



Health Legislation Amendment Act (No. 2) 1986

No. 94 of 1986

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MDNOR



Health Legislation Amendment Act (No. 2) 1986

No. 94 of 1986

An Act to amend various laws relating to health, and for related purposes

[Assented to 13 October 1986]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Health Legislation Amendment Act (No. 2) 1986*.

Commencement

2. (1) Sub-section 4 (1), sections 6, 7, 8, 10 and 12, sub-section 14 (2) and section 36 shall come into operation, or shall be deemed to have come into operation, as the case requires, on 1 October 1986.

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(2) Section 5, sub-sections 14 (3) and 17 (1) and sections 18, 19, 21, 23 to 28 (inclusive), 30, 32 and 35 shall come into operation on 1 November 1986.

(3) Sections 16, 31 and 33 and sub-sections 38 (2), (3) and (4) shall come into operation on 1 January 1987.

(4) Sub-sections 4 (2) and 17 (2) and sections 20, 22 and 29 shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

(5) The remaining provisions of this Act shall come into operation on the day on which this Act receives the Royal Assent.

PART II—AMENDMENTS OF HEALTH INSURANCE ACT 1973

Principal Act

3. The *Health Insurance Act 1973*¹ is in this Part referred to as the Principal Act.

Interpretation

4. (1) Section 3 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “approved bed”;
- (b) by omitting from sub-section (1) the definition of “in-patient” and substituting the following definition:

“in-patient”, in relation to a hospital, means a person who occupies a bed in the hospital for the purposes of hospital treatment, but does not include—

- (a) a member of the staff of the hospital who is receiving treatment in his or her own quarters; or
- (b) except as provided by sub-section (2), a newly-born child whose mother also occupies a bed in the hospital;” and
- (c) by omitting from sub-section (1) the definition of “private hospital” and substituting the following definition:

“private hospital” means—

- (a) premises that were, immediately before 1 October 1986, a private hospital (within the meaning of this section as in force at that time), other than premises in respect of which a declaration under sub-section 23EA (2) is in force; and
- (b) premises in respect of which a declaration under sub-section 23EA (1) is in force;”.

(2) Section 3 of the Principal Act is amended by omitting paragraph (d) of the definition of “patient contribution” in sub-section (1) and substituting the following paragraph:

“(d) in relation to a nursing-home type patient of a private hospital in a State or internal Territory, such amount as is determined by the Minister from time to time for the purposes of this paragraph with respect to that State or Territory;”.

(3) Section 3 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “prescribed dental patient” and substituting the following definition:

“ ‘prescribed dental patient’ means a person—

(a) who has not attained the age of 22 years; and

(b) in respect of whom there is issued a certificate in accordance with the approved form by a medical practitioner or dental practitioner who is approved by the Minister in writing for the purposes of this definition stating that the person is suffering from—

(i) a cleft lip or a cleft palate condition; or

(ii) a condition determined by the Minister, by notice in writing published in the *Gazette*, to be a condition to which this definition applies;”;

and

(b) by omitting “who has not attained the age of 22 years” from paragraph (ba) of the definition of “professional service” in sub-section (1).

Entitlement to medicare benefit

5. (1) Section 10 of the Principal Act is amended by omitting from paragraph (2) (b) “\$10” (wherever occurring) and substituting “\$20”.

(2) The amendment made by sub-section (1) applies only in relation to professional services rendered on or after 1 November 1986.

6. Section 23E of the Principal Act is repealed and the following sections are substituted:

Interpretation

“23E. For the purposes of this Part (including Schedule 2)—

(a) a reference to a State includes a reference to the Northern Territory; and

(b) a reference to the Australian Capital Territory includes a reference to the Jervis Bay Territory.

Declarations in relation to private hospitals

“23EA. (1) The Minister may, in writing, declare premises specified in the declaration to be a private hospital for the purposes of this Act and the *National Health Act 1953*.

“(2) The Minister may, in writing, declare premises specified in the declaration, being premises that were, immediately before 1 October 1986, a

private hospital within the meaning of section 3 as in force at that time, not to be a private hospital for the purposes of this Act and the *National Health Act 1953*.

Review of decisions

“23EB. (1) Application may be made to the Administrative Appeals Tribunal for review of—

- (a) a decision by the Minister refusing to make a declaration under sub-section 23EA (1);
- (b) a decision by the Minister revoking a declaration made under sub-section 23EA (1); and
- (c) a decision by the Minister making a declaration under sub-section 23EA (2).

“(2) In sub-section (1), ‘decision’ has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.”.

Repeal of sections 23H to 38A

7. Sections 23H to 38A (inclusive) of the Principal Act are repealed.

Bribery

8. Section 129AA of the Principal Act is amended—

- (a) by omitting from sub-section (1A) “or an amount of daily bed payment is payable under section 33”;
- (b) by omitting from sub-section (1B) “or an amount of daily bed payment is payable under section 33”;
- (c) by omitting paragraph (5A) (a); and
- (d) by omitting sub-section (5B).

Officers to observe secrecy

9. Section 130 of the Principal Act is amended—

- (a) by omitting paragraph (3) (b);
- (b) by inserting after sub-section (3) the following sub-section:

“(3A) Notwithstanding anything contained in the preceding provisions of this section, the Secretary or the General Manager of the Commission may divulge any information acquired by an officer in the performance of duties, or in the exercise of powers or functions, under this Act to an authority or person if—

 - (a) the authority or person is a prescribed authority or person for the purposes of this sub-section; and
 - (b) the information is information of a kind that may, in accordance with the regulations, be provided to the authority or person.”;
- (c) by inserting in sub-section (4) “or (3A)” after “sub-section (3)”;
- (d) by adding at the end of sub-section (11) “or (3A)”;
- (e) by inserting in sub-section (13) “(3A),” after “sub-section (3)”.

Regulations

- 10.** Section 133 of the Principal Act is amended—
- (a) by omitting paragraph (1) (a); and
 - (b) by omitting sub-section (1A).

Schedule 2

- 11.** Schedule 2 to the Principal Act is amended by omitting clause 8.

Transitional

12. Notwithstanding the amendments and repeals made by sub-section 4 (1) and sections 6, 7, 8 and 10—

- (a) the Principal Act continues to apply, on and after 1 October 1986, in relation to an occupancy of a bed in a private hospital, being an occupancy that occurred before 1 October 1986;
- (b) an application for the approval of premises under section 23J or 24 of the Principal Act as a private hospital, being an application made before 1 October 1986, may be dealt with;
- (c) an application for a variation of a determination under section 23J or 24 of the Principal Act of the category to which a private hospital belonged, being an application made before 1 October 1986, may be dealt with; and
- (d) an application under section 38 of the Principal Act for—
 - (i) reconsideration by the Minister of a decision; or
 - (ii) review of a decision by the Administrative Appeals Tribunal, being an application—
 - (iii) made before 1 October 1986; or
 - (iv) made on or after 1 October 1986 in relation to an application of a kind referred to in paragraph (b) or (c) of this section, may be dealt with,

as if those amendments and repeals had not been made.

PART III—AMENDMENTS OF NATIONAL HEALTH ACT 1953

Principal Act

13. The *National Health Act 1953*² is in this Part referred to as the Principal Act.

Interpretation

14. (1) Section 4 of the Principal Act is amended by inserting “or a day hospital facility” after “hospital” in paragraph (dd) of the definition of “basic private table” or “basic table” in sub-section (1).

- (2)** Section 4 of the Principal Act is amended—
- (a) by omitting “(excluding any amount of daily bed payment payable to the hospital in respect of the patient concerned in accordance

with section 33 of the *Health Insurance Act 1973*)” from subparagraph (ba) (i) of the definition of “basic hospital benefits table” or “basic table” in sub-section (1); and

- (b) by omitting “(excluding any amount of daily bed payment payable to the hospital in respect of the patient concerned in accordance with section 33 of the *Health Insurance Act 1973*)” from subparagraph (c) (i) of the definition of “basic private table” or “basic table” in sub-section (1).

(3) Section 4 of the Principal Act is amended—

- (a) by omitting “or” (last occurring) from paragraph (b) of the definition of “pensioner” in sub-section (1); and
- (b) by inserting after paragraph (b) of the definition of “pensioner” in sub-section (1) the following paragraph:

“(ba) a person who is eligible, under sub-section 86 (1) or (2) of the *Veterans’ Entitlements Act 1986*, to be provided with treatment under Part V of that Act; or”.

Provision of vaccines

15. Section 9B of the Principal Act is amended by omitting paragraphs (b) and (c) and substituting the following paragraphs:

- “(b) measles;
- (c) rubella; and
- (d) any other disease prescribed by the regulations for the purposes of this paragraph.”.

Repeal of Part III

16. Part III of the Principal Act is repealed.

Interpretation

17. (1) Section 84 of the Principal Act is amended—

- (a) by inserting after the definition of “dependant” in sub-section (1) the following definitions:

“‘entitlement card’ means a pharmaceutical benefits entitlement card issued under section 84E and includes an additional card or replacement card issued in accordance with regulations made for the purposes of section 84H;

‘entitlement card prescription’ means a prescription that, in accordance with section 84AA, is a prescription for the supply of a pharmaceutical benefit to a person who is a holder of an entitlement card;”;

- (b) by omitting from sub-section (1) the definition of “general benefit prescription” and substituting the following definition:

- “‘general benefit prescription’ means a prescription other than—
- (a) a pensioner benefit prescription;
 - (b) a concessional benefit prescription; or
 - (c) an entitlement card prescription;”;
- (c) by inserting after the definition of “pharmaceutical benefit” in sub-section (1) the following definition:
- “‘record form’ means a pharmaceutical benefits prescription record form issued under section 84D;”;
- (d) by inserting after the definition of “refund agreement” in sub-section (1) the following definition:
- “‘relevant entitlement period’ means—
- (a) the period commencing on 1 November 1986 and ending on 31 December 1987;
 - (b) the year commencing on 1 January 1988; or
 - (c) a succeeding year;”;
- (e) by inserting after sub-section (2) the following sub-section:
- “(2A) A reference in this Part to a prescription for the supply of a pharmaceutical benefit to a person who is a holder of an entitlement card is a reference to a prescription for the supply of a pharmaceutical benefit to a person who is, at the time when the prescription is written or communicated, or becomes, after the prescription is written or communicated and before the benefit is supplied upon the prescription, a holder of an entitlement card.”.
- (2) Section 84 of the Principal Act is amended—
- (a) by omitting from sub-section (1) the definition of “British Pharmacopoeia”; and
 - (b) by omitting sub-sections (4) and (4A).

Concessional benefit prescriptions, pensioner benefit prescriptions and entitlement card prescriptions

18. Section 84AA of the Principal Act is amended—

- (a) by inserting after sub-section (1) the following sub-section:

“(1A) A prescription that is written by a medical practitioner or by a participating dental practitioner in accordance with this Act and the regulations shall not be taken, for the purposes of this Part, to be a prescription for the supply of a pharmaceutical benefit to a person who is a holder of an entitlement card unless there is written or marked on the prescription, or there purports to be written or marked on the prescription, in such manner as is prescribed by regulations made for the purposes of this sub-section, such information relating to the status of the person to whom the prescription relates as a holder of an entitlement card as is prescribed by those last-mentioned regulations.”; and

- (b) by adding at the end the following sub-sections:

“(3) A prescription that is communicated to an approved pharmacist in pursuance of paragraph 89 (a) in such circumstances as are prescribed for the purposes of that paragraph shall not be taken, for the purposes of this Part, to be a prescription for the supply of a pharmaceutical benefit to a person who is a holder of an entitlement card unless, before supply of the benefit upon that prescription, there is communicated, or there is purportedly communicated, to the pharmacist, in such manner as is prescribed by regulations made for the purposes of this sub-section, such information relating to the status of the person to whom the prescription relates as a holder of an entitlement card as is prescribed by those last-mentioned regulations.

