



Community Services and Health Legislation Amendment Act (No. 2) 1990

No. 141 of 1990

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Community Services and Health Legislation Amendment Act (No. 2) 1990

No. 141 of 1990

**An Act to amend various Acts relating to matters dealt
with by the Department of Community Services and
Health, and for related purposes**

[Assented to 28 December 1990]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Community Services and Health Legislation Amendment Act (No. 2) 1990*.

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Commencement

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Section 49 is taken to have commenced on 1 March 1990.

(3) Paragraph 51 (b) and sections 56 to 71 (inclusive) commence on 1 January 1991.

(4) Sections 5 and 8 commence on 9 January 1991.

(5) Part 4 commences on 1 May 1991.

(6) Part 8 commences immediately after the commencement of the *Therapeutic Goods Act 1989*.

**PART 2—AMENDMENTS OF THE AGED OR DISABLED
PERSONS HOMES ACT 1954**

Principal Act

3. In this Part, “**Principal Act**” means the *Aged or Disabled Persons Homes Act 1954*¹.

Interpretation

4. Section 2 of the Principal Act is amended by inserting in subsection (1) the following definition:

“‘**Charter**’ means the Charter of Residents’ Rights and Responsibilities in Approved Hostels referred to in section 10DA;”.

Payments of financial assistance

5. Section 10D of the Principal Act is amended by omitting from paragraph (1)(a) all words to and including “organisation” and substituting the following words and subparagraphs:

“in respect of each approved hostel place (other than an approved respite care place) that is occupied by a person who:

(i) is an eligible person assessed as requiring hostel care services only; and

(ii) is assessed as being financially disadvantaged; and for whom hostel care services are made available by the organisation.”.

6. Section 10DA of the Principal Act is repealed and the following section is substituted:

Charter of Residents’ Rights and Responsibilities

“10DA. A statement of the rights and responsibilities of the residents of approved hostels, to be called the Charter of Residents’ Rights and Responsibilities in Approved Hostels, is set out in the Schedule.”.

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Agreement between proprietor and resident

7. Section 10DB of the Principal Act is amended by omitting from subsection (2) “statement formulated under section 10DA” and substituting “Charter”.

General conditions of recurrent subsidies

8. Section 10F of the Principal Act is amended by adding at the end the following subsection:

“(3) To remove any doubt, it is stated that the Minister may, under subsection (1), formulate conditions that relate to any person occupying a place at an approved hostel (whether or not the organisation operating the hostel is entitled to receive financial assistance in respect of that place).”.

New Schedule

9. The Principal Act is amended by adding at the end the following Schedule:

“SCHEDULE

Section 10DA

**CHARTER OF RESIDENTS’ RIGHTS AND RESPONSIBILITIES
IN APPROVED HOSTELS**

Preamble

Every person has the right to freedom and respect and the right to be treated fairly by others. A person’s rights do not diminish when he or she moves into a hostel, regardless of his or her physical or mental frailty or ability to exercise or fully appreciate his or her rights.

A positive, supportive and caring attitude by family, friends, hostel proprietors and staff, carers and the community will help people who live in hostels to continue as integral, respected and valued members of society.

Australian society has a strong commitment to social justice principles. Those principles recognise the aspirations of all Australians to a dignified and secure way of life with equal access to health care, housing and education, and equal rights in civil, legal and consumer matters. They form the basis of a society which is free of prejudice and is caring, just and humane.

This Charter affirms those social justice principles.

The personal, civil, legal and consumer rights of each resident are not diminished in any way when he or she moves into a hostel.

The Charter also recognises that residents of hostels have the responsibility to ensure that the exercising of their individual rights

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does not affect others' individual rights, including those providing care. The Charter recognises that residents have specific rights and responsibilities which balance the needs of the individual against the needs of the hostel community as a whole.

EACH RESIDENT OF A HOSTEL HAS THE RIGHT:

- to quality care which is appropriate to his or her needs.
- to full information about his or her own state of health and about available treatments.
- to be treated with dignity and respect, and to live without exploitation, abuse or neglect.
- to live without discrimination or victimisation. The resident is not obliged to feel grateful to those providing his or her care and accommodation.
- to personal privacy.
- to live in a safe, secure and homelike environment, and to move freely both within and outside the hostel without undue restriction.
- to be treated and accepted as an individual. Each resident's individual preferences are to be taken into account and treated with respect.
- to continue his or her cultural and religious practices and to retain the language of his or her choice, without discrimination.
- to select and maintain social and personal relationships with any other person without fear, criticism or restriction.
- to freedom of speech.
- to maintain his or her personal independence, which includes a recognition of personal responsibility for his or her own actions and choices. Some actions may involve an element of risk which the resident has the right to accept, and which should then not be used to prevent or restrict those actions.
- to maintain control over, and to continue making decisions about, the personal aspects of his or her daily life, his or her financial affairs and his or her possessions.
- to be involved in the activities, associations and friendships of his or her choice, both within and outside the hostel.
- to have access to services and activities which are available generally in the community.
- to be consulted on, and to choose to have input into, decisions about the living arrangements of the hostel.
- to have access to information about his or her rights, care, accommodation, and any other information which relates to him or her personally.
- to complain and to take action to resolve disputes.

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- to have access to advocates and other avenues of redress. Reprisal in any form shall not be made against any resident who takes action to enforce his or her rights.

EACH RESIDENT OF A HOSTEL HAS THE RESPONSIBILITY:

- to respect the rights and needs of other people within the hostel, and to respect the needs of the hostel community as a whole.
- to respect the right of staff and the proprietor to work in an environment which is free from harassment.
- for his or her own health and well-being, as far as he or she is capable.
- to inform his or her medical practitioner, as far as he or she is able, about his or her relevant medical history and his or her current state of health.”.

Further amendments

10. The Principal Act is further amended by omitting from subsection 2 (1) (definition of “hostel place”), paragraph 9AA (9) (a), subsections 9AB (4), (5), (6), (9), (10), (17) and (18), paragraphs 9AC (1) (a) and (2) (a), the heading to Division 4 of Part III, subsections 10B (1) and (4), 10C (1), 10D (3), 10DB (1), 10F (2), 10FA (1) and (2), 10FAA (1), (3), (5) and (6), 10FB (2), (5) and (6), section 10G, subsections 10J (1) and (2), “eligible organisation” (wherever occurring) and substituting “organisation”.

