



Health Legislation Amendment Act (No. 1) 2003

No. 84, 2003

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

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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

[Assented to 23 September 2003]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Health Legislation Amendment Act (No. 1) 2003*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	23 September 2003
2. Schedule 1	The day on which this Act receives the Royal Assent	23 September 2003
3. Schedule 2	At the end of the period of 90 days beginning on the day on which this Act receives the Royal Assent	22 December 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments relating to the recovery of amounts of compensation

Part 1—Amendment of the Health and Other Services (Compensation) Act 1995

1 At the end of subsection 3(4)

Add:

; or (c) ascertainable, at some time after the order or agreement is made, in accordance with the terms of the order or agreement, or in accordance with a law under which the order or agreement is made or to which the order or agreement relates.

2 After subsection 3(4)

Insert:

(4A) An amount of compensation fixed under paragraph 3(4)(c) is fixed at the time at which the amount of compensation is ascertained.

3 Paragraph 8(1)(a)

Omit “a judgment or settlement is”, substitute “an amount of compensation is fixed under a judgment or settlement”.

4 Paragraph 8(6)(c)

Omit “the judgment or settlement is made”, substitute “an amount of compensation is fixed under the judgment or settlement”.

5 Paragraph 8(7)(a)

Omit “the judgment or settlement was made”, substitute “an amount of compensation is fixed under the judgment or settlement”.

6 Subsection 8(8)

Omit “judgment or settlement referred to in that subsection was made”, substitute “amount of compensation was fixed under the judgment or settlement referred to in that subsection”.

7 Paragraph 10(1)(a)

Omit “a judgment or settlement is”, substitute “an amount of compensation is fixed under a judgment or settlement”.

8 Paragraph 10(6)(c)

Omit “the judgment or settlement is made”, substitute “an amount of compensation is fixed under the judgment or settlement”.

9 Paragraph 10(7)(a)

Omit “the judgment or settlement was made”, substitute “an amount of compensation is fixed under the judgment or settlement”.

10 Subsection 10(8)

Omit “judgment or settlement referred to in that subsection was made”, substitute “amount of compensation was fixed under the judgment or settlement referred to in that subsection”.

11 Paragraph 18(4)(a)

Omit “a judgment or settlement had already been made”, substitute “an amount of compensation under a judgment or settlement had already been fixed”.

12 Paragraph 18(4)(b)

Omit “judgment or settlement”, substitute “day on which an amount of compensation was fixed under the judgment or settlement”.

13 Paragraph 18(7)(b)

Repeal the paragraph, substitute:

- (b) an amount of compensation has been fixed under a judgment or settlement; and

14 Paragraph 18(7)(c)

Omit “of the judgment or settlement”, substitute “on which the amount of compensation was fixed under the judgment or settlement”.

15 Subsection 21(5)

Omit “a judgment or settlement is”, substitute “an amount of compensation is fixed under a judgment or settlement”.

16 Subsection 21(5)

Omit “the judgment or settlement is made”, substitute “the compensation is fixed”.

17 Paragraph 22(1)(b)

Omit “settlement”, substitute “day on which an amount of compensation was fixed under the settlement”.

18 Paragraph 23(3)(e)

After “date”, insert “(if any)”.

19 At the end of paragraph 23(3)(f)

Add “(but see subsection (3A))”.

20 After subsection 23(3)

Insert:

(3A) If the amount of compensation payable to a claimant is fixed as provided for in paragraph 3(4)(c) then, when that amount is ascertained, the notifiable person must give to the Commission a further notice in writing that:

- (a) states that the amount has been ascertained; and
- (b) states the amount of the compensation.

(3B) The notice under subsection (3A) must be given within 28 days after the day that the amount of compensation is fixed.

21 Subsection 23(4)

Omit “the notice given to the Commission under subsection (1)”, substitute “a notice given to the Commission under subsection (1) or (3A)”.

22 Subsection 23(5)

Omit “subsection (1)”, substitute “subsection (1) or (3A) as the case may be,”.

23 Subsection 23(6)

Omit “The notice”, substitute “A notice under subsection (1) or (3A)”.

24 Paragraph 23A(1)(a)

Omit “a judgment or settlement has been”, substitute “an amount of compensation has been fixed under a judgment or settlement”.

25 Paragraph 23A(1)(b)

Omit “subsection 23(1) in relation to the judgment or settlement”, substitute “subsection 23(1) or (3A) in relation to the amount of compensation fixed under the judgment or settlement”.

26 Paragraph 23A(1)(c)

Omit “judgment or settlement was made”, substitute “amount of compensation was fixed under the judgment or settlement”.

27 Subparagraphs 23A(1)(d)(i) and (ii)

Omit “of the judgment or settlement”, substitute “that the amount of compensation was fixed under the judgment or settlement”.

28 Paragraphs 23A(2)(a) and (b)

Omit “date of the judgment or settlement”, substitute “day that the amount of compensation was fixed under the judgment or settlement”.

29 Paragraph 24(4)(a)

Omit “judgment or settlement”, substitute “day on which the amount of compensation was fixed under the judgment or settlement”.

30 Subsection 24(6)

Omit “judgment or settlement is made” (wherever occurring), substitute “amount of compensation is fixed under the judgment or settlement”.

31 Paragraph 32(1)(b)

Omit “judgment or settlement”, substitute “the day on which an amount of compensation was fixed under the judgment or settlement”.

32 Paragraph 33B(1)(a)

Omit “judgment or settlement”, substitute “day on which an amount of compensation was fixed under the judgment or settlement”.