“(4) Nothing in sub-section (1), (1A), (2) or (3) shall be read as derogating from sub-section 87 (3A).”.

19. After section 84A of the Principal Act the following Division is inserted:

“Division 1A—Pharmaceutical benefits entitlement cards

Family relationships

“84B. (1) For the purposes of this Division, the following are the members of a person’s family:

- (a) the person’s spouse;
- (b) any dependent child of the person.

“(2) For the purposes of this section, a person who is, at any time during a relevant entitlement period, a dependent child of another person shall be taken to be a dependent child of that other person throughout the remainder of that period.

“(3) For the purposes of this section, a person shall not be taken to have the custody of a child unless the person, whether alone or jointly with another person, has the right to have, and to make decisions concerning, the daily care and control of the child.

“(4) In this section—

‘child’ means a person who—

- (a) is under the age of 16 years; or
- (b) is a student child;

‘dependent child’, in relation to a person, means—

- (a) a child under the age of 16 years who is—
 - (i) in the custody, care and control of the person; or
 - (ii) where no other person has the custody, care and control of the child—is wholly or substantially in the care and control of the person; or
- (b) a student child who is wholly or substantially dependent on the person;

'spouse', in relation to a person, means—

- (a) a person who is legally married to, and is not living, on a permanent basis, separately and apart from, that person; and
- (b) a de facto spouse of that person;

'student child' means a person who—

- (a) has attained the age of 16 years but has not attained the age of 25 years; and
- (b) is receiving full-time education at a school, college or university.

Eligibility for pharmaceutical benefits entitlement cards

"84C. (1) A person is not eligible to be issued with an entitlement card in respect of a relevant entitlement period unless—

- (a) the number of pharmaceutical benefit supplies made, during that period, to the person is equal to or exceeds 25; or
- (b) the aggregate of the number of pharmaceutical benefit supplies made, during that period, to the person and to the person's family is equal to or exceeds 25.

"(2) For the purposes of this section, a pharmaceutical benefit supply shall be taken to have been made, during a relevant entitlement period, to a person's family if and only if the supply was made, during that period, to—

- (a) a person who is, at the time when an application is made by the person under section 84E for the issue of an entitlement card in respect of that period, a member of the person's family; or
- (b) a person who was, at the time of supply, a member of the person's family.

"(3) Where—

- (a) a prescription is for the supply of a pharmaceutical benefit to a person (in this sub-section referred to as the 'patient'); and
- (b) the benefit referred to in the prescription is given to another person, as agent for the patient, for supply to the patient,

the benefit shall, for the purposes of this section, be taken to have been supplied to the patient upon the prescription.

"(4) A pharmaceutical benefit supply to a person shall not be taken into account for the purposes of this section unless—

- (a) the pharmaceutical benefit is supplied—
 - (i) by an approved pharmacist, at or from premises in respect of which the pharmacist is for the time being approved, on presentation of a prescription written by a medical practitioner or a participating dental practitioner in accordance with this Act and the regulations, or, in such circumstances as are prescribed for the purposes of paragraph 89 (a), on communication to the pharmacist, in the manner prescribed

- for the purposes of that paragraph, of a prescription of a medical practitioner or a participating dental practitioner; or
- (ii) in accordance with section 92 or 94;
- (b) at the time of supply, the person—
 - (i) was not a pensioner;
 - (ii) was not a dependant of a pensioner; and
 - (iii) was not a holder of an entitlement card;
 - (c) in a case where the supply is made upon a general benefit prescription and the Commonwealth price for the pharmaceutical benefit exceeds \$10—the amount received in respect of the supply is equal to or exceeds the aggregate of \$10 and the special patient contribution (if any) in relation to the pharmaceutical benefit;
 - (d) in a case where the supply is made upon a concessional benefit prescription and the Commonwealth price for the pharmaceutical benefit exceeds \$2.50—the amount received in respect of the supply is equal to or exceeds the aggregate of \$2.50 and the special patient contribution (if any) in relation to the pharmaceutical benefit; and
 - (e) in a case where the supply is deemed, by virtue of sub-section 99 (2A) or (2B), to be a supply otherwise than under this Part—
 - (i) the amount demanded or received in respect of the supply does not exceed the aggregate of—
 - (A) the agreed price for the pharmaceutical benefit;
 - (B) any charge demanded or received by reason only that the supply was made at a time outside normal trading hours; and
 - (C) any charge demanded or received in accordance with regulations made for the purposes of paragraph 87 (4) (b); and
 - (ii) if there is in force, at the time of supply, a determination by the Minister, pursuant to paragraph 85A (2) (a), that is applicable to the supply—the quantity or number of units supplied is not less than the maximum quantity or number specified in the determination.

“(5) Where an approved pharmacist, approved medical practitioner or approved hospital authority supplies a pharmaceutical benefit to a person in accordance with a direction included in a prescription pursuant to sub-section 88 (6), there shall, for the purposes of this section, be deemed to have taken place a number of pharmaceutical benefit supplies to the person that is equal to the minimum number of occasions of supply that would have had to be directed if the medical practitioner had prescribed the same total quantity or number of units of the pharmaceutical benefit by way of repeated supplies.

“(6) The reference in paragraph (4) (e) to the agreed price for a pharmaceutical benefit is a reference to the agreed price for the benefit ascertained in accordance with a determination in force under sub-section (7).

“(7) The Minister may determine the manner in which the agreed price for all or any pharmaceutical benefits is to be ascertained for the purpose of this section.

“(8) A manner determined under sub-section (7) shall—

(a) in the case of a ready-prepared pharmaceutical benefit—take as a basis—

(i) the approved price to pharmacists of the pharmaceutical benefit concerned; or

(ii) if the pharmaceutical benefit concerned is a form of a drug or medicinal preparation to which a substance has, or substances have, been added in accordance with a determination in force under sub-section 85 (3) relating to that drug or medicinal preparation—the approved price to pharmacists of that form of that drug or medicinal preparation,

that is applicable on the first day of the month of the year in which the supply occurs;

(b) in the case of other pharmaceutical benefits—take as a basis the basic wholesale price of each ingredient that is applicable on the day on which the supply occurs;

(c) provide for the addition of such fees and other amounts as are determined by the Tribunal for the purposes of paragraph 98B (2) (c); and

(d) provide for the addition of such other fees and other amounts as are determined by the Minister.

“(9) The Minister shall not determine an amount for the purpose of paragraph (8) (d) unless the Pharmacy Guild of Australia has agreed in writing to the making of that determination.

“(10) A determination under sub-section (7) shall—

(a) be made by notice in writing published in the *Gazette*; and

(b) come into operation on such date as is specified in the determination.

“(11) In this section, unless the contrary intention appears—

‘approved price to pharmacists’ has the same meaning as in section 98B;

‘basic wholesale price’ has the same meaning as in section 98B;

‘Commonwealth price’ has the same meaning as in section 99;

‘pharmaceutical benefit supply’ means a supply or a repeated supply of a pharmaceutical benefit;

‘ready-prepared pharmaceutical benefit’ has the same meaning as in section 98B.

Pharmaceutical benefits prescription record forms

“84D. (1) Upon application, the Secretary shall issue to a person a pharmaceutical benefits prescription record form in accordance with sub-sections (3) and (4).

“(2) An approved pharmacist, approved medical practitioner or approved hospital authority may issue to a person a pharmaceutical benefits prescription record form in accordance with sub-sections (3) and (4).

“(3) A pharmaceutical benefits prescription record form shall—

- (a) be in accordance with the form approved by the Secretary; and
- (b) include the prescribed particulars of the person to whom the form is issued.

“(4) A pharmaceutical benefits prescription record form issued to a person may include the prescribed particulars of any person who is a member of the person’s family and—

- (a) is not a pensioner;
- (b) is not a dependant of a pensioner; and
- (c) is not a holder of an entitlement card.

“(5) Where a pharmaceutical benefits prescription record form is issued to a person, the person and each member of the person’s family whose particulars are included in the form in accordance with sub-section (4) shall be taken, for the purposes of this section, to be a holder of the form.

“(6) Where—

- (a) an approved pharmacist, approved medical practitioner or approved hospital authority supplies a pharmaceutical benefit to a holder of a pharmaceutical benefits prescription record form;
- (b) the form is presented at the time of supply; and
- (c) the supply is, in accordance with sub-section 84C (4), a pharmaceutical benefit supply to be taken into account for the purposes of section 84C,

the pharmacist, medical practitioner or authority shall record the supply of that pharmaceutical benefit on the form.

“(7) A record made for the purposes of sub-section (6) shall include—

- (a) the prescribed particulars of the prescription upon which the pharmaceutical benefit is supplied;
- (b) the date on which the pharmaceutical benefit is supplied; and
- (c) such other particulars in relation to the supply of the pharmaceutical benefit as are prescribed,

and shall be signed by—

- (d) in a case where the record is made by an approved pharmacist—the pharmacist;
- (e) in a case where the record is made by an approved medical practitioner—the medical practitioner; or

- (f) in a case where the record is made by an approved hospital authority—the medical practitioner or pharmacist by or under whose supervision the pharmaceutical benefit is dispensed.

“(8) An approved pharmacist may authorise a person to record, on behalf of the pharmacist, the supply of pharmaceutical benefits for the purposes of sub-section (6).

“(9) A reference in sub-section (7) to an approved pharmacist includes a reference to a person authorised by a pharmacist under sub-section (8) to record, on behalf of the pharmacist, the supply of pharmaceutical benefits.

Issue of pharmaceutical benefits entitlement card

“84E. (1) Where—

- (a) a person applies to the Secretary for a pharmaceutical benefits entitlement card in respect of a relevant entitlement period; and
 - (b) the Secretary is satisfied that the person is eligible to be issued with a pharmaceutical benefits entitlement card in respect of that period,
- the Secretary shall issue a pharmaceutical benefits entitlement card to the person in respect of that period.

“(2) Where—

- (a) a person applies to an approved pharmacist, approved medical practitioner or approved hospital authority for a pharmaceutical benefits entitlement card in respect of a relevant entitlement period; and
 - (b) the pharmacist, medical practitioner or authority is satisfied that the person is eligible to be issued with a pharmaceutical benefits entitlement card in respect of that period,
- the pharmacist, medical practitioner or authority may issue a pharmaceutical benefits entitlement card to the person in respect of that period.

“(3) An application under sub-section (1) or (2) shall—

- (a) be in accordance with the form approved by the Secretary;
- (b) contain such particulars, and be accompanied by such documents, as are prescribed; and
- (c) be signed by the person making the application.

“(4) Where an application is made to a person for the issue of an entitlement card, the person to whom the application is made shall, in determining whether to issue an entitlement card, have regard to—

- (a) the matters contained in the application;
- (b) any record form or other document that accompanies the application; and
- (c) such other matters as the person considers relevant.

“(5) Where—

- (a) a person applies to an approved pharmacist, approved medical practitioner or approved hospital authority for a pharmaceutical

benefits entitlement card in respect of a relevant entitlement period;
and

- (b) the pharmacist, medical practitioner or authority issues a pharmaceutical benefits entitlement card to the person in respect of that period,

the pharmacist, medical practitioner or authority shall retain the application and any other relevant document that accompanied the application for the period of 12 months, or such other period as is prescribed by the regulations, commencing on the day on which the entitlement card is issued.

“(6) The Secretary may, by notice in writing given to an approved pharmacist, approved medical practitioner or approved hospital authority, require the pharmacist, medical practitioner or authority to deliver, within such period (not being a period of less than 7 days) as is specified in the notice, a specified document retained by the pharmacist, medical practitioner or authority in accordance with sub-section (5) to—

- (a) the Secretary; or
- (b) such other person as is specified in the notice,

and the pharmacist, medical practitioner or authority shall comply with the notice.