**PART 3—AMENDMENT OF THE DISABILITY SERVICES ACT
1986**

Principal Act

11. In this Part, “Principal Act” means the *Disability Services Act 1986*².

Interpretation

12. Section 7 of the Principal Act is amended in the definition of “accommodation support services” by adding at the end “and, without limiting the generality of the foregoing, includes attendant care services, namely, services to persons with disabilities to assist them with personal administration, transport, mobility, transfers, personal hygiene, bathing, grooming, dressing, eating and drinking, and similar personal activities”.

**PART 4—AMENDMENTS OF THE HEALTH INSURANCE ACT
1973 RELATING TO DIAGNOSTIC IMAGING SERVICES**

Principal Act

13. In this Part, “Principal Act” means the *Health Insurance Act 1973*³.

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Interpretation

14. Section 3 of the Principal Act is amended:

(a) by omitting from paragraph (c) of the definition of “professional service” in subsection (1) “or” (last occurring);

(b) by inserting after paragraph (d) of the definition of “professional service” in subsection (1) the following word and paragraph:

“or (e) a diagnostic imaging service that is rendered by or on behalf of a medical practitioner;”;

(c) by omitting from subsection (1) the definition of “table” and substituting the following definition:

“ **‘table’** means the table consisting of:

(a) the general medical services table; and

(b) the pathology services table; and

(c) the diagnostic imaging services table;”;

(d) by inserting in subsection (1) the following definitions:

“ **‘chiropractor’** means a person registered or licensed to practise chiropractic under a law of a State or Territory that provides for the registration or licensing of chiropractors;

‘diagnostic imaging equipment’ means equipment that is primarily used in the carrying out of a diagnostic imaging procedure;

‘diagnostic imaging procedure’ means a procedure for the production of images (for example, X-rays, computerised tomography scans, ultrasound scans, magnetic resonance imaging scans and nuclear scans) for use in the rendering of diagnostic imaging services;

‘diagnostic imaging service’ means:

(a) an R-type diagnostic imaging service; or

(b) an NR-type diagnostic imaging service;

to which an item of the diagnostic imaging services table relates;

‘diagnostic imaging services table’ means the table prescribed under section 4AA;

‘NR-type diagnostic imaging service’ means a diagnostic imaging service corresponding to an item of the diagnostic imaging services table that is classified as an NR-type service in the table;

‘prohibited diagnostic imaging practice’ has the meaning given by section 23DZG;

‘R-type diagnostic imaging service’ means a diagnostic imaging service corresponding to an item of the diagnostic imaging services table that is classified as an R-type service in the table;

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'subsection 16B (1) request' means a request of a kind referred to in subsection 16B (1);

(e) by inserting after subsection (5A) the following subsections:

“(5B) For the purposes of this Act, a diagnostic imaging service is taken to include any necessary interpretation, analysis or reporting.

“(5C) For the purposes of this Act, if the descriptions of 2 diagnostic imaging services in the diagnostic imaging services table differ from each other only so far as one service is indicated to be an R-type diagnostic imaging service and the other is indicated to be an NR-type diagnostic imaging service, the first-mentioned service is taken to be an R-type diagnostic imaging service for which there is a corresponding NR-type diagnostic imaging service.”.

15. After section 4 of the Principal Act the following section is inserted:

Diagnostic imaging services table

“4AA. (1) The regulations may prescribe a table of diagnostic imaging services that sets out the following:

- (a) items of R-type diagnostic imaging services;
- (b) items of NR-type diagnostic imaging services;
- (c) the amount of fees applicable in respect of each item;
- (d) rules for interpretation of the table.

“(2) The regulations made under this section, unless sooner repealed:

- (a) cease to be in force on the day next following the 15th sitting day of the House of Representatives after the expiration of a period of 12 months commencing on the day on which the regulations are notified in the *Gazette*; and
- (b) are taken to have been repealed on the first-mentioned day.”.

16. After section 16A of the Principal Act the following sections are inserted:

Medicare benefits in relation to R-type diagnostic imaging services

[General rule—request required for services]

“16B. (1) Subject to subsections (6), (7), (8), (9), (10) and (11), a medicare benefit is not payable in respect of an R-type diagnostic imaging service rendered in relation to a person by or on behalf of a medical practitioner (in this section called the **'providing practitioner'**) unless:

- (a) where the service is one for which there is a corresponding NR-type diagnostic imaging service:

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- (i) the providing practitioner is a specialist in a particular speciality; and
 - (ii) the service was rendered by or on behalf of the providing practitioner in the course of the providing practitioner practising that speciality; and
- (b) the service was rendered pursuant to a written request made by:
- (i) another medical practitioner; or
 - (ii) subject to subsection (2), a dental practitioner; or
 - (iii) subject to subsection (3), a chiropractor;
- who determined that the service was necessary and whose patient the person was.

[Dental practitioners may only request certain services]

“(2) A request made by a dental practitioner, acting in his or her capacity as a dental practitioner, for an R-type diagnostic imaging service to be rendered is not effective for the purposes of subsection (1) unless it is a request for a service of a kind specified in regulations made for the purposes of this subsection.

[Chiropractors may only request certain services]

“(3) A request made by a chiropractor, acting in his or her capacity as a chiropractor, for an R-type diagnostic imaging service to be rendered is not effective for the purposes of subsection (1) unless it is a request for a service of a kind specified in regulations made for the purposes of this subsection.

[Referral to specified practitioner not required]

“(4) For the purposes of subsection (1):

- (a) the request need not be addressed to a particular practitioner; and
- (b) where it is so addressed—the service need not be rendered by or on behalf of that practitioner.

[Request may be for more than one service]

“(5) For the purposes of subsection (1), the request may be for the rendering of more than one R-type diagnostic imaging service, but, once one of the requested services has been rendered pursuant to the notice, any subsequent requested service is not taken to have been rendered pursuant to the notice unless it is so rendered within 7 days after the rendering of the first service.