33 Subsection 35(2)

Repeal the subsection, substitute:

- (2) This section does not affect the operation of Divisions 1 and 2 in relation to an amount of compensation fixed under a judgment or settlement, in respect of the claim, if the amount was fixed prior to the start of the period of the bulk payment agreement.

34 Paragraph 36(1)(c)

Omit “a judgment or settlement is made”, substitute “an amount of compensation is fixed under a judgment or settlement”.

35 Paragraph 36(3)(a)

Omit “the judgment or settlement was made”, substitute “an amount of compensation was fixed under the judgment or settlement”.

36 Paragraph 36(3)(c)

Omit “a further judgment or settlement is made of a kind referred to in subsection (1)”, substitute “an amount of compensation is fixed under a further judgment or settlement of a kind referred to in subsection (1)”.

37 Paragraph 36(4)(a)

Omit “the judgment or settlement was made”, substitute “an amount of compensation was fixed under the judgment or settlement”.

38 Subsection 36(5)

Omit “ judgment or settlement referred to in subsection (1) was made”, substitute “amount of compensation was fixed under the judgment or settlement referred to in subsection (1)”.

39 Application

The amendments made by this Part apply in relation to an amount of compensation fixed by a judgment or settlement if the judgment or settlement is made after the day this item commences.

Part 2—Amendment of the Health and Other Services (Compensation) Care Charges Act 1995

40 Paragraph 6(1)(a)

Omit “a judgment or settlement is”, substitute “an amount of compensation is fixed under a judgment or settlement”.

41 Paragraph 6(6)(c)

Omit “the judgment or settlement is made”, substitute “an amount of compensation is fixed under the judgment or settlement”.

42 Paragraph 6(7)(a)

Omit “the judgment or settlement was made”, substitute “an amount of compensation was fixed under the judgment or settlement”.

43 Subsection 6(8)

Omit “judgment or settlement referred to in that subsection was made”, substitute “amount of compensation was fixed under the judgment or settlement referred to in that subsection”.

44 Paragraph 8(1)(a)

Omit “a judgment or settlement is”, substitute “an amount of compensation is fixed under a judgment or settlement”.

45 Paragraph 8(6)(c)

Omit “the judgment or settlement is made”, substitute “an amount of compensation is fixed under the judgment or settlement”.

46 Paragraph 8(7)(a)

Omit “the judgment or settlement was made”, substitute “an amount of compensation was fixed under the judgment or settlement”.

47 Subsection 8(8)

Omit “judgment or settlement referred to in that subsection was made”, substitute “amount of compensation was fixed under the judgment or settlement referred to in that subsection”.

48 Application

The amendments made by this Part apply in relation to an amount of compensation fixed by a judgment or settlement if the judgment or settlement is made after the day this item commences.

Schedule 2—Amendments relating to the Australian Childhood Immunisation Register

Health Insurance Act 1973

1 Section 46A

Insert:

Australian immunisation encounter means the immunisation in Australia (using a vaccine of a kind referred to in paragraph (a) or (b) of the definition of *immunisation*) of a child against a vaccine preventable disease by a recognised immunisation provider.

2 Section 46A (definition of *Australian Immunisation Procedures Handbook*)

Repeal the definition.

3 Section 46A

Insert:

Australian Immunisation Handbook means the latest edition of the Australian Immunisation Handbook published by the Government Printer.

Note: For the meaning of *the Government Printer* see paragraph 17(n) of the *Acts Interpretation Act 1901*.

4 Section 46A

Insert:

foreign immunisation encounter means the process of administering to a child, for the purpose of immunising a child, a vaccine against a vaccine preventable disease if that process occurs outside Australia.

5 Section 46A (at the end of the definition of *immunisation*)

Add:

; or (c) a vaccine that is administered outside Australia.

6 Section 46A (definition of *immunisation encounter*)

Repeal the definition.

7 Section 46A (definition of *information*)

Repeal the definition, substitute:

information means:

- (a) information relating to a child's Australian immunisation encounter; and
- (b) information relating to a child's foreign immunisation encounter.

8 Section 46A

Insert:

information relating to a child's Australian immunisation encounter includes the name and address of the child immunised, the date and nature of the immunisation of the child and the identity and address of the provider of the immunisation and particulars of the immunisation provided by the provider, but:

- (a) in paragraphs 46E(1)(a) and (b)—does not include information as to the address of the child or of a parent or guardian of the child; and
- (b) in paragraphs 46E(1)(d) and (e)—does not include information about the child or a parent or guardian of the child, if the parent or guardian, or another person exercising responsibilities in relation to the health of the child, has told the Commission in writing that he or she does not wish to be notified when the child needs to be immunised.

9 Section 46A

Insert:

information relating to a child's foreign immunisation encounter includes an interpretation of information relating to a foreign immunisation encounter of a child if the interpretation is provided by a recognised immunisation provider or a prescribed body.

10 Section 46A (definition of *vaccine preventable disease*)

Repeal the definition, substitute:

vaccine preventable disease means a disease listed as a vaccine preventable disease in the Australian Immunisation Handbook.

11 Paragraph 46B(b)

Repeal the paragraph, substitute:

- (b) to record in the Register all Australian immunisation encounters and all foreign immunisation encounters that are notified to the Commission by recognised immunisation providers or prescribed bodies;

12 Subparagraph 46B(d)(iv)

Omit “immunisation encounter”, substitute “Australian immunisation encounter”.

*[Minister’s second reading speech made in—
Senate on 27 March 2003
House of Representatives on 10 September 2003]*

(30/03)