“(7) In sub-section (5), ‘relevant document’ means a document relating to the number of supplies or repeated supplies of pharmaceutical benefits made to a person.

Form of entitlement card

“84F. (1) An entitlement card shall be in accordance with the form approved by the Secretary for the purposes of this section.

“(2) Without limiting the generality of sub-section (1), an entitlement card shall include particulars of—

- (a) the relevant entitlement period in respect of which the card is issued; and
- (b) the person to whom the card is issued and each person who is, at the time when the card is issued, a member of the person’s family.

“(3) The omission from an entitlement card of particulars of a person who is, at the time when the card is issued, a member of the family of the person to whom the card is issued does not affect the validity of the card.

Persons covered by entitlement card

“84G. Subject to sub-section 84H (3), where an entitlement card is issued to a person, the person and each person who is, at the time when the card is issued, a member of the person’s family shall be taken, for the purposes of this Act, to be a holder of the card.

Additional and replacement entitlement cards

“84H. (1) Where an entitlement card has been issued under section 84E, an additional card may, in accordance with the regulations, be issued to a person who is a holder of the card.

“(2) Without limiting the generality of sub-section (1), regulations made for the purposes of that sub-section may provide for the issue of an additional card to a person—

- (a) who is or was a holder of an entitlement card that has been lost, stolen, damaged or destroyed; or
- (b) who is a holder of an entitlement card but whose particulars are not included on the card.

“(3) Where—

- (a) an entitlement card has been issued to a person (in this sub-section referred to as the ‘original card holder’) under section 84E in respect of a relevant entitlement period; and
- (b) a person (in this sub-section referred to as the ‘new family member’) becomes, after the issue of the card and during that period, a member of the original card holder’s family,

a replacement card may, in accordance with the regulations, be issued to the original card holder, being a card that includes particulars of the holders of the original card and of the new family member and, where such a replacement card is issued, each holder of the original card and the new family member shall be taken, from the time when the replacement card is issued, to be a holder of the replacement card.

“(4) Regulations made for the purposes of sub-section (1) or (3) may provide for application to be made to the Administrative Appeals Tribunal for review of a decision of a person refusing to issue an additional card or a replacement card.

Period of effect of entitlement card

“84J. An entitlement card issued in respect of a relevant entitlement period commences to have effect on the day on which it is issued and ceases to have effect at the end of that period.

Return of entitlement card

“84K. Where an entitlement card is issued to a person who is not eligible to be issued with the entitlement card, the Secretary may, by notice in writing to a holder of the card, require the holder to deliver the card, within such period (not being a period of less than 7 days) as is specified in the notice, to—

- (a) the Secretary; or
- (b) such other person as is specified in the notice,

for cancellation and the holder shall comply with the notice.

Offences

“84L. (1) An approved pharmacist, approved medical practitioner or approved hospital authority shall not knowingly issue an entitlement card to a person who is not eligible to be issued with the entitlement card.

Penalty: \$5,000 or imprisonment for 2 years, or both.

“(2) An approved pharmacist, approved medical practitioner or approved hospital authority shall not knowingly include in an entitlement card, as the name of a member of a person’s family, the name of a person who is not a member of the person’s family.

Penalty: \$5,000 or imprisonment for 2 years, or both.

“(3) A person shall not, without reasonable excuse, fail to comply with a notice given to the person under section 84K.

Penalty: \$2,000 or imprisonment for 12 months, or both.

“(4) A person shall not, without reasonable excuse, fail to comply with a notice given to the person under sub-section 84E (6).

Penalty for contravention of this sub-section: \$2,000 or imprisonment for 12 months, or both.”.

Pharmaceutical benefits

20. Section 85 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-sections:

“(2) Subject to sub-section (3), the drugs and medicinal preparations in relation to which this Part applies are—

- (a) drugs and medicinal preparations that are—
 - (i) declared by the Minister, in writing, to be drugs and medicinal preparations to which this Part applies; or
 - (ii) included in a class of drugs and medicinal preparations declared by the Minister, in writing, to be a class of drugs and medicinal preparations to which this Part applies; and
- (b) medicinal preparations composed of—
 - (i) one or more of the drugs and medicinal preparations referred to in paragraph (a), being a drug or medicinal preparation that is, or drugs and medicinal preparations that are, included in a class of drugs and medicinal preparations declared by the Minister, in writing, to be a class of drugs and medicinal preparations to which this paragraph applies; and
 - (ii) one or more of such additives as are declared by the Minister, in writing, to be additives to which this paragraph applies.

“(2A) The Minister may, in a declaration under sub-section (2)—

- (a) declare that a particular pharmaceutical benefit is to be a relevant pharmaceutical benefit for the purposes of section 88A; and

- (b) specify the circumstances in which the writing of a prescription for the supply of the pharmaceutical benefit is to be authorised under this Part.

“(2B) Sections 48, 49, 49A and 50 of the *Acts Interpretation Act 1901* apply to declarations made under sub-section (2) as if in those provisions references to regulations were references to declarations, references to a regulation were references to a provision of a declaration and references to repeal were references to revocation.

“(2C) Declarations shall not be taken to be statutory rules within the meaning of the *Statutory Rules Publication Act 1903*, but sub-sections 5 (3) to (3C) (inclusive) of that Act apply in relation to declarations as they apply to statutory rules.

“(2D) For the purposes of the application of sub-section 5 (3B) of the *Statutory Rules Publication Act 1903* in accordance with sub-section (2C) of this section, the reference in the first-mentioned sub-section to the Minister of State for Sport, Recreation and Tourism shall be read as a reference to the Minister administering this Act.

“(2E) Section 5 of the *Evidence Act 1905* applies to declarations as that section applies to an order made by the Minister.”.

Limited charges for pharmaceutical benefits

21. (1) Section 87 of the Principal Act is amended—

- (a) by omitting from paragraph (2) (a) “\$2.00” and substituting “\$2.50”;
- (b) by omitting from paragraph (2) (b) “\$5.00” and substituting “\$10.00”;
- (c) by omitting from sub-section (2A) “An” and substituting “Subject to sub-section (2B), an”;
- (d) by inserting after paragraph (2A) (a) “or an entitlement card prescription” after “prescription”;
- (e) by omitting from paragraph (2A) (b) “\$2.00” and substituting “\$2.50”;
- (f) by omitting from paragraph (2A) (c) “\$5.00” and substituting “\$10.00”;
- (g) by inserting after sub-section (2A) the following sub-section:

“(2B) An approved pharmacist or an approved medical practitioner acting in accordance with his or her approval shall not, in respect of a supply (including a repeated supply) by the approved pharmacist or approved medical practitioner, as the case may be, of a pharmaceutical benefit in respect of which there is in force a determination under section 85B, charge the person to whom the pharmaceutical benefit is supplied an amount that exceeds the Commonwealth price (within the meaning of section 99) in relation to the pharmaceutical benefit.”;

- (h) by inserting after sub-section (3) the following sub-sections:

“(3A) An approved pharmacist, approved medical practitioner or approved hospital authority shall not supply a pharmaceutical benefit to a person on terms that are appropriate for the supply of the benefit to—

- (a) a pensioner;
- (b) a dependant of a pensioner;
- (c) a holder of an entitlement card;
- (d) a concessional beneficiary; or
- (e) a dependant of a concessional beneficiary,

unless the pharmacist, medical practitioner or authority is satisfied that the person is entitled to receive the benefit on those terms.

“(3B) Without limiting the generality of sub-section (3A), an approved pharmacist, approved medical practitioner or approved hospital authority may refuse to supply a pharmaceutical benefit to a person on terms that are appropriate for the supply of the benefit to—

- (a) a pensioner;
- (b) a dependant of a pensioner;
- (c) a holder of an entitlement card;
- (d) a concessional beneficiary; or
- (e) a dependant of a concessional beneficiary,

unless the person produces evidence (whether by way of the production of a card or evidence of identity or otherwise) to the pharmacist, medical practitioner or authority that the person is entitled to receive the benefit on those terms.”;

- (j) by omitting paragraph (4) (a);
- (k) by omitting from sub-section (5) “or a dependant of a pensioner” and substituting “, a dependant of a pensioner or a holder of an entitlement card”; and
- (m) by adding at the end the following sub-section:

“(6) The reference in sub-section (1) to a payment or other valuable consideration in respect of the supply of a pharmaceutical benefit does not include a reference to a charge demanded or received by reason only that the supply is made at a time outside normal trading hours.”.

(2) The amendments made by sub-section (1) apply only in relation to pharmaceutical benefits supplied on or after 1 November 1986.

22. Section 88A of the Principal Act is repealed and the following section is substituted:

Prescription of certain pharmaceutical benefits authorised only in certain circumstances

“88A. Where a pharmaceutical benefit is declared, in a declaration made under sub-section 85 (2), to be a relevant pharmaceutical benefit for the purposes of this section, the writing of a prescription for the supply of the benefit is authorised under this Part only in the circumstances specified in the declaration pursuant to sub-section 85 (2A).”.

Approvals to be subject to conditions

23. Section 92A of the Principal Act is amended—

- (a) by inserting in sub-paragraph (1) (ca) (i) “or (3)” after “sub-section 84AA (2)”;
- (b) by omitting from sub-paragraph (1) (ca) (i) “or a pensioner benefit prescription” and substituting “, a pensioner benefit prescription or an entitlement card prescription”;
- (c) by inserting in paragraph (1) (ca) “or (3)” after “sub-section 84AA (2)” (last occurring);
- (d) by inserting in paragraph (1) (ca) “or (1A)” after “sub-section 84AA (1)”;
- (e) by omitting from paragraph (1) (ca) “or a pensioner benefit prescription” (last occurring) and substituting “, a pensioner benefit prescription or an entitlement card prescription”;
- (f) by inserting in paragraph (2) (a) “or entitlement card prescriptions” after “prescriptions”; and
- (g) by inserting in sub-section (4) “or (3), as the case requires,” after “sub-section 84AA (2)”.

Cancellation by Secretary of approval of pharmacists, &c.

24. Section 98 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) Where—

- (a) an approved pharmacist gives the Secretary notice in writing that the pharmacist has ceased to carry on business as a pharmacist at premises in respect of which the pharmacist is approved; or
- (b) an approved medical practitioner gives the Secretary notice in writing that the medical practitioner has ceased to practise in the area in respect of which the medical practitioner is approved,

the Secretary may cancel the approval.

“(3) Where the Secretary is satisfied that an approved pharmacist has, for a period of not less than 6 months, ceased to carry on business as a pharmacist at premises in respect of which the pharmacist is approved, the Secretary may, by notice in writing to the pharmacist, cancel the approval of the pharmacist under section 90.

“(3A) Where the Secretary is satisfied that an approved medical practitioner has, for a period of not less than 6 months, ceased to practise in the area in respect of which the medical practitioner is approved, the Secretary may, by notice in writing to the medical practitioner, cancel the approval of the medical practitioner under section 92.”.

Cancellation by Minister of approval of hospital

25. Section 98AA of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) Where an approved hospital authority gives the Minister notice in writing that the authority has ceased to conduct a hospital in respect of which it is approved, the Minister may cancel the approval.

“(3) Where the Minister is satisfied that an approved hospital authority has, for a period of not less than 6 months, ceased to conduct a hospital in respect of which it is approved, the Minister may, by notice in writing to the authority, cancel the approval of the authority under section 94.”.

Function of Tribunal

26. Section 98B of the Principal Act is amended by omitting from paragraph (2) (a) “next preceding the month”.

Payment for supply of benefit

27. (1) Section 99 of the Principal Act is amended—

- (a) by inserting in paragraph (2) (a) “or an entitlement card prescription” after “prescription” (last occurring);
- (b) by omitting from sub-section (2A) “\$5.00” (wherever occurring) and substituting “\$10.00”;
- (c) by inserting in sub-section (2A) “(other than for the purposes of Division 1A)” after “of this Part”;
- (d) by omitting from sub-section (2B) “\$2.00” (wherever occurring) and substituting “\$2.50”; and
- (e) by inserting in sub-section (2B) “(other than for the purposes of Division 1A)” after “of this Part”.