[Exemption—specialists]

“(6) Subsection (1) does not apply if:

- (a) the providing practitioner is a specialist in a particular speciality (other than the speciality of diagnostic radiology); and

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- (b) the service was rendered by or on behalf of the providing practitioner in the course of the providing practitioner practising that speciality; and
- (c) the providing practitioner determined that the service was necessary.

[Remote area exemption]

“(7) Subsection (1) does not apply if:

- (a) the service is not one for which there is a corresponding NR-type diagnostic imaging service; and
- (b) the service was rendered within an area that is a remote area for the purposes of Division 2 of Part IIB; and
- (c) at the time the service was rendered, a remote area exemption, granted to the providing practitioner under that Division, is in force under that Division; and
- (d) if the remote area exemption in force in relation to the practitioner was restricted under subsection 23DY (1) to certain R-type diagnostic imaging services—the service is one of those R-type diagnostic imaging services.

[Exemption—emergencies]

“(8) Subsection (1) does not apply if the providing practitioner determines that, because the need for the service arose in an emergency, the service should be rendered as quickly as possible.

[Exemption—lost requests]

“(9) Subsection (1) does not apply if:

- (a) the person in relation to whom the service was rendered, or a person acting on that person’s behalf, claimed that a medical practitioner, dental practitioner or chiropractor had made a request for the service to be rendered, but that the request had been lost; and
- (b) the providing practitioner, or an employee or agent of the providing practitioner, had sought and received from the medical practitioner, dental practitioner or chiropractor (in this subsection called the ‘**requesting practitioner**’) who was claimed to have made the request, or from an employee or agent of the requesting practitioner, confirmation that the request had been made; and
- (c) if the requesting practitioner is a dental practitioner who made the request in his or her capacity as a dental practitioner—the request is not rendered ineffective by the operation of subsection (2); and
- (d) if the requesting practitioner is a chiropractor who made the

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request in his or her capacity as a chiropractor—the request is not rendered ineffective by the operation of subsection (3).

[Exemption—additional necessary services]

“(10) Subsection (1) does not apply if the service was rendered in relation to the person because the providing practitioner forms the opinion that the results obtained from the rendering of another diagnostic imaging service in relation to the person, pursuant to a subsection 16B (1) request, indicate that the first-mentioned service is necessary.

[Exemption—pre-existing diagnostic imaging practices]

“(11) Subsection (1) does not apply if:

- (a) the service is a service of a kind specified in regulations made for the purposes of this subsection; and
- (b) the service was rendered by or on behalf of the providing practitioner in the course of treating his or her own patient; and
- (c) the providing practitioner determined that the service was necessary; and
- (d) the service was rendered before 1 January 1993; and
- (e) during the period commencing on 17 October 1988 and ending on 16 October 1990, at least 50 services had been rendered by or on behalf of the providing practitioner, each being a service that:
 - (i) would have been an R-type diagnostic imaging service if it had been rendered after the commencement of this section; and
 - (ii) was rendered at the location at which the first-mentioned service was rendered; and
 - (iii) resulted in the payment of a medicare benefit.

Medicare benefits in relation to diagnostic imaging services rendered in contravention of State or Territory laws

“16C. A medicare benefit is not payable in respect of a diagnostic imaging service rendered by or on behalf of a medical practitioner if the rendering of the service involved the contravention, by the practitioner or any other person, of any law of a State or Territory relating directly or indirectly to the use of diagnostic imaging procedures or diagnostic imaging equipment.”.

Medicare benefit not payable in respect of services rendered by disqualified practitioners etc.

17. Section 19B of the Principal Act is amended:

- (a) by omitting subsection (1) and substituting the following subsection:

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“(1) In this section:

‘partly disqualified’ means disqualified (other than fully disqualified), or taken to be disqualified (other than fully disqualified), under a determination under Part VB;

‘practitioner’ has the same meaning as in section 124B.”;

(b) by omitting paragraphs (2) (a) and (b) and substituting the following paragraphs:

“(a) at the time when the service was rendered, the person who rendered the service, or the practitioner on whose behalf the service was rendered, was a practitioner:

(i) in relation to whom a determination under paragraph 124F (2) (e) or 124FF (2) (d) that the practitioner be fully disqualified was in effect; or

(ii) who was taken to be partly disqualified because a determination under paragraph 124FF (2) (e) or (f) in relation to another person was in effect; or

(b) at the time when the service was rendered, the person who rendered the service, or the practitioner on whose behalf the service was rendered, was a practitioner:

(i) in relation to whom a determination under paragraph 124F (2) (d) or 124FF (2) (d) that the practitioner be partly disqualified was in effect in respect of that service; or

(ii) who was taken to be partly disqualified because a determination under paragraph 124FF (2) (e) or (f) in relation to another person was in effect in respect of that service.”.

Offences in relation to disqualification of practitioner

18. Section 19D of the Principal Act is amended by omitting from subsection (11) the definition of “disqualified practitioner” and substituting the following definition:

“ **‘disqualified practitioner’** means a practitioner:

(a) in relation to whom a determination under paragraph 124F (2) (d) or (e) or 124FF (2) (d) is in effect; or

(b) who is taken to be disqualified because a determination under paragraph 124FF (2) (e) or (f) in relation to another person is in effect;”.

19. After Part IIA of the Principal Act the following Part is inserted:

**“PART IIB—SPECIAL PROVISIONS RELATING TO
DIAGNOSTIC IMAGING SERVICES**

***“Division 1—Requests for, and records relating to, diagnostic imaging
services***

Form etc. of requests

“23DQ. (1) The regulations may specify:

- (a) the form in which a subsection 16B (1) request by a medical practitioner must be made; and
- (b) the information that must be included in the request.

“(2) A practitioner must not, without reasonable excuse, make a subsection 16B (1) request, or permit such a request to be made on his or her behalf, if the request contravenes regulations made for the purposes of subsection (1) of this section.

Penalty: \$1,000.

“(3) A medical practitioner who renders R-type diagnostic imaging services in the course of conducting his or her practice must not, without reasonable excuse, provide (whether directly or indirectly) to a practitioner a document for use by practitioners in making a subsection 16B (1) request if, in using the document for that purpose, a practitioner would contravene regulations made for the purposes of subsection (1) of this section.

Penalty: \$1,000.

Retention of requests etc.

