplying pharmaceutical benefits at or from those premises.

(2.) Where a pharmaceutical chemist desires to supply pharmaceutical benefits at or from several premises (being premises at which he carries on, or is about to carry on, business as a pharmaceutical chemist) a separate application shall be made, and separate approval shall be granted, in respect of each of the premises.

(3.) Where an approved pharmaceutical chemist desires to supply pharmaceutical benefits at or from premises (being premises at which he carries on, or is about to carry on, business as a pharmaceutical chemist) other than premises in respect of which approval has been granted, the Director-General shall, on application by the approved pharmaceutical chemist, grant approval in respect of those other premises.

(4.) Nothing in this section shall require the granting of approval to a pharmaceutical chemist in respect of premises at which that pharmaceutical chemist is not permitted, under the law of the State or Territory concerned, to carry on business.

(5.) Every approved pharmaceutical chemist shall display, at each of the premises in respect of which he is approved (but not including premises in respect of which the approval granted is a limited approval), a sign, in accordance with the prescribed form, indicating that he has been approved under this Act.

10.—(1.) In this section, “friendly society dispensary” means a pharmaceutical chemist, being a friendly society or a body (whether corporate or unincorporate) carrying on business for the benefit of members of a friendly society or friendly societies. Friendly
society
dispensaries.

(2.) Subject to the next succeeding sub-section, the approval, under the last preceding section, of a friendly society dispensary as a pharmaceutical chemist in respect of any premises shall be an approval to supply pharmaceutical benefits to persons generally at or from those premises and that friendly society dispensary shall be entitled to supply pharmaceutical benefits to persons generally at or from those premises.

(3.) Where, at the time approval is granted under the last preceding section to a pharmaceutical chemist, being a friendly society dispensary, in respect of any premises, the number of premises in respect of which approvals are in force in favour of pharmaceutical chemists, being friendly society dispensaries, is not less than the number of premises at which friendly society dispensaries carried on business on the first day of August, One thousand nine hundred and forty-five, the approval so granted to that friendly society dispensary (in this Act referred to as a limited approval) shall be an approval to supply pharmaceutical benefits at or from those premises—

(a) in the case of a friendly society dispensary which is a friendly society—to the members of that friendly society, and to their respective spouses and children, only; and

(b) in the case of a friendly society dispensary which is a body carrying on business for the benefit of members of a friendly society or friendly societies—to the members of that friendly society or of those friendly societies, and to their respective spouses and children, only.

11.—(1.) Where there is no approved pharmaceutical chemist in a particular area, the Director-General may approve a medical practitioner practising in that area for the purpose of supplying pharmaceutical benefits. Approved
medical
practitioners.

(2.) Pharmaceutical benefits supplied by a medical practitioner so approved shall be supplied in accordance with such conditions as are prescribed.

12.—(1.) A hospital authority may make application to the Director-General for approval to supply pharmaceutical benefits to patients receiving treatment in or at the hospital of which it is the governing body or proprietor. Approved
hospital
authorities.

(2.) Every such application shall specify the name and qualifications of 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.

(4.) Where a hospital authority desires to supply pharmaceutical benefits to patients receiving treatment in or at several hospitals, a separate application shall be made, and separate approval may be granted, in respect of each hospital.

(5.) Where an approved hospital authority desires to supply pharmaceutical benefits to patients receiving treatment in or at a hospital other than a hospital in respect of which approval has been granted, the Director-General may, on application by the approved hospital authority, grant approval in respect of that other hospital.

**Suspension, &c.,
of approval.**

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

(2.) A pharmaceutical chemist or medical practitioner the approval of whom, or a hospital authority the approval of which, has been suspended or revoked under the last preceding sub-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, approved medical practitioner or approved hospital authority, revoke his approval of that pharmaceutical chemist, medical practitioner or hospital authority under this Act.

(4.) The suspension or revocation of the approval of a pharmaceutical chemist or hospital authority under this section may be in respect of all the premises or hospitals in respect of which the approval was granted or may be in respect of any particular premises or hospital.

**Payments for
supply of
pharmaceutical
benefits.**

14.—(1.) An approved pharmaceutical chemist or an approved medical practitioner who has supplied a pharmaceutical benefit shall be entitled to payment in respect thereof from the Commonwealth at the prescribed rate.

(2.) Nothing in the last preceding sub-section shall entitle an approved pharmaceutical chemist to a payment in respect of the supply of a pharmaceutical benefit at or from premises in respect of which he is not approved or otherwise than to a person to whom he is permitted to supply the pharmaceutical benefit in accordance with the terms of his approval.

(3.) An approved hospital authority shall, subject to this Act, be entitled to payment from the Commonwealth, in accordance with the regulations, in respect of the supply of pharmaceutical benefits to patients receiving treatment in or at a hospital in respect of which the approved hospital authority is approved.

(4.) No payment shall be made under the last preceding subsection to an approved hospital authority in respect of the supply of a pharmaceutical benefit to a patient occupying a bed in a public ward in a public hospital.

(5.) A payment to which an approved hospital authority in a State is entitled under this section may be paid to that State, or to an authority of that State, on behalf of the approved hospital authority.

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.) The provisions of any special arrangements made in accordance with the last preceding sub-section shall have effect notwithstanding any provisions of this Act inconsistent therewith.

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 a 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 for the purposes of this Act.

Arrangements for provision of medical services.

17. Payments in respect of the supply of pharmaceutical benefits shall be made out of the Trust Account established under the *National Welfare Fund Act 1943-1945* and known as the National Welfare Fund.

Payments of benefits to be made from National Welfare Fund.

18.—(1.) For the purposes of this Act there shall be a Formulary Committee consisting of the Director-General of Health, who shall be Chairman, and six other persons appointed by the Minister.

Formulary Committee.

(2.) Three of the six other persons so appointed shall be practising medical practitioners, two shall be practising pharmaceutical chemists, and one (if available) shall be a pharmacologist.

(3.) In the event of the absence of the Director-General of Health from any meeting of the Formulary Committee, an officer of the Commonwealth nominated by the Director-General of Health may attend and preside at that meeting.

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

Pharmaceutical Benefits Committees.

20.—(1.) A person shall not—

Offences.

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

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

Penalty : Fifty pounds or imprisonment for three months.

(2.) A 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.

**Powers of
authorized
persons.**

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

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

Annual report.

22. The Director-General shall annually prepare and furnish to the Minister, for presentation to the Parliament, a report as to the administration and operation of this Act.

Regulations.

23. 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—

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

- (b) making provision for or in relation to the writing of prescriptions in accordance with the prescribed form ;
 - (c) for 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 ;
 - (d) for prescribing the hospitals, or the classes of hospitals, which shall be deemed to be public hospitals for the purposes of this Act ;
 - (e) for prescribing the standards of composition or purity of drugs, medicines, substances; materials or appliances which may be supplied as pharmaceutical benefits, or may be ingredients of pharmaceutical benefits ;
 - (f) for prescribing the functions and regulating the conduct of any Committee appointed under this Act and for prescribing the fees and allowances to be paid to members thereof ; and
 - (g) for prescribing penalties not exceeding Fifty pounds or imprisonment for three months for offences against the regulations.
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