(2) The amendments made by sub-section (1) apply only in relation to pharmaceutical benefits supplied on or after 1 November 1986.

28. (1) After section 99 of the Principal Act the following section is inserted in Division 3 of Part VII:

Unauthorised payments

“99AA. (1) Where—

- (a) a pharmaceutical benefit has been supplied to a person (in this subsection referred to as the ‘patient’) by an approved pharmacist, approved medical practitioner or approved hospital authority;

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- (b) the pharmacist, medical practitioner or authority is paid an amount (in this sub-section referred to as the 'relevant amount') by the Commonwealth in respect of the supply of the benefit to the patient; and
- (c) the patient obtained the benefit on terms that were appropriate for the supply of the benefit to—
 - (i) a pensioner;
 - (ii) a dependant of a pensioner;
 - (iii) a holder of an entitlement card;
 - (iv) a concessional beneficiary; or
 - (v) a dependant of a concessional beneficiary,knowing, or in circumstances such that he or she ought reasonably to have known, that he or she was not entitled to receive the benefit on those terms,

the Secretary may, by notice in writing to the patient, require the patient to pay to the Commonwealth an amount equal to the relevant amount.

“(2) Where—

- (a) a pharmaceutical benefit is supplied to a person by an approved pharmacist, approved medical practitioner or approved hospital authority;
- (b) the pharmacist, medical practitioner or authority is paid an amount (in this sub-section referred to as the 'relevant amount') by the Commonwealth in respect of the supply of the benefit to that person; and
- (c) the pharmacist, medical practitioner or authority obtained the relevant amount knowing, or in circumstances such that he or she ought reasonably to have known, that it was not payable,

the Secretary may, by notice in writing to the pharmacist, medical practitioner or authority, require the pharmacist, medical practitioner or authority to pay to the Commonwealth an amount equal to the relevant amount.

“(3) Where—

- (a) the conditions referred to in paragraphs (1) (a), (b) and (c) or (2) (a), (b) and (c) are satisfied in relation to an amount paid by the Commonwealth; and
- (b) the Secretary gives a person notice under sub-section (1) or (2), as the case may be, requiring the person to pay to the Commonwealth an amount equal to the amount referred to in paragraph (a) of this sub-section,

the Commonwealth may recover the amount referred to in the notice as a debt due to the Commonwealth by action in a court of competent jurisdiction.”.

(2) The amendment made by sub-section (1) applies only in relation to pharmaceutical benefits supplied on or after 1 November 1986.

Pharmaceutical Benefits Advisory Committee

29. Section 101 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-sections:

“(4) A drug or medicinal preparation shall not be declared, pursuant to paragraph 85 (2) (a), to be a drug or medicinal preparation in relation to which this Part applies unless—

- (a) the drug or medicinal preparation was, immediately before the commencement of this sub-section, a pharmaceutical benefit; or
- (b) the Committee has recommended to the Minister that it be so declared.

“(4A) A class of drugs or medicinal preparations, or of drugs and medicinal preparations, shall not be declared, pursuant to paragraph 85 (2) (a), to be a class of drugs or medicinal preparations, or of drugs and medicinal preparations, in relation to which this Part applies unless—

- (a) each member of that class was, immediately before the commencement of this sub-section, a pharmaceutical benefit; or
- (b) the Committee has recommended to the Minister that the class be so declared.”

Offences

30. Section 103 of the Principal Act is amended—

- (a) by omitting from sub-section (4A) “(1) of section 84AA” and substituting “84AA (1) or (1A)”;
- (b) by omitting from sub-section (4B) “(2) of section 84AA” and substituting “84AA (2) or (3)”;
- (c) by inserting after paragraph (5) (a) the following paragraph:
 - “(aa) make or present to an approved pharmacist, approved medical practitioner or approved hospital authority, in connection with an application for an entitlement card, a statement or document which is false or misleading in a material particular;”;
- (d) by inserting after paragraph (5) (b) the following paragraph:
 - “(ba) obtain the issue of an entitlement card to which the person is not entitled;”.

Review of certain decisions of Secretary

31. Section 105AAA of the Principal Act is repealed.

Applications for review by Tribunal

32. Section 105AB of the Principal Act is amended—

- (a) by inserting after sub-section (6) the following sub-sections:

“(6A) An application may be made to the Tribunal for review of a decision of the Secretary under sub-section 84E (1) refusing to issue an entitlement card to a person.

- “(6B) An application may be made to the Tribunal for review of a decision of the Secretary to give a notice under section 84K.”; and
(b) by inserting after sub-section (8) the following sub-sections:

“(8A) An application may be made to the Tribunal for a review of a decision of the Secretary under sub-section 98 (3) or (3A) to revoke an approval.

“(8B) An application may be made to the Tribunal for a review of a decision of the Minister under sub-section 98AA (3) to revoke an approval.”.

Statement to accompany notification of decisions

33. Section 105AC of the Principal Act is amended—

- (a) by omitting sub-section (1AA);
- (b) by omitting paragraph (1B) (a); and
- (c) by omitting from sub-section (2) “(1AA).”.

34. (1) After section 134D of the Principal Act the following section is inserted:

Conduct by directors, servants or agents

“134E. (1) Where it is necessary, for the purposes of this Act, to establish the state of mind of a body corporate in respect of conduct engaged in, or deemed by sub-section (2) to have been engaged in, by the body corporate, it is sufficient to show that a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

“(2) Any conduct engaged in on behalf of a body corporate—

- (a) by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent,

shall be deemed, for the purposes of this Act, to have been engaged in also by the body corporate.

“(3) Where it is necessary, for the purposes of this Act, to establish the state of mind of a person in relation to conduct deemed by sub-section (4) to have been engaged in by the person, it is sufficient to show that a servant or agent of the person, being a servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

“(4) Conduct engaged in on behalf of a person other than a body corporate—

- (a) by a servant or agent of the person within the scope of his or her actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the first-mentioned person, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent,

shall be deemed for the purposes of this Act to have been engaged in also by the first-mentioned person.

“(5) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person’s reasons for the person’s intention, opinion, belief or purpose.

“(6) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.”.

(2) The amendment made by sub-section (1) applies only in relation to conduct engaged in after the commencement of this section.

Prosecution of offences

35. Section 135B of the Principal Act is amended—

- (a) by inserting in sub-section (1) “, 84L” after “82”; and
- (b) by inserting in paragraph (3) (b) “84L,” after “section”.

Schedule

36. The Schedule to the Principal Act is amended by omitting from paragraph (e) “(excluding any amount of daily bed payment payable to the hospital in respect of the patient in accordance with section 33 of the *Health Insurance Act 1973*)”.

Minor amendments

37. The Principal Act is amended as set out in Schedules 1 and 2.

Transitional

38. (1) Notwithstanding the amendments made by section 37, where, immediately before the commencement of this sub-section, a person was, under the Principal Act, an approved pharmaceutical chemist approved in respect of one or more premises, that person shall be deemed, for the purposes of the *National Health Act 1953*, to be an approved pharmacist in respect of those premises.

(2) Notwithstanding the amendments made by sections 16, 31 and 33, the Principal Act, as in force immediately before 1 January 1987, continues to apply, on and after 1 January 1987, in relation to a prescribed journey that commenced before 1 January 1987.

(3) In sub-section (2), "prescribed journey" means the journeys made in connection with the rendering of a professional service to a patient, being those journeys regarded as one journey.

(4) For the purposes of the continued application of the Principal Act in accordance with sub-section (2) of this section, any approval or other instrument that could, before 1 January 1987, have been given or made under Part III of the Principal Act may be given or made on or after 1 January 1987.

PART IV—AMENDMENTS OF THERAPEUTIC GOODS ACT 1966

Principal Act

39. The *Therapeutic Goods Act 1966*³ is in this Part referred to as the Principal Act.

Additional operation of Part

40. Section 23B of the Principal Act is amended—

- (a) by inserting in paragraph (a) "23DA," after "23D,"; and
- (b) by inserting in paragraph (a) "23EA," after "23E,".

41. After section 23D of the Principal Act the following section is inserted:

Notice of, and identification of, particular batches

"23DA. (1) The Secretary may, by notice in writing served on a manufacturing corporation, require the corporation to give notice in writing to the Secretary of each batch or other quantity of—

- (a) a specified biological product;
- (b) biological products of a specified kind; or
- (c) all biological products,

produced, or to be produced, in Australia by the corporation.

"(2) Where the Secretary has given a corporation notice under sub-section (1), the corporation shall not supply in Australia a biological product to which the notice relates to another person unless the corporation has given the notice required by the first-mentioned notice.

"(3) A corporation shall not be taken to have complied with sub-section (2) in relation to a batch or other quantity of a biological product unless the notice given in relation to that batch or quantity includes such particulars as will allow the Secretary to identify that batch or quantity."

42. After section 23E of the Principal Act the following section is inserted:

Secretary may require samples to be provided automatically

“23EA. (1) The Secretary may, by notice in writing served on a manufacturing corporation, require the corporation to furnish to the Secretary such samples as are required by the notice of each batch or other quantity of—

- (a) a specified biological product;
- (b) biological products of a specified kind; or
- (c) all biological products,

produced in Australia by the corporation.

“(2) Where, in accordance with a requirement in a notice under sub-section (1), a corporation has furnished to the Secretary samples of a batch or other quantity of a biological product, the Secretary may, by notice in writing served on the corporation, direct the corporation not to supply in Australia to any person any part of that batch or other quantity of that biological product.

“(3) Where a corporation has, by notice under sub-section (1), been required to furnish samples of a batch or other quantity of a biological product, the corporation shall not supply in Australia to another person any part of that batch or other quantity of that biological product unless the corporation has furnished the samples required.

“(4) Where, in accordance with a requirement in a notice under sub-section (1), a corporation has furnished to the Secretary samples of a batch or other quantity of a biological product, the corporation shall not—

- (a) in any case where the Secretary has served notice on the corporation under sub-section (2) in relation to that batch or other quantity of the biological product—supply in Australia to another person any part of that batch or other quantity of the biological product unless the Secretary has, on application in writing made to the Secretary by the corporation or on the Secretary’s own initiative, authorised the corporation, by notice in writing served on the corporation, to supply to other persons that batch or other quantity of the biological product and that notice is in force at the time when the supply occurs; or
- (b) in any other case—supply in Australia to another person any part of that batch or other quantity of the biological product unless a period of 28 days has elapsed since the corporation furnished the samples.

“(5) Where a corporation has been served with a notice under sub-section (2), the Secretary may, upon application in writing made to the Secretary by the corporation or on the Secretary’s own initiative, revoke that notice by notice in writing served on the corporation.”.

Regulations may provide for the examination, &c., of goods for therapeutic use

43. Section 24 of the Principal Act is amended—

(a) by inserting after paragraph (3) (b) the following paragraph:

“(ba) have been, or are being, manufactured by a prescribed corporation;”;

(b) by inserting in paragraph (3) (c) “, between a State and a Territory or between 2 Territories” after “States”; and

(c) by inserting after paragraph (3) (c) the following paragraph:

“(ca) have been, or are being, manufactured in an internal Territory;”.

44. After section 24 of the Principal Act the following section is inserted:

Regulations may provide for inspection of manufacture of goods for therapeutic use

“24A. (1) The regulations may make provision for or in relation to the inspection of procedures carried out, or documents relating to procedures carried out, in the manufacture of goods for therapeutic use.