“23DR. (1) A medical practitioner who has rendered an R-type diagnostic imaging service pursuant to a subsection 16B (1) request must retain the written request for the period of 18 months commencing on the day on which the service was rendered.

“(2) A medical practitioner must, if requested to do so by the General Manager of the Commission, produce to an officer of the Commission, as soon as practicable and in any case before the end of the day after the day on which the request is made under this subsection, a request retained by the practitioner under subsection (1).

“(3) An officer of the Commission may make and retain copies of, or take and retain extracts from, any request produced to the officer under subsection (2).

“(4) A medical practitioner who, without reasonable excuse, contravenes subsection (1) or (2) is guilty of an offence.

Penalty: \$1,000.

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Other records of diagnostic imaging services

“23DS. (1) The regulations may require medical practitioners to prepare and maintain records of diagnostic imaging services rendered by them, and, in particular, may impose requirements relating to:

- (a) the form in which the records are to be prepared; and
- (b) the information that must be included in the records; and
- (c) the manner in which the records must be kept.

“(2) A medical practitioner must not, without reasonable excuse, contravene a requirement imposed by regulations made for the purposes of subsection (1).

“(3) Where the regulations require a medical practitioner to prepare and maintain a record of a diagnostic imaging service that the practitioner has rendered, the practitioner must retain the record for the period of 18 months commencing on the day on which the service was rendered.

“(4) A medical practitioner must, if requested to do so by the General Manager of the Commission, produce to an officer of the Commission, as soon as practicable and in any case within 7 days after the day on which the request is made, a record retained by the practitioner under subsection (3).

“(5) An officer of the Commission may make and retain copies of, or take and retain extracts from, any record produced to the officer under subsection (4).

“(6) A medical practitioner who, without reasonable excuse, contravenes subsection (2), (3) or (4) is guilty of an offence.
Penalty: \$1,000.

“Division 2—Remote area exemptions

Interpretation

“23DT. In this Division, unless the contrary intention appears: ‘**R-type diagnostic imaging service**’ does not include an R-type diagnostic imaging service for which there is a corresponding NR-type diagnostic imaging service.

Remote areas

“23DU. (1) The Minister may determine, in writing, which areas within Australia are taken to be remote areas for the purposes of this Division.

“(2) Such a determination is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

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Application for remote area exemption

“23DV. A medical practitioner may apply in writing to the Minister, in the form approved by the Minister, for a remote area exemption.

Request for further information

“23DW. The Minister may, within 60 days after such an application is made, give the applicant written notice requesting the applicant to give to the Minister such further information relating to the application as is specified in the notice.

Grant of remote area exemption

“23DX. The Minister must, by written notice given to the applicant, grant a remote area exemption to the applicant if the Minister is satisfied that:

- (a) the application is in the form approved by the Minister; and
- (b) the applicant’s practice is situated in an area that is a remote area for the purposes of this Division; and
- (c) the facilities for rendering R-type diagnostic imaging services in the area in which the practice is situated (including facilities provided by practitioners visiting the area regularly) are such that, were subsection 16B (1) to apply to the rendering of those services, patients in the area would suffer physical or financial hardship.

Restrictions on remote area exemptions

“23DY. (1) If the Minister is satisfied that the physical or financial hardship referred to in paragraph 23DX (c) would only be suffered in respect of the rendering of certain R-type diagnostic imaging services, the Minister may, in the notice granting the remote area exemption, restrict the remote area exemption to those services.

“(2) The notice must contain the reasons for any such restriction.

“(3) The person to whom the remote area exemption is granted may, at any time, apply in writing to the Minister, in the form approved by the Minister, for:

- (a) the restriction to be removed; or
- (b) its scope to be reduced.

“(4) The Minister may, within 60 days after such an application is made, give the applicant written notice requesting the applicant to give to the Minister such further information relating to the application as is specified in the notice.

“(5) If the Minister is satisfied that physical or financial hardship of a kind referred to in paragraph 23DX (c) will be suffered if the restriction is not removed, or its scope is not reduced, the Minister

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must, by written notice given to the applicant, remove the restriction, or reduce its scope, accordingly.

Refusal of application

“23DZ. (1) The Minister may refuse an application under section 23DV or subsection 23DY (3) by giving the applicant written notice of the refusal and of the reasons for the refusal.

“(2) If:

(a) in the case of an application under section 23DV:

(i) at the end of 60 days after the application is made, a request has not been made to the applicant under section 23DW and the applicant has not been granted a remote area exemption; or

(ii) a request has been made under section 23DW and, at the end of 60 days after the request was made, the applicant has not been granted a remote area exemption; or

(b) in the case of an application under subsection 23DY (3):

(i) at the end of 60 days after the application is made, a request has not been made to the applicant under subsection 23DY (4) and the Minister has not given the applicant a written notice under subsection 23DY (5); or

(ii) a request has been made under subsection 23DY (4) and, at the end of 60 days after the request was made, the Minister has not given the applicant a written notice under subsection 23DY (5);

the Minister is taken, for the purposes of section 23DZD, to have refused the application on the last of the 60 days.

Duration of remote area exemption

“23DZA. Subject to section 23DZC, a remote area exemption remains in force for 3 years.

Renewal of remote area exemption

“23DZB. (1) A medical practitioner to whom a remote area exemption has been granted may, at any time within the 6 months before its expiry, apply in writing to the Minister, in the form approved by the Minister, for renewal of the remote area exemption.

“(2) This Division, other than section 23DV, applies to the application for renewal as if it were an application under that section.

Revocation of remote area exemption

“23DZC. (1) The Minister may revoke a remote area exemption that has been granted to a medical practitioner if the Minister is satisfied that:

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- (a) the practitioner's practice is no longer situated in an area that is a remote area for the purposes of this Division; or
- (b) the facilities for rendering R-type diagnostic imaging services in the area in which the practice is situated (including facilities provided by practitioners visiting the area regularly) are no longer such that, were subsection 16B(1) to apply to the rendering of those services, patients in the area would suffer physical or financial hardship; or
- (c) where a Medicare Participation Review Committee has advised the Minister under subsection 124FF(6) that the remote area exemption should be revoked—the remote area exemption should be revoked for the reasons given by the Committee in its advice.

“(2) The Minister must not revoke the remote area exemption unless:

- (a) the practitioner has been given a written notice:
 - (i) stating that revocation of the remote area exemption is being considered; and
 - (ii) setting out the grounds for considering revocation; and
 - (iii) stating that the practitioner may, within 6 months after the notice is given, make written submissions to the Minister as to why the remote area exemption should not be revoked; and
- (b) due consideration has been given to any such submissions made by or on behalf of the practitioner during those 6 months.

Review of decisions

“23DZD. Applications may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision under subsection 23DY(1) to restrict a remote area exemption to certain R-type diagnostic imaging services; or
- (b) a decision under subsection 23DY(5) reducing the scope of a remote area exemption; or
- (c) a decision refusing to grant a remote area exemption; or
- (d) a decision refusing an application under subsection 23DY(3) for:
 - (i) a restriction on a remote area exemption to be removed; or
 - (ii) the scope of such a restriction to be reduced; or
- (e) a decision under section 23DZC revoking a remote area exemption.

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Statements to accompany notification of decisions

“23DZE. (1) Where a person whose interests are affected by a decision of a kind referred to in section 23DZD is given written notice of the decision, the notice must include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Administrative Appeals Tribunal for review of the decision and, except where subsection 28 (4) of that Act applies, also include a statement to the effect that the person may request a statement under section 28 of that Act.

“(2) A failure to comply with subsection (1) does not affect the validity of the decision.

“Division 3—Prohibited diagnostic imaging practices

Interpretation

“23DZF. In this Division:

‘practitioner’ includes a chiropractor;

‘service provider’ means a person who:

- (a) renders diagnostic imaging services; or
- (b) carries on the business of rendering diagnostic imaging services;
or
- (c) is a proprietor of premises at which diagnostic imaging services are rendered; or
- (d) employs a person who:
 - (i) renders diagnostic imaging services; or
 - (ii) carries on the business of rendering diagnostic imaging services.

Prohibited diagnostic imaging practices

“23DZG. For the purposes of this Act, a person is taken to be engaged in a prohibited diagnostic imaging practice if:

- (a) the person is a service provider who directly or indirectly offers any inducement (whether by way of money, property or other benefit or advantage), or threatens any detriment or disadvantage, to a practitioner or any other person in order to encourage the practitioner to request the rendering of a diagnostic imaging service; or
- (b) the person is a service provider who, without reasonable excuse:
 - (i) directly or indirectly invites a practitioner to request the rendering of a diagnostic imaging service; or
 - (ii) does any act or thing that the person knows, or ought reasonably to know, is likely to have the effect of directly

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or indirectly encouraging a practitioner to request the rendering of a diagnostic imaging service; or

- (c) the person is a practitioner, or the employer of a practitioner, who, without reasonable excuse, asks, receives or obtains, or agrees to receive or obtain, any property, benefit or advantage of any kind for himself or herself, or any other person, from a service provider or a person acting on behalf of the service provider; or
- (d) the person is a practitioner who:
 - (i) accepts a request from another practitioner to render a diagnostic imaging service; and
 - (ii) in respect of any service (including a service for the use of diagnostic imaging equipment) connected with the rendering of the diagnostic imaging service, makes a payment, directly or indirectly:
 - (A) to the other practitioner; or
 - (B) if the diagnostic imaging service is not provided in a hospital—to a person who is the other practitioner's employer or to an employee of such a person; or
- (e) the person is a practitioner who accepts a request from another practitioner to render a diagnostic imaging service where there is in force an arrangement under which:
 - (i) the 2 practitioners share, directly or indirectly, the cost of employing staff, or of buying, renting or maintaining items of equipment; and
 - (ii) the amounts payable under the arrangement are not fixed at normal commercial rates; or
- (f) the person is a practitioner who accepts a request from another practitioner to render a diagnostic imaging service where there is in force an arrangement under which:
 - (i) the 2 practitioners share a particular space in a building; or
 - (ii) one practitioner provides, directly or indirectly, space in a building for the use or occupation of the other practitioner or permits the other practitioner to use or occupy space in a building;and the amounts payable under the arrangement are not fixed at normal commercial rates; or
- (g) the person is a specialist in the speciality of diagnostic radiology who stations diagnostic imaging equipment or employees of the specialist at the premises of another practitioner (whether it is a full-time arrangement or not), so that diagnostic imaging

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services may be rendered to the practitioner's patients by or on behalf of the specialist.

Notices etc. in relation to possible prohibited diagnostic imaging practices

“23DZH. (1) Where the Minister has reasonable grounds for believing that a person has engaged in a prohibited diagnostic imaging practice, the Minister must give notice in writing to the person:

- (a) setting out particulars of the prohibited diagnostic imaging practice and the grounds for the belief; and
- (b) inviting the person to make submissions to the Minister within the period of 28 days commencing on the day the notice is given, to show cause why the Minister should not take further action in relation to the person.

“(2) Where the person makes a submission to the Minister, within the period referred to in paragraph (1)(b), the Minister must have regard to the submission in determining whether to take any further action in relation to the person under section 23DZJ.

Minister may take further action

“23DZJ. (1) Where the Minister gives notice to a person under subsection 23DZH (1), the Minister must give notice in writing to a Chairperson of a Medicare Participation Review Committee setting out the particulars referred to in paragraph (1)(a) of that subsection if:

- (a) at the end of the period referred to in paragraph (b) of that subsection, the person has not made submissions to the Minister; or
- (b) the person makes submissions to the Minister within that period and the Minister is satisfied that there are reasonable grounds for believing that the person has engaged in a prohibited diagnostic imaging practice (being the grounds and prohibited diagnostic imaging practice specified in the notice under subsection 23DZH (1)).

“(2) Where the Minister gives notice to a person under subsection 23DZH (1), the Minister must decide that no further action is to be taken in relation to the person if:

- (a) the person makes submissions to the Minister within the period referred to in paragraph (b) of that subsection; and
- (b) the Minister is satisfied that the person has not engaged in the prohibited diagnostic imaging practice specified in the notice.

“(3) The Minister must give to the person written notice of the Minister's decision under this section.”.