“(2) Without limiting the generality of sub-section (1), the regulations that may be made by virtue of that sub-section include regulations making provision for or in relation to—

(a) the authorisation of persons to inspect, and to enter upon premises for the purposes of inspecting, procedures carried out, or documents relating to procedures carried out, in the manufacture of goods for therapeutic use; and

(b) the taking of extracts from, or making copies of, a document relating to procedures carried out in the manufacture of goods for therapeutic use.

“(3) A reference in this section to procedures carried out in the manufacture of goods for therapeutic use is a reference to—

(a) procedures carried out by a prescribed corporation in the manufacture of goods for therapeutic use;

(b) procedures carried out by a person (not being a prescribed corporation) for export from Australia;

(c) procedures carried out by a person (not being a prescribed corporation) in the manufacture of goods for therapeutic use—

(i) for supply—

(A) in the course of trade and commerce among the States, between a State and a Territory or between 2 Territories;

(B) under a law of the Commonwealth relating to the provision of pharmaceutical benefits;

- (C) to the Commonwealth or the Northern Territory or to an authority of the Commonwealth or of a Territory; or
- (D) in an internal Territory; or
- (ii) in an internal Territory; or
- (d) procedures carried out by a person (not being a prescribed corporation) in the manufacture in an internal Territory of goods for therapeutic use.”.

Service of notices

- 45.** Section 26A of the Principal Act is amended—
- (a) by inserting “23DA,” after “23D,”; and
 - (b) by inserting “23EA,” after “23E,”.

Applications for review

- 46.** Section 29A of the Principal Act is amended—
- (a) by omitting from paragraph (4) (d) “and”; and
 - (b) by adding at the end of sub-section (4) the following paragraphs:
 - “(f) a refusal by the Secretary to grant an application made under paragraph 23EA (4) (a);
 - (g) a refusal by the Secretary to grant an application made under sub-section 28EA (5); and
 - (h) a revocation by the Secretary of a notice under paragraph 23EA (4) (a).”.

PART V—MISCELLANEOUS

Minor amendments of other Acts

47. The Acts specified in Schedule 3 to this Act are amended as set out in that Schedule.

Repeal of Act

48. The *Hospitals and Health Services Commission (Repeal) Act 1978* is repealed.

SCHEDULE 1

MINOR AMENDMENTS OF NATIONAL HEALTH ACT 1953

Long title—

Repeal the long title, substitute the following long title:

“An Act relating to the provision of pharmaceutical, sickness and hospital benefits, and of medical and dental services”.

Section 1—

Omit “1953”, substitute “1953”.

Sub-section 4 (1) (definition of “nursing home”)—

Omit from paragraph (e) “1948”, substitute “1948”.

Sub-section 4 (1) (definition of “pensioner”)—

Omit from paragraph (c) “1948”, substitute “1948”.

Sub-section 4 (1) (definition of “pharmaceutical chemist”)—

Omit the definition, substitute the following definition:

“‘pharmacist’ means a person registered as a pharmacist or pharmaceutical chemist under a law of a State or Territory 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 pharmacist; and
- (b) the legal personal representative of a deceased pharmacist carrying on the business of that deceased pharmacist;”.

Sub-section 4 (1) (definition of “proprietor”)—

(a) Omit from paragraph (a) “public nursing home”, substitute “Government nursing home”.

(b) Omit from paragraph (b) “a private”, substitute “any other”.

Sub-section 4 (1) (definition of “qualified nursing home patient”)—

Omit from paragraph (a) “his”, substitute “the member’s”.

Sub-section 4 (1) (definition of “registered hospital benefits organization”)—

Omit “of this Act”.

Sub-section 4 (1) (definition of “registered medical benefits organization”)—

Omit “of this Act”.

Sub-section 4 (1) (definition of “registered organization”)—

Omit “of this Act”.

Sub-section 4 (1A)—

Omit “1973-1976”, substitute “1973”.

Sub-section 4AA (7)—

Omit “the day on which this section came into operation”, substitute “1 July 1985”.

Sub-section 4A (1)—

Omit “he”, substitute “that contributor”.

SCHEDULE 1—continued

Sub-section 4A (2A)—

Omit “he”, substitute “that contributor”.

Sub-section 6 (1)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “his” (twice occurring), substitute “the Minister’s”.

Sub-section 6 (5)—

- (a) Omit “him”, substitute “the Secretary”.
- (b) Omit “his” (twice occurring), substitute “the Secretary’s”.

Before section 9—

Insert the following section in Part II:

Interpretation

“8. In this Part, ‘Territory’ includes an external Territory to which this Act extends.”.

Paragraph 9 (1) (e)—

Omit “any of the last four preceding paragraphs”, substitute “paragraph (a), (b), (c) or (d)”.

Sub-section 9A (3)—

Omit “he”, substitute “the Minister”.

Sub-section 9A (5)—

Omit the sub-section.

Sub-section 9C (3)—

Omit the sub-section.

Sub-section 9C (5)—

Omit the sub-section.

Section 10—

Insert “, matter or thing” after “service” (second occurring).

Sub-section 11 (1)—

- (a) Insert “or the Administrator of a Territory” after “State” (first occurring).
- (b) Insert “or Territory” after “State” (second occurring).
- (c) Insert “, matter or thing” after “service” (second occurring).

Sub-sections 11 (2), (3) and (4)—

Insert “or Territory” after “State” (wherever occurring).

Sub-section 11 (3)—

- (a) Omit “the last preceding sub-section”, substitute “sub-section (2)”.
- (b) Omit “he”, substitute “the Minister”.

Sub-sections 39A (1), (2), (3), (4), (5) and (6)—

Insert “or her” after “his” (wherever occurring).

Sub-section 39A (4)—

Omit “he” (wherever occurring), substitute “the Minister”.

SCHEDULE 1—continued

Sub-section 39A (6)—

Omit “him”, substitute “the Minister”.

Sub-section 39A (7)—

Omit “he”, substitute “the Minister”.

Sub-section 39A (13)—

Omit “he” (first occurring), substitute “the Minister”.

Paragraph 39A (13) (c)—

Omit “he”, substitute “the Minister”.

Paragraph 39A (13) (d)—

Omit “he is”.

Sub-section 39A (14)—

- (a) Omit “he”, substitute “the Minister”.
- (b) Omit “, either personally or by post,”.

Paragraph 40AA (3) (a)—

- (a) Omit “(2) of section thirty-nine”, substitute “39 (2)”.
- (b) Omit “1972”, substitute “1972”.

Sub-section 40AA (3)—

Omit “he”, substitute “the Minister”.

Sub-section 40AA (3B)—

Omit “his”, substitute “the”.

Sub-section 40AA (3C)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “his”, substitute “the”.

Sub-section 40AA (3D)—

Omit “he”, substitute “the Minister”.

Paragraph 40AA (4) (a)—

Omit “(2) of section forty-four of this Act”, substitute “44 (2)”.

Sub-section 40AA (5)—

Omit “he”, substitute “the Minister”.

Paragraph 40AA (6) (b)—

Omit “the next succeeding section”, substitute “section 40AB”.

Paragraph 40AA (6) (cc)—

Omit “, either personally or by post,”.

Sub-section 40AA (6AA)—

Omit “his”, substitute “the”.

Sub-section 40AA (6A)—

Omit “his admission to, or of his”, substitute “the patient’s admission to, or”.

Sub-section 40AA (7)—

- (a) Omit “under his hand”, substitute “signed by the Minister”.
- (b) Omit “(i) of paragraph (c) of sub-section (6)”, substitute “(6) (c) (i)”.

SCHEDULE 1—continued

Paragraph 40AA (7A) (a)—

Omit “(i) of paragraph (c) of sub-section (6)”, substitute “(6) (c) (i)”.

Paragraph 40AA (7A) (b)—

Omit “(i) of paragraph (c) of sub-section (6)”, substitute “(6) (c) (i)”.

Paragraph 40AA (7A) (c)—

Omit “of this sub-section”.

Paragraph 40AA (8) (a)—

Omit “the next succeeding section”, substitute “section 40AB”.

Sub-paragraph 40AA (8) (b) (ii)—

(a) Omit “application for his approval”, substitute “an application”.

(b) Omit “the next succeeding section”, substitute “section 40AB”.

Sub-section 40AA (9)—

(a) Omit “the last preceding sub-section”, substitute “sub-section (8)”.

(b) Omit “the next succeeding section”, substitute “section 40AB”.

Sub-section 40AB (1)—

(a) Omit “his”, substitute “the person’s”.

(b) Omit “himself or of the other person”, substitute “the person or of the other person, as the case may be,”.

Sub-section 40AB (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 40AB (3)—

(a) Omit “of this section”.

(b) Omit “his”.

Sub-section 40AB (4)—

(a) Omit “the last preceding sub-section”, substitute “sub-section (3)”.

(b) Omit “his”.

Sub-section 40AB (4AA)—

Omit “he”, substitute “the Minister”.

Sub-section 40AB (5)—

(a) Omit “he”, substitute “the Minister”.

(b) Omit “, either personally or by post,”.

Sub-section 40AB (5B)—

Omit “either personally or by post,”.

Paragraph 40AB (6) (a)—

Omit “his”, substitute “the”.

Sub-section 40ABA (1)—

Omit “of himself or herself”, substitute “of the person”.

Sub-section 40ABA (7)—

Omit “, either personally or by post,”.

SCHEDULE 1—continued

Sub-section 40AD (1A)—

Omit “he”, substitute “the Minister”.

Sub-section 40AD (1C)—

Omit “him”, substitute “the Minister”.

Sub-section 40AD (1CA)—

Omit “his”, substitute “the”.

Sub-section 40AD (1E)—

- (a) Insert “or she” after “he”.
- (b) Omit “, either personally or by post,”.

Sub-section 40AE (2)—

Omit “under his hand”, substitute “signed by the proprietor”.

Sub-section 40AE (3)—

- (a) Omit “the last preceding sub-section”, substitute “sub-section (2)”.
- (b) Omit “he”, substitute “the Minister”.

Sub-section 40AE (3A)—

Omit “he”, substitute “the Minister”.

Sub-section 40AE (4)—

- (a) Omit “his”, substitute “the”.
- (b) Omit “of this Act”.
- (c) Omit “he”, substitute “the Minister”.

Sub-section 40AE (5)—

Omit “sub-section (2) of the last preceding sub-section”, substitute “sub-section 40AD (2)”.

Sub-section 40AF (1)—

Omit “his”.

Sub-section 40AF (3)—

Insert “or she” (wherever occurring) after “he”.

Sub-section 40AF (4)—

Insert “or she” (wherever occurring) after “he”.

Sub-section 40AF (4A)—

- (a) Insert “or she” after “he”.
- (b) Omit “, either personally or by post,”.

Paragraph 40AF (4B) (a)—

Omit “his”, substitute “the”.

Sub-section 42 (1)—

Omit “in writing by the Minister”.

Sub-section 42 (2)—

Omit “his”, substitute “the authorised person’s”.

SCHEDULE 1—continued

Sub-section 43 (1)—

Omit “a person who is”.

Sub-section 43 (1A)—

- (a) Omit “a person who is”.
- (b) Omit “he becomes”, substitute “so becoming”.

Sub-section 43 (2)—

Omit “his”, substitute “the proprietor’s”.

Sub-section 43A (1)—

- (a) Omit “by post”.
- (b) Omit “him”, substitute “the proprietor”.

Sub-section 43A (3)—

Omit “his”, substitute “the person’s”.

Sub-section 43A (4)—

Omit “by post”.

Sub-section 44 (2)—

Omit “he” (twice occurring), substitute “the Minister”.

Sub-section 44 (4)—

Omit “by post”.

Sub-section 45A (1)—

Omit “by post”.

Sub-section 45A (2)—

Omit “by post”.

Paragraph 45B (a)—

Omit “(5B) of section 40AA”, substitute “40AA (5B)”.

Paragraph 45B (b)—

Omit “(4A) of section 40AB”, substitute “40AB (4A)”.