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20. Section 124E of the Principal Act is repealed and the following sections are substituted:

Chairperson to establish Medicare Participation Review Committee

“124E. (1) Except where subsection (2) or (5) applies, where:

- (a) a Chairperson receives a notice under section 124D in relation to the conviction of a practitioner; and
- (b) an appeal, or an application for an extension of the time for instituting an appeal, against the conviction, is not pending;

the Chairperson must establish a Medicare Participation Review Committee.

“(2) Where:

- (a) a Chairperson receives a notice under section 124D in relation to a practitioner; and
- (b) a Medicare Participation Review Committee has already been established under subsection (1) in relation to the practitioner; and
- (c) the Committee has yet to make a determination in relation to the practitioner;

the Chairperson must, as soon as practicable, bring the notice to the attention of the Committee.

“(3) Subject to subsection (5), upon receiving a notice under subsection 23DL (4) in relation to an approved pathology practitioner or an approved pathology authority, a Chairperson must establish a Medicare Participation Review Committee.

“(4) Subject to subsection (5), upon receiving a notice under subsection 23DZJ (1) in relation to a person, a Chairperson must establish a Medicare Participation Review Committee.

“(5) Where a Chairperson who is given a notice under section 124D or subsection 23DL (4) or 23DZJ (1) has a direct or indirect interest (whether pecuniary or otherwise) in a matter that is about to be the subject of proceedings before a Committee that the Chairperson would, but for this subsection, be required to establish under subsection (1), (3) or (4):

- (a) the Chairperson must immediately inform the Minister of that interest; and
- (b) the Chairperson must not establish the Committee; and
- (c) the Minister must give another notice in the same terms to another Chairperson.

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Membership of Committees

“124EA. (1) A Committee established under subsection 124E (1), (3) or (4) consists of the following members:

- (a) the Chairperson;
- (b) subject to subsections (6), (7) and (8) and section 124EB:
 - (i) if the Committee is established under subsection 124E (4)—2 persons; or
 - (ii) in any other case—1 person;
selected by the Chairperson from a list submitted under subsection (2);
- (c) subject to subsection (8) and section 124EB:
 - (i) if the Committee is established under subsection 124E (4)—2 persons; or
 - (ii) in any other case—1 person;
selected by the Chairperson from a list submitted under subsection (3).

“(2) A professional organisation may submit to the Minister a list of names of persons nominated for the purposes of paragraph (1) (b).

“(3) The Minister may nominate persons for the purposes of paragraph (1) (c).

“(4) The nomination of a person under subsection (2) or (3) may be revoked at any time:

- (a) by the person nominated—by writing signed by that person and delivered to the Minister; or
- (b) by the Minister—by writing signed by the Minister and delivered to the person.

“(5) The Minister must keep each Chairperson informed in writing:

- (a) of the persons nominated under subsections (2) and (3); and
- (b) of any revocation of a nomination under subsection (4).

“(6) Where no person is available for a Chairperson to select under paragraph (1) (b) in constituting a Committee, the Minister must, in place of each person to be so selected, appoint to the Committee a person whom the Minister considers to be the most appropriate person to be appointed to the Committee.

“(7) For the purposes of this Part, a person appointed under subsection (6) is taken to have been selected in accordance with paragraph (1) (b).

“(8) Where a member of a Committee selected under paragraph (1) (b) or (c) has a direct or indirect interest (whether pecuniary or otherwise) in a matter that is, or is about to be, the subject of proceedings before the Committee:

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- (a) the member must immediately inform the Chairperson of that interest; and
- (b) the member is taken to be disqualified from membership of the Committee; and
- (c) another selection is to be made under paragraph (1) (b) or (c), as the case requires.

Qualification of members

“124EB. (1) Subject to subsection (2), each person selected by the Chairperson under paragraph 124EA (1) (b) or (c) must be a medical practitioner.

“(2) Subject to subsection (3), a person selected by the Chairperson under paragraph 124EA (1) (b) or (c) must be:

- (a) if the Committee is convened in relation to an approved pathology practitioner or an approved pathology authority—an approved pathology practitioner (whether or not a medical practitioner); or
- (b) if the Committee is convened in relation to a dental practitioner—a dental practitioner; or
- (c) if the Committee is convened in relation to an optometrist—an optometrist.

“(3) Subsection (2) does not apply if the Committee is established under subsection 124E (4).

“(4) Where the Committee is established under subsection 124E (4), each of the persons selected by the Chairperson under paragraph 124EA (1) (b) or (c) must be a medical practitioner experienced in the rendering of diagnostic imaging services.

Provision of information to the person in relation to whom a Committee is convened

“124EC. Where:

- (a) a Committee has been established under section 124E; and
 - (b) an officer of the Commission gives to the Committee, or to the Chairperson, information for the purpose of assisting the Committee in making a determination in relation to a person;
- the General Manager of the Commission must, at or about the same time, give to the person a copy of the information.”

21. After section 124FD of the Principal Act the following sections are inserted:

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Committee may add parties to proceedings in relation to prohibited diagnostic imaging practices

“124FE. (1) Where:

- (a) a Committee is established under subsection 124E (4) in relation to a practitioner; and
- (b) the Committee has reasonable grounds to believe that a person who:
 - (i) employs or employed the practitioner; or
 - (ii) is or was an officer of a body corporate that employs or employed the person;

may have caused or permitted the practitioner or any other person to engage in the prohibited diagnostic imaging practice specified in the notice given to the Chairperson concerned under subsection 23DZJ (1);

the Committee may determine, in writing, that the Committee should consider whether the person caused or permitted the prohibited diagnostic imaging practice to be engaged in.

“(2) Where:

- (a) a Committee is established under subsection 124E (4) in relation to a body corporate that employs or employed a practitioner; and
- (b) the Committee has reasonable grounds to believe that a person who is or was an officer of the body corporate may have caused or permitted the practitioner to engage in the prohibited diagnostic imaging practice specified in the notice given to the Chairperson concerned under subsection 23DZJ (1);

the Committee may determine, in writing, that the Committee should consider whether the officer caused or permitted the prohibited diagnostic imaging practice to be engaged in.

“(3) Where a Committee makes a determination under subsection (1) or (2) in relation to a person, the Committee must give the person written notice of the determination.

Determinations in relation to prohibited diagnostic imaging practices

“124FF. (1) Subject to subsection 124J (8), where:

- (a) a Committee is established under subsection 124E (4) in relation to a person; or
- (b) a Committee has determined, under subsection 124FE (1) or (2), that the Committee should consider whether a person caused or permitted a prohibited diagnostic imaging practice to be engaged by another person;

the Committee must determine whether the person engaged in the prohibited diagnostic imaging practice, or caused or permitted the

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prohibited diagnostic imaging practice to be engaged in by another person, as the case requires.

“(2) Where the Committee determines that a person engaged in, or caused or permitted another person to engage in, a prohibited diagnostic imaging practice, it must make one of the following determinations:

- (a) that no action should be taken against the person;
- (b) that it should counsel the person;
- (c) that it should reprimand the person;
- (d) where the person is a practitioner—that the person is disqualified;
- (e) where the person employs, or has employed, a practitioner—that any practitioner who is employed by the person is, while so employed, taken to be disqualified;
- (f) where the person is or has been an officer of a body corporate that employs, or has employed, a practitioner—that any practitioner who is employed by a body corporate of which the person is an officer is, while so employed at a time when the person is such an officer, taken to be disqualified.

“(3) Where the Committee determines under paragraph (2) (d), (e) or (f) that a practitioner is disqualified, or is taken to be disqualified in certain circumstances, it must specify in the determination whether the practitioner is, or is taken to be, fully disqualified or disqualified in respect of one or more of the following:

- (a) the provision of specified professional services, or the provision of professional services other than specified professional services;
- (b) the provision of professional services to a specified class of persons, or the provision of professional services to persons other than a specified class of persons;
- (c) the provision of professional services within a specified location, or the provision of professional services otherwise than within a specified location.

“(4) Where the Committee determines under paragraph (2) (d), (e) or (f) that a practitioner is disqualified, or is taken to be disqualified in certain circumstances, the Committee must specify in the determination the period over which the disqualification is to have effect, being a period that ends within 5 years after the day on which the determination takes effect.

“(5) Where the Committee determines that diagnostic imaging services were rendered as a result of the prohibited diagnostic imaging practice being engaged in by a person, it must:

- (a) identify those services; and
- (b) if medicare benefit has been paid, or is payable, in respect of

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the rendering of diagnostic imaging services identified by the Committee—make one of the following determinations:

- (i) where medicare benefit is payable, but has not been paid to a practitioner—that the medicare benefit or a specified part of it cease to be payable;
- (ii) where medicare benefit has been paid to the practitioner, or has been paid or is payable to a person other than the practitioner—that the medicare benefit or a specified part of it be payable by the practitioner to the Commonwealth.

“(6) Where:

(a) the Committee determines that a person engaged in, or caused or permitted another person to engage in, a prohibited diagnostic imaging practice; and

(b) the first-mentioned person is a medical practitioner who has been granted a remote area exemption that is in force;

the Committee must include in its determination under subsection (2) an advice to the Minister as to whether the remote area exemption should be revoked, and its reasons for so advising.

“(7) In making a determination, the Committee must comply with guidelines in force under section 124H.

“(8) A determination must be in writing.”.

22. After section 129AD of the Principal Act the following sections are inserted:

Recovery of amounts paid in respect of certain diagnostic imaging services

“129AE. Where an amount is purportedly paid by way of benefit under this Act in respect of a diagnostic imaging service in circumstances where, under section 16C, no benefit was payable because rendering the service involved a contravention of a law of a State or Territory relating directly or indirectly to the use of diagnostic imaging procedures or diagnostic imaging equipment, the amount is recoverable as a debt due to the Commonwealth from the person who contravened the law of the State or Territory.

State and Territory authorities to be notified of contraventions of certain laws

“129AF. Where the General Manager of the Commission believes on reasonable grounds that a person has contravened a law of a State or Territory relating directly or indirectly to the use of diagnostic imaging procedures or diagnostic imaging equipment, the General Manager may give notice of that fact and his or her grounds for so believing to the Department or other authority, of the State or Territory concerned, that is responsible for administering the law.”.

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Consequential amendments relating to diagnostic imaging services

23. The Principal Act is further amended as set out in Schedule 1.

**PART 5—OTHER AMENDMENTS OF THE HEALTH
INSURANCE ACT 1973**

Principal Act

24. In this Part, “Principal Act” means the *Health Insurance Act 1973*³.

Interpretation

25. Section 3 of the Principal Act is amended by adding at the end of the definition of “medical practitioner” in subsection (1) the following words and paragraphs:

“but does not include a person so registered or licensed:

- (a) whose registration, or licence to practise, as a medical practitioner in any State or Territory has been suspended, or cancelled, following an inquiry relating to his or her conduct; and
- (b) who has not, after that suspension or cancellation, again been authorised to register or practise as a medical practitioner in that State or Territory;”.

Health services not specified

26. Section 3C of the Principal Act is amended by inserting after subsection (1) the following subsections:

“(1A) The Minister may refer to the Medicare Benefits Advisory Committee (being the committee established under section 66), for its consideration and recommendation, the question whether a determination should be made under subsection (1) in respect of a specified health service, or a health service included in a specified class of health services.

“(1B) The Minister is not bound by any recommendation made by the Medicare Benefits Advisory Committee following a reference to it by the Minister under subsection (1A).”.

Medicare benefit not payable in respect of services rendered in prescribed circumstances

27. Section 19A of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) Regulations relating to professional services other than pathology services may not be made under subsection (1) except in accordance with a recommendation made to the Minister by the Medicare Benefits Advisory Committee.”.

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28. After section 19D of the Principal Act the following section is inserted:

Offence in relation to deregistered practitioner

“19DA. (1) In this section:

‘deregistered practitioner’ means a person who, being registered or licensed as a medical practitioner under a law of a State or Territory that provides for the registration or licensing of medical practitioners, is not a medical practitioner within the meaning of this Act because paragraphs (a) and (b) of the definition of ‘medical practitioner’ in subsection 3 (1) apply to that person.