Sub-section 45C (4)—

Omit “this Act”, substitute “this Part”.

Sub-section 45C (5)—

Omit the sub-section, substitute the following sub-section:

“(5) Section 5 of the *Evidence Act 1905* applies to a principle as that section would apply to an order made by the Minister administering this Part.”.

Sub-section 48 (1)—

- (a) Omit “him”, substitute “the proprietor”.
- (b) Omit “his”, substitute “the Secretary’s”.

Sub-section 58D (1) (definition of “approved person”)—

Omit “the next succeeding section”, substitute “section 58E”.

Sub-section 58D (1)—

After the definition of “approved person”, insert the following definition—
“ ‘authorised’ means authorised in writing by the Secretary;”.

SCHEDULE 1—continued

Sub-section 58D (2)—

- (a) Omit “his”, substitute “the person’s”.
- (b) Omit “he”, substitute “the person”.

Sub-section 58E (2)—

- (a) Omit “the last preceding sub-section”, substitute “sub-section (1)”.
- (b) Omit “(c) of that sub-section”, substitute “(1) (c)”.

Paragraph 58E (3) (a)—

- (a) Omit “he”, substitute “the patient”.
- (b) Omit “his” (first occurring), substitute “the patient’s”.
- (c) Omit “his” (second occurring), substitute “the”.

Sub-section 58E (3A)—

Omit “(iii), (iiia) or (iv) of paragraph (c) of sub-section (3)”, substitute “(3) (c) (iii), (iiia) or (iv)”.

Sub-section 58E (4)—

Omit “two” (twice occurring), substitute “2”.

Sub-section 58F (1)—

- (a) Omit “the last preceding section”, substitute “section 58E”.
- (b) Omit “his behalf”, substitute “behalf of the person concerned”.
- (c) Omit “under his hand”, substitute “signed by either of them”.

Sub-section 58F (2)—

- (a) Omit “the last preceding sub-section”, substitute “sub-section (1)”.
- (b) Omit “he”, substitute “the Minister”.

Sub-section 58F (3)—

- (a) Omit “the last preceding sub-section”, substitute “sub-section (2)”.
- (b) Omit “(3) of the last preceding section”, substitute “58E (3)”.

Section 58H—

Omit “seven”, substitute “7”.

Sub-section 58J (1)—

Omit “, by notice in writing, served personally or by post”, substitute “by notice in writing served”.

Sub-section 58J (1A)—

- (a) Omit “his”, substitute “the”.
- (b) Omit “he”, substitute “the Secretary”.

Paragraph 59 (1) (b)—

Omit “his”, substitute “the”.

Section 60A—

- (a) Omit “he”, substitute “the Secretary”.
- (b) Omit “(2) of section 47”, substitute “47 (2)”.

Section 60B—

Omit “personally or by post”.

SCHEDULE 1—continued

Sub-section 61 (2)—

Omit “by post”.

Sub-section 61 (4)—

Omit “him”, substitute “the proprietor”.

Sub-section 62 (3)—

Omit “he”, substitute “the person”.

Section 68A—

Omit “him” (first occurring), substitute “the Minister”.

Paragraph 68A (b)—

(a) Omit “him”, substitute “the Minister”.

(b) Omit “he”, substitute “the Minister”.

(c) Omit “, either personally or by post,”.

Paragraph 70 (1) (a)—

Insert “or her” after “his”.

Paragraph 70 (1) (b)—

Omit “two”, substitute “2”.

Section 71—

Omit “he”, substitute “the Secretary”.

Section 72A—

Omit “his”, substitute “the Minister’s”.

Sub-section 73 (1)—

Omit “he”, substitute “the Minister”.

Sub-section 73 (2)—

Omit “he” (twice occurring), substitute “the Minister”.

Sub-section 73 (2B)—

Omit “he”, substitute “the Minister”.

Sub-section 73 (7)—

Omit “he” (twice occurring), substitute “the Minister”.

Sub-section 73 (8)—

(a) Omit “he” (first occurring), substitute “the Minister”.

(b) Omit “he has so refused”, substitute “so refusing”.

Sub-section 73B (1A)—

(a) Omit “he”, substitute “the Minister”.

(b) Omit “, either personally or by post,”.

Sub-section 73B (2)—

Omit “he”, substitute “the Minister”.

Sub-sections 73BAC (1) and (2)—

Omit “, either personally or by post,” (wherever occurring).

SCHEDULE 1—continued

Sub-section 73BC (11)—

Omit “either personally or by post”.

Sub-section 73BD (1)—

Omit “he”, substitute “the Administrator”.

Sub-section 73BE (2)—

Omit “(e) of that sub-section”, substitute “(1) (e)”.

Sub-section 73BE (3)—

Omit “he”, substitute “the Minister”.

Sub-section 73BF (1)—

- (a) Omit “himself”, substitute “the person”.
- (b) Omit “his”, substitute “the person’s”.
- (c) Omit “him”, substitute “the person”.

Paragraph 73BF (2) (b)—

Omit “(b) of sub-section (1)”, substitute “(1) (b)”.

Sub-section 73BF (3)—

- (a) Omit “him” (twice occurring), substitute “the Minister”.
- (b) Omit “(b) of sub-section (2)”, substitute “(2) (b)”.

Sub-paragraph 73BF (4) (a) (i)—

- (a) Omit “he”, substitute “the Minister”.
- (b) Omit “his”, substitute “the person’s”.

Sub-paragraph 73BF (4) (a) (ii)—

Omit “(c) of sub-section (3)”, substitute “(3) (c)”.

Sub-section 73BF (4A)—

- (a) Omit “he”, substitute “the Minister”.
- (b) Omit “, either personally or by post,”.

Sub-section 73BFA (1)—

Omit “his”, substitute “the person’s”.

Sub-section 73BFA (3)—

- (a) Omit “him” (wherever occurring), substitute “the Minister”.
- (b) Omit “(b) of sub-section (2)”, substitute “(2) (b)”.

Sub-section 73BFA (4)—

Omit “(c) of sub-section (3)” (wherever occurring), substitute “(3) (c)”.

Sub-paragraph 73BFA (4) (a) (i)—

Omit “he”, substitute “the Minister”.

Sub-section 73BFA (4A)—

- (a) Omit “he”, substitute “the Minister”.
- (b) Omit “, either personally or by post,”.

Sub-section 73BFB (1)—

- (a) Omit “him” (twice occurring), substitute “the person”.
- (b) Omit “he”, substitute “the person”.
- (c) Omit “his”, substitute “the person’s”.

SCHEDULE 1—continued

Paragraph 73BFB (2) (b)—

Omit “(b) of sub-section (1)”, substitute “(1) (b)”.

Sub-section 73BFB (3)—

Omit “him” (first occurring), substitute “the Minister”.

Paragraph 73BFB (3) (b)—

Omit “(b) of sub-section (2)”, substitute “(2) (b)”.

Paragraph 73BFB (3) (c)—

Omit “him”, substitute “the Minister”.

Sub-section 73BFB (4)—

Omit “(c) of sub-section (3)” (wherever occurring), substitute “(3) (c)”.

Paragraph 73BFB (4) (a)—

- (a) Omit “he” (first occurring), substitute “the Minister”.
- (b) Omit “he”, substitute “the person”.
- (c) Omit “his”, substitute “the person’s”.

Sub-section 73BFB (5)—

Omit “his”, substitute “the person’s”.

Paragraph 73BH (b)—

Omit “, either personally or by post,”.

Sub-section 73D (1)—

Omit “he”, substitute “the Minister”.

Sub-section 73D (5)—

Omit “he”, substitute “the Minister”.

Sub-section 73D (6)—

- (a) Omit “he” (twice occurring), substitute “the Minister”.
- (b) Omit “his”, substitute “the Minister’s”.

Sub-section 73F (2)—

Omit “he is”.

Sub-section 73G (1) (definition of “claim to which this section applies”)—

Omit “(2B) of section 73F”, substitute “73F (2B)”.

Sub-section 73G (3)—

- (a) Omit “by post”.
- (b) Omit “he”, substitute “the party”.

Sub-section 73G (5)—

Omit “by post”.

Sub-section 73G (8)—

- (a) Omit “he”, substitute “the Minister”.
- (b) Omit “his”, substitute “the Minister’s”.
- (c) Omit “by post”.

SCHEDULE 1—continued

Sub-section 74 (1)—

- (a) Omit “fourteen”, substitute “14”.
- (b) Omit “seven”, substitute “7”.

Sub-section 74 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 74 (4)—

Insert “or her” after “his”.

Sub-section 74 (7)—

- (a) Omit “seven”, substitute “7”.
- (b) Omit “the last preceding sub-section”, substitute “sub-section (6)”.

Sub-section 74 (8)—

Omit “he”, substitute “the person”.

Sub-section 75 (1)—

Omit “under his hand”, substitute “signed by the Secretary”.

Sub-section 75 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Paragraph 75 (3) (b)—

Omit “him”, substitute “the Secretary”.

Paragraph 75 (3) (c)—

Omit “his” (wherever occurring), substitute “the person’s”.

Sub-section 75 (4)—

Omit “he”, substitute “the Secretary”.

Paragraph 75 (5) (a)—

Omit “him”, substitute “the person”.

Sub-section 76 (2)—

- (a) Omit “three”, substitute “3”.
- (b) Omit “the next succeeding section”, substitute “section 76A”.

Sub-section 76 (4)—

Omit “fifteen”, substitute “15”.

Sub-section 78 (3A)—

Omit “his”, substitute “the Minister’s”.

Sub-section 78 (3B)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Minister”.

Sub-section 78 (6)—

Omit “his” (wherever occurring), substitute “the Minister’s”.

Sub-section 78 (7)—

Omit “the last preceding sub-section”, substitute “sub-section (6)”.

SCHEDULE 1—continued

Sub-section 78 (8AA)—

- (a) Omit “he” (wherever occurring), substitute “the Minister”.
- (b) Omit “his”, substitute “the Minister’s”.

Sub-sections 79 (5) and (6)—

Omit “he” (wherever occurring), substitute “the Minister”.

Paragraph 81A (1) (b)—

- (a) Omit “two”, substitute “2”.
- (b) Omit “three”, substitute “3”.
- (c) Omit “he”, substitute “the person”.

Paragraph 81A (1) (c)—

- (a) Omit “his”, substitute “the contributor’s”.
- (b) Omit “he” (twice occurring), substitute “the contributor”.
- (c) Omit “two”, substitute “2”.

Sub-section 81A (2)—

- (a) Omit “himself”, substitute “the contributor”.
- (b) Omit “his”, substitute “the contributor’s”.
- (c) Omit “the last preceding sub-section”, substitute “sub-section (1)”.
- (d) Omit “(1) or sub-section (1A), as the case may be, of section 82C”, substitute “82C (1) or (1A), as the case requires,”.

Sub-section 82 (3)—

- (a) Omit “his”.
- (b) Omit “him”, substitute “the second-mentioned person”.

Sub-section 82R (1)—

Omit “he” (twice occurring), substitute “the Minister”.

Sub-section 82R (2)—

- (a) Omit “he”, substitute “the Minister”.
- (b) Omit “under his hand”, substitute “signed by the Minister”.

Sub-section 82S (2)—

Omit “he”, substitute “the inspector”.

Sub-section 82U (1)—

- (a) Omit “him”, substitute “the person”.
- (b) Omit “he” (wherever occurring), substitute “the person”.

Sub-section 82U (2)—

Omit “him” (wherever occurring), substitute “the person”.

Sub-section 82V (2)—

Omit “him”, substitute “the inspector”.

Sub-section 82V (3)—

Omit “he”, substitute “the inspector”.

Sub-section 82V (4)—

Omit “he”, substitute “the inspector”.