“(2) A deregistered practitioner, or a person acting on his or her behalf, must not render any medical service to which an item relates unless, before commencing to render that service, the practitioner, or the person acting on his or her behalf, causes to be taken such steps as are reasonable in all the circumstances to inform:

- (a) the person to whom the service is to be rendered; or
- (b) if that person is in the care of another person—that other person;

that a medicare benefit would not be payable in respect of the medical service if it were rendered by, or on behalf of, the practitioner.

Penalty: \$100.”.

Initiation of excessive pathology services

29. Section 23DM of the Principal Act is amended:

- (a) by omitting from paragraphs (4) (a) and (c) all words from and including “give” and substituting “by notice in writing, refer the matter to the Medical Services Committee of Inquiry for the State in which the pathology services were initiated or, if there is more than one such Committee in that State, to one of those Committees”;
- (b) by inserting after subsection (4) the following subsection:

“(4A) Where the Minister refers a matter to a Medical Services Committee of Inquiry under subsection (4), the Minister shall include in the notice to the Committee particulars of the grounds referred to in subsection (1).”.

Accredited pathology laboratories

30. Section 23DN of the Principal Act is amended:

- (a) by omitting subsection (2);
- (b) by omitting from paragraph (4) (a) “later day” and substituting “day (not being a day earlier than the day on which the application for the approval was received by the Minister)”.

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31. After section 23DN of the Principal Act the following section is inserted:

Determination of principles for accreditation as pathology laboratory

“23DNA. (1) The Minister may, in writing, determine the principles that are to be applied in the exercise of his or her powers under subsection 23DN (1).

“(2) Without limiting the generality of subsection (1), the principles may provide for the allocation of different categories of accreditation as a pathology laboratory to different premises in accordance with the criteria set out in the principles.

“(3) The criteria referred to in subsection (2) may include, but are not limited to, criteria relating to:

- (a) the location of the premises; or
- (b) the range of pathology services to be performed on the premises; or
- (c) the extent to which pathology services performed on the premises are to be performed under the direction, control or supervision of a pathologist, scientist, senior scientist, medical practitioner or any other person having specified qualifications or skills.

“(4) In subsection (3):

‘pathologist’ means a medical practitioner who, by reason of a determination under section 61, is recognised for the purposes of this Act as a specialist in the specialty of pathology;

‘scientist’ means a person who possesses one of the following qualifications:

- (a) a degree or diploma in applied science or medical technology awarded after not less than 3 years full-time study, or an equivalent period of part-time study, in subjects relevant to the field of pathology at a university or other tertiary institutions in Australia;
- (b) an associate qualification conferred by the Australian Institute of Medical Technologists before 1 December 1973;
- (c) a qualification that the Minister determines, for the purposes of this definition, to be equivalent to a qualification referred to in paragraph (a) or (b) of this definition;

‘senior scientist’ means a scientist who possesses one of the following qualifications:

- (a) a Doctorate of Philosophy in a subject relevant to the field of pathology;
- (b) a Fellowship of the Australian Association of Clinical Biochemists;

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- (c) a Fellowship of the Australian Institute of Medical Laboratories Scientists;
- (d) a qualification which the Minister determines, for the purposes of this definition, to be equivalent to a qualification referred to in paragraph (a), (b) or (c) of this definition;

and who has had not less than 10 years full-time experience in laboratory duties.

“(5) Where the Minister decides:

- (a) for the purposes of the definition of ‘scientist’ in subsection (4), that a qualification held by a person is not equivalent to any qualification referred to in another paragraph of that definition; or
- (b) for the purposes of the definition of ‘senior scientist’ in subsection (4) that a qualification held by a person is not equivalent to any qualification referred to in another paragraph of that definition;

the Minister must notify the person in writing of that decision.”.

Review of decisions

32. Section 23DO of the Principal Act is amended:

(a) by inserting after subsection (2) the following subsections:

“(2A) Where a person has received notice under subsection 23DNA (5) of a decision of the Minister in respect of a qualification held by the person, the person may, not later than 28 days after receiving the notice, apply to the Minister for a reconsideration of a decision by the Minister.

“(2B) After receiving an application for reconsideration of a decision, the Minister may:

- (a) affirm the decision; or
 - (b) determine, for the purposes of the definition of ‘scientist’ or ‘senior scientist’ in subsection 23DNA (4) (as the case may be), that the person’s qualification is equivalent to a qualification referred to in another paragraph of that definition.”;
- (b) by inserting in subsection (3) “or (2B)” after “(2)”;
- (c) by inserting in paragraph (5) (c) “or (2B)” after “(2)”.

Functions of Committee

33. Section 67 of the Principal Act is amended:

- (a) by inserting in subparagraphs (1) (a) (i) and (ii) “or the pathology services table” after “general medical services table”;
- (b) by omitting from paragraph (1) (aa) “(other than pathology services)”;

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- (c) by inserting after paragraph (1) (aa) the following paragraph:
- “(ab) following a reference to it by the Minister under section 3C, to consider whether a referred health service should be treated as if there were an item in the general medical services table that relates to the health service and, if so, to consider:
- (i) whether the referred health service should be treated as if it were:
 - (A) a medical service only; or
 - (B) both a professional service and a medical service; and
 - (ii) whether the referred health service should be so treated:
 - (A) in all circumstances; or
 - (B) in specified circumstances; and
 - (iii) if, in the Committee’s opinion, the referred health service should be so treated in specified circumstances—the circumstances that should be specified in a determination under subsection 3C (1); and
 - (iv) the provisions of this Act, the regulations, the *National Health Act 1953* or the regulations under that Act that should be specified in a determination under subsection 3C (1); and
 - (v) the fee in relation to a State that should be specified in a determination under subsection 3C (1);
- and to make recommendations, in writing, to the Minister arising out of that consideration;”;
- (d) by omitting from paragraph (1) (b) “(other than a pathology service)”;
- (e) by inserting after subsection (1) the following subsection:
- “(1A) If a reference of a kind mentioned in paragraph (1) (a) relates to pathology services, it may require the Committee to treat the reference as having been given to the Committee on a specified earlier day (not being a day occurring before 1 August 1989), and, if so required, the Committee is to treat the reference accordingly.”;
- (f) by inserting in subsection (2) the following definition:
- “‘referred health service’ means a health service, or a health service included in a class of health services, referred to the Committee by the Minister under section 3C;”.

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Functions of Committees