SCHEDULE 1—continued

Sub-section 82V (6)—

Omit “he”, substitute “the inspector”.

Sub-paragraph 82W (2) (b) (iii)—

Omit “he”, substitute “the inspector”.

Sub-section 82W (3)—

- (a) Omit “his”, substitute “the inspector’s”.
- (b) Omit “he”, substitute “the inspector”.

Sub-section 82W (5)—

Omit “him”, substitute “the Minister”.

Sub-section 82W (6)—

Omit “him”, substitute “the Minister”.

Sub-section 82W (7)—

Omit “he” (twice occurring), substitute “the Minister”.

Sub-section 82X (1)—

- (a) Omit “under his hand”, substitute “signed by the inspector”.
- (b) Omit “his” (last occurring), substitute “the inspector’s”.

Sub-section 82X (2)—

Insert “or her” after “his”.

Sub-section 82Y (2)—

Omit “he”, substitute “the person”.

Sub-section 82Z (1)—

Omit “he”, substitute “the Minister”.

Sub-section 82Z (2)—

Omit “he”, substitute “the Minister”.

Sub-section 82Z (3)—

Omit “he”, substitute “the Minister”.

Sub-section 82ZA (5)—

Insert “or her” after “his”.

Sub-section 82ZA (6)—

Omit “he”, substitute “the judicial manager”.

Sub-section 82ZA (7)—

Omit “he”, substitute “the judicial manager”.

Sub-section 82ZA (8)—

Omit “himself”.

Sub-section 82ZB (2)—

Insert “or she” after “he”.

Sub-section 82ZE (1)—

Omit “his”, substitute “the judicial manager’s”.

SCHEDULE 1—continued

Sub-section 82ZGA (3)—

Omit “him”, substitute “the relevant contributor”.

Sub-section 82ZK (3)—

Omit “(2) of section 82ZF”, substitute “82ZF (2)”.

Sub-section 82ZL (2)—

- (a) Omit “(2) of section 20E”, substitute “20E (2)”.
- (b) Omit “1973”, substitute “1973”.

Sub-section 82ZP (1)—

Omit “him”, substitute “the Minister”.

Sub-section 82ZP (2)—

Omit “, either personally or by post,”.

Sub-section 82ZP (4)—

Omit “he”, substitute “the Minister”.

Sub-section 84 (1) (definition of “approved pharmaceutical chemist”)—

Omit the definition, substitute the following definition:

“‘approved pharmacist’ means a pharmacist for the time being approved, or deemed to be approved, under section 90;”.

Sub-section 84AA (2)—

Omit “(a) of section 89”, substitute “89 (a)”.

Sub-section 84A (1)—

Omit “he”, substitute “the dental practitioner”.

Sub-section 84A (2)—

- (a) Omit “he”, substitute “the Secretary”.
- (b) Omit “under his hand”, substitute “signed by the Secretary”.

Sub-section 84A (3)—

Omit “his”, substitute “the dental practitioner’s”.

Sub-section 85 (3)—

Omit “the last preceding sub-section”, substitute “sub-section (2)”.

Sub-section 85 (4)—

Omit “the last preceding sub-section”, substitute “sub-section (3)”.

Sub-section 85A (3)—

Omit “(a) or (b) of sub-section (2)”, substitute “(2) (a) or (b)”.

Section 86—

Omit “the next succeeding section”, substitute “section 87”.

Sub-section 87 (3)—

Omit “(6) of section 88”, substitute “88 (6)”.

Paragraph 87 (4) (b)—

Omit “his”.

SCHEDULE 1—continued

Sub-section 87 (5)—

- (a) Omit “he”, substitute “the patient”.
- (b) Omit “(2) of section 85A”, substitute “85A (2)”.

Sub-section 88 (2)—

Insert “or herself” after “himself”.

Sub-section 88 (4)—

- (a) Omit “(1) of section 85A”, substitute “85A (1)”.
- (b) Insert “or her” after “him”.

Sub-section 88 (5)—

Omit “(2) of section 85A” (wherever occurring), substitute “85A (2)”.

Sub-section 88 (6)—

Omit “he” (twice occurring), substitute “the medical practitioner”.

Sub-section 88 (7)—

Omit “(2) of section 85A”, substitute “85A (2)”.

Paragraph 89 (a)—

Omit “he”, substitute “the pharmacist”.

Sub-section 90 (1)—

Omit “his”, substitute “the Secretary’s”.

Sub-section 90 (2)—

- (a) Insert “or she” after “he”.
- (b) Omit “two”, substitute “2”.

Sub-section 90 (3)—

- (a) Omit “he”, substitute “the pharmacist”.
- (b) Omit “his”, substitute “the Secretary’s”.

Sub-section 90 (5)—

- (a) Omit “he”, substitute “the Secretary”.
- (b) Omit “, either personally or by post,”.

Sub-section 92 (1A)—

- (a) Omit “he”, substitute “the Secretary”.
- (b) Omit “, either personally or by post,”.

Paragraph 92A (1) (a)—

Insert “or she” after “he” (twice occurring).

Paragraph 92A (1) (b)—

- (a) Insert “or she” after “he” (twice occurring).
- (b) Insert “or her” after “his”.

Paragraph 92A (1) (c)—

Insert “or she” after “he”.

Paragraph 92A (1) (ca)—

Insert “or her” after “him”.

SCHEDULE 1—continued

Sub-section 92A (2)—

Omit “(a), (b) and (c) of the last preceding sub-section”, substitute “92A (1) (a), (b) and (c)”.

Sub-section 92A (2) (c)—

Omit “the last preceding paragraph”, substitute “paragraph (b)”.

Sub-section 92A (3)—

Insert “or her” after “his”.

Sub-section 92B—

Omit “he”, substitute “the person”.

Sub-section 94 (1)—

Omit “his”, substitute “the Minister’s”.

Sub-section 94 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 94 (4A)—

- (a) Omit “he”, substitute “the Minister”.
- (b) Omit “, either personally or by post,”.

Sub-section 94 (5A)—

Omit “his”, substitute “the Minister’s”.

Sub-section 95 (4)—

Omit “he”, substitute “the Secretary”.

Sub-section 95 (5)—

Omit “the last preceding sub-section”, substitute “sub-section (4)”.

Sub-section 95 (6)—

Omit “the next succeeding sub-section”, substitute “sub-section (7)”.

Sub-section 95 (7)—

Omit “he”, substitute “the Minister”.

Sub-section 95 (8)—

- (a) Omit “he”, substitute “the Minister”.
- (b) Omit “him”, substitute “the medical practitioner, dental practitioner or pharmacist, as the case may be”.

Paragraph 98 (1) (a)—

- (a) Insert “or her” after “his”.
- (b) Insert “or she” after “he”.

Paragraph 98 (1) (aa)—

Insert “or her” after “his”.

Paragraph 98 (1) (b)—

Insert “or her” after “his”.

Paragraph 98 (2) (a)—

Insert “or she” after “he”.

SCHEDULE 1—continued

Paragraph 98 (2) (b)—

Insert “or she” after “he”.

Sub-section 98 (3)—

Omit “the last preceding sub-section”, substitute “sub-section (2)”.

Sub-section 98A (4)—

Omit “he”, substitute “the person”.

Sub-paragraph 98B (2) (a) (ii)—

Omit “(3) of section 85”, substitute “85 (3)”.

Sub-section 98B (3) (definition of “ready-prepared pharmaceutical benefit”)—

Omit “(6) of section 85”, substitute “85 (6)”.

Sub-sections 98B (4) and (5)—

Omit “(c) of sub-section (2)” (wherever occurring), substitute “(2) (c)”.

Paragraph 98BD (2) (a)—

Omit “(c) of sub-section (2) of section 98B”, substitute “98B (2) (c)”.

Paragraph 98BD (2) (b)—

Omit “(4) of section 98B”, substitute “98B (4)”.

Section 98BE—

Omit “(1) of section 98B”, substitute “98B (1)”.

Sub-section 98C (2)—

Omit “(b) of sub-section (1)”, substitute “(1) (b)”.

Sub-section 98E (1)—

Insert “or she” after “he”.

Paragraphs 98E (2) (a) and (b)—

Omit “his” (wherever occurring), substitute “the person’s”.

Paragraph 99 (1) (a)—

Omit “(1) of section 98B”, substitute “98B (1)”.

Paragraph 99 (1) (b)—

Omit “(1) of section 98C”, substitute “98C (1)”.

Paragraph 99 (2) (b)—

Omit “(2) or (3) of section 87”, substitute “87 (2) or (3)”.

Paragraph 99 (2A) (b)—

Omit “(6) of section 88”, substitute “88 (6)”.

Paragraph 99 (2B) (c)—

Omit “(6) of section 88”, substitute “88 (6)”.

Paragraph 99 (3) (b)—

- (a) Insert “or she” after “he”.
- (b) Insert “or her” after “his”.

SCHEDULE 1—continued

Paragraph 99 (3) (c)—

- (a) Insert “or she” after “he”.
- (b) Insert “or her” after “his”.

Sub-section 99 (6)—

Omit “five”, substitute “5”.

Sub-section 99A (1)—

Insert “or her” after “his”.

Sub-section 99A (2)—

Insert “or she” after “he”.

Sub-section 99B (1)—

- (a) Insert “or her” after “his” (wherever occurring).
- (b) Insert “or her” after “him”.

Sub-section 99B (2)—

Omit “he”, substitute “the additional member”.

Sub-section 99C (1)—

- (a) Omit “his”.
- (b) Omit “him”, substitute “the member”.

Sub-section 99C (4)—

Insert “or her” after “his” (wherever occurring).

Sub-section 99D (4)—

Omit “his” (wherever occurring), substitute “the person’s”.

Sub-section 99D (5)—

Omit “him”, substitute “the person”.

Paragraph 99E (1) (b)—

Insert “or her” after “his”.

Sub-section 99E (4)—

Omit “his” (wherever occurring), substitute “the person’s”.

Sub-section 99E (5)—

Omit “him”, substitute “the person”.

Sub-section 100 (1)—

Omit “he”, substitute “the Minister”.

Sub-section 100 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 101 (1)—

Omit “the next succeeding sub-section”, substitute “sub-section (2)”.

Paragraph 101 (1) (b)—

- (a) Omit “six”, substitute “6”.
- (b) Omit “ten”, substitute “10”.

SCHEDULE 1—continued

Paragraph 101 (1) (c)—

Omit “three”, substitute “3”.

Section 102—

Omit “he”, substitute “the Secretary”.

Paragraph 103 (5) (b)—

Omit “he”, substitute “the person”.

Paragraph 103 (5) (d)—

Omit “the next succeeding section”, substitute “section 104”.

Paragraph 103 (5) (h)—

Omit “him”, substitute “the person”.

Paragraph 104 (1) (b)—

Insert “or she” after “he”.

Paragraph 104 (1) (c)—

Omit “his or its”, substitute “the pharmacist’s or authority’s”.

Paragraph 104 (1A) (a)—

Insert “or herself” after “himself”.

Paragraph 104 (1A) (b)—

Omit “he”, substitute “the authorised person”.

Paragraph 104 (1A) (c)—

Insert “or her” after “his”.

Paragraph 104 (3) (a)—

Insert “or she” after “he”.

Paragraph 104 (3) (b)—

Insert “or her” after “his”.

Sub-section 104A (1)—

(a) Omit “him” (wherever occurring), substitute “the Secretary”.

(b) Omit “his” (wherever occurring), substitute “the approved pharmacist’s”.

Sub-section 105AAB (2)—

Omit “, either personally or by post,”.

Sub-section 105AAB (4)—

Omit “he”, substitute “the Minister”.

Sub-section 105AAB (5)—

Omit “he” (twice occurring), substitute “the Minister”.

Sub-section 105AAB (6)—

Omit the sub-section, substitute the following sub-section:

“(6) Where the Minister affirms, revokes or varies a decision in accordance with sub-section (4), the Minister shall, by notice in writing served on the person who made the request, inform the person of the result of the reconsideration and give reasons for affirming, revoking or varying the decision, as the case may be.”.

SCHEDULE 1—continued

Sub-section 105AB (4)—

Omit “(3) of section 73BE”, substitute “73BE (3)”.

Paragraph 105AB (4A) (a)—

Omit “(1) of section 73D”, substitute “73D (1)”.

Paragraph 105AB (4A) (b)—

Omit “(1) of sub-section 73D”, substitute “73D (1)”.

Sub-section 105AB (6)—

Omit “his”, substitute “the Minister’s”.

Paragraph 105AC (1A) (a)—

Omit “he is”.

Paragraph 105AC (1A) (b)—

Omit “he is”.

Sub-section 105AC (1B)—

Omit “he is”.

Sub-section 108 (1)—

(a) Omit “four”, substitute “4”.

(b) Omit “six”, substitute “6”.

Sub-section 108 (2)—

(a) Omit “under his hand”, substitute “signed by the Secretary”.

(b) Insert “or her” after “his” (second and last occurring).

Sub-section 110 (2)—

Omit “four”, substitute “4”.

Section 111—

Omit “the last preceding section”, substitute “section 110”.

Sub-section 111A (2)—

Insert “or her” after “his”.

Sub-section 112 (1)—

Omit “the next succeeding sub-section”, substitute “sub-section (2)”.

Sub-section 112 (2)—

Omit “The last preceding sub-section”, substitute “Sub-section (1)”.

Section 112A—

Omit “four”, substitute “4”.

Section 112B—

Omit “the last preceding section”, substitute “section 112A”.

Sub-section 113 (1)—

Omit “four”, substitute “4”.

Sub-section 113 (2)—

(a) Omit “under his hand”, substitute “signed by the Secretary”.

(b) Insert “or her” after “his” (second and last occurring).

SCHEDULE 1—continued

Sub-section 115 (1)—

Omit “four”, substitute “4”.

Section 116—

- (a) Omit “the last preceding section”, substitute “section 115”.
- (b) Omit “1947-1952”, substitute “1947”.

Sub-section 117 (1)—

Omit “the next succeeding sub-section”, substitute “sub-section (2)”.

Sub-section 117 (2)—

Omit “The last preceding sub-section”, substitute “Sub-section (1)”.

Section 117A —

Omit “three”, substitute “3”.

Section 117B—

- (a) Omit “the last preceding section”, substitute “section 117A”.
- (b) Omit “(4) of section 40AE”, substitute “40AE (4)”.

Section 119A—

Omit “he”, substitute “the member”.

Sub-section 124 (3)—

Omit “he”, substitute “the member”.

Sub-section 125 (3)—

Omit the sub-section.

Sub-section 125 (4)—

Omit “on his behalf”.

Sub-section 125 (5)—

Omit “in his absence”, substitute “in the absence of the medical practitioner, participating dental practitioner or approved pharmacist”.

Sub-section 125 (6)—

Omit “(4) of section 124”, substitute “124 (4)”.

Sub-section 126 (1)—

- (a) Omit “, by writing under his hand, summon a person”, substitute “cause a notice in writing signed by the Chairperson to be served on a person summoning the person”.
- (b) Omit “his” (second occurring), substitute “the person’s”.
- (c) Omit “he”, substitute “the person”.

Sub-section 126 (2)—

Omit the sub-section.

Sub-section 127 (2)—

Omit “he”, substitute “the witness”.

Sub-section 128 (1)—

- (a) Omit “him”, substitute “the person”.

SCHEDULE 1—continued

(b) Omit “his”, substitute “the person’s”.

(c) Omit “he”, substitute “the person”.

Sub-section 129 (1)—

Omit “him”, substitute “the person”.

Sub-section 129 (2)—

Omit “him”, substitute “the witness”.

Sub-section 133 (1)—

Omit “he”, substitute “the Secretary”.

Paragraph 133 (2) (b)—

Omit “he”, substitute “the Minister”.

Sub-section 133 (3)—

Omit “his”, substitute “the person’s”.

Sub-section 133 (5)—

Insert “or her” after “him”.

Sub-section 134 (3)—

Insert “or she” after “he”.

Sub-section 134A (1)—

Omit “he” (twice occurring), substitute “the Minister”.

Sub-section 134A (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 134A (3)—

Insert “or she” after “he”.

Section 134B—

Omit “three”, substitute “3”.

Section 134C—

Omit “he”, substitute “the person”.

Sub-section 135 (1)—

(a) Omit “his”, substitute “the employee’s”.

(b) Omit “he”, substitute “the employee”.

Sub-section 135A (1)—

(a) Omit “his” (wherever occurring).

(b) Omit “he” (twice occurring), substitute “the person”.

(c) Omit “him”, substitute “the first-mentioned person”.

Paragraph 135A (3) (a)—

Omit “his” (twice occurring).

Sub-section 135A (4)—

Omit “he”, substitute “the authority or the person, as the case may be,”.

Paragraph 135A (6) (c)—

Omit “, pharmacist or a pharmaceutical chemist”, substitute “or pharmacist”.

SCHEDULE 1—continued

Sub-section 135A (6)—

Omit “his” (twice occurring).

Sub-section 135A (7)—

- (a) Omit “, pharmacists or pharmaceutical chemists” (wherever occurring), substitute “or pharmacists”.
- (b) Omit “he”, substitute “the Minister”.
- (c) Omit “his” (twice occurring).

Paragraph 135A (8) (b)—

Omit “he has”, substitute “there are”.

Sub-section 135A (9)—

- (a) Omit “his” (wherever occurring).
- (b) Omit “he” (twice occurring), substitute “the person”.

Sub-section 136 (1)—

- (a) Omit “he”, substitute “the Minister”.
- (b) Omit “1973”, substitute “1973”.

Sub-section 136 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 137 (2)—

After “capital nature”, insert “(other than expenditure incurred under section 9A or paragraph 9C (2) (a))”.

Sub-section 139 (2)—

Omit “1905-1950”, substitute “1905”.

Sub-section 139A (1)—

Omit “under his hand”, substitute “signed by the Secretary”.

Sub-section 139A (1A)—

Omit “under his hand”, substitute “signed by the Secretary”.

Schedule (paragraph (b))—

- (a) Omit “himself”, substitute “the contributor”.
- (b) Omit “his”, substitute “the contributor’s”.

Schedule (sub-paragraph (g) (i))—

Omit “he” (wherever occurring), substitute “the contributor”.

SCHEDULE 2

Section 37

FURTHER MINOR AMENDMENTS OF NATIONAL HEALTH ACT 1953

References to “pharmaceutical chemist”—

Omit “pharmaceutical chemist” (wherever occurring) in the following provisions of the *National Health Act 1953*, substitute “pharmacist”:

Sub-sections 84AA (2), 87 (1), (2), (2A) and (3), paragraphs 87 (4) (a) and (b), sub-section 87 (5), paragraph 89 (a), sub-sections 90 (1), (2), (3), (4) and (5), 92 (1), 92A (1), (3) and (4), 94 (5) and 95 (1), (5), (8) and (9), paragraph 98 (1) (a), sub-

SCHEDULE 2—continued

sections 98 (2) and (4), 99 (1), (2), (2A), (2B), (2C) and (3), 101 (1), 103 (1), (2), (3) and (4B), 104 (1) and (3), 104A (1) and (2), 105AB (7) and (8), 107 (1A), 112 (1) and (2), 112AE (1) and (2), 117 (2), 125 (1), (2), (4), (5) and (7), 133 (1), (2), (5) and (6), 134 (1) and 139A (1).

References to “pharmaceutical chemists”—

Omit “pharmaceutical chemists” (wherever occurring) in the following provisions of the *National Health Act 1953*, substitute “pharmacists”:

Section 85B, sub-sections 98B (1), (2) and (3), 98C (1), 101 (1) and 113 (1) and sections 114, 115 and 116.

References to “chemist”—

Omit “chemist” (wherever occurring) in the following provisions of the *National Health Act 1953*, substitute “pharmacist”:

Paragraph 89 (a) and 92A (1) (ca).

SCHEDULE 3

Section 47

MINOR AMENDMENTS OF OTHER ACTS

Commonwealth Serum Laboratories Act 1961

Sub-section 4 (1) (definition of “Chairperson”)—

Insert “or 11A” after “section 11”.

After section 11—

Insert the following section:

Acting Chairperson

“11A. (1) The Minister may appoint a Commissioner (including the Vice-Chairperson) to act as Chairperson during any vacancy in the office of Chairperson.

“(2) A person appointed under sub-section (1) shall not continue to act as Chairperson for more than 12 months.

“(3) While a person is acting as Chairperson, the person has and may exercise all the powers, and shall perform all the duties, of the Chairperson.

“(4) The Minister may—

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed to act as Chairperson under sub-section (1); and

(b) terminate such an appointment at any time.

“(5) A person appointed to act as Chairperson may resign the appointment by writing signed by the person and delivered to the Minister.

“(6) Anything done by or in relation to a person purporting to act as Chairperson under sub-section (1) is not invalid on the ground that—

(a) there is a defect or irregularity in connection with the person’s appointment; or
(b) the person’s appointment had ceased to have effect.”.

SCHEDULE 3—continued

Health Insurance Act 1973

Section 23DN—

Add at the end the following sub-section:

“(13) Any failure to comply with the requirements of sub-section (7) in relation to a decision does not affect the validity of the decision.”.

After sub-section 23DO (5)—

Insert the following sub-section:

“(5A) Any failure to comply with the requirements of sub-section (4) in relation to a decision does not affect the validity of the decision.”.

Sub-paragraph 78C (1) (a) (i)—

(a) Omit “treatment”, substitute “service”.

(b) Omit “treatments”, substitute “services”.

Therapeutic Goods Act 1966

Paragraph 24 (3) (d)—

Omit “pharmaceutical chemist”, substitute “pharmacist”.

NOTES

1. No. 42, 1974, as amended. For previous amendments, see No. 58, 1975; Nos. 59, 91, 101, 109 and 157, 1976; No. 75, 1977; Nos. 36, 89 and 133, 1978; Nos. 53 and 123, 1979; No. 132, 1980; Nos. 118 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 54 and 139, 1983; Nos. 15, 46, 63, 120, 135 and 165, 1984; Nos. 24, 65, 70, 95 and 167, 1985; and Nos. 28 and 75, 1986.
2. No. 95, 1953, as amended. For previous amendments, see No. 68, 1955; Nos. 55 and 95, 1956; No. 92, 1957; No. 68, 1958; No. 72, 1959; No. 16, 1961; No. 82, 1962; No. 77, 1963; No. 37, 1964; Nos. 100 and 146, 1965; No. 44, 1966; Nos. 14 and 100, 1967; No. 100, 1968; No. 102, 1969; No. 41, 1970; No. 85, 1971; No. 114, 1972; Nos. 49 and 202, 1973; No. 37, 1974; Nos. 1, 13 and 93, 1975; Nos. 1, 60, 91, 99, 108, 157 and 177, 1976; Nos. 98 and 100, 1977; Nos. 36, 88, 132 and 189, 1978; Nos. 54, 91 and 122, 1979; Nos. 117 and 131, 1980; Nos. 40, 74, 92, 118, 163 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 35, 54 and 139, 1983; Nos. 46, 63, 72, 120, 135 and 165, 1984; Nos. 24, 53, 65, 70, 95, 127 and 167, 1985; and Nos. 28 and 75, 1986.
3. No. 29, 1966, as amended. For previous amendments, see No. 216, 1973; No. 37, 1976; No. 118, 1981; No. 80, 1982; and No. 165, 1984.

[*Minister's second reading speech made in—
House of Representatives on 17 September 1986
Senate on 25 September 1986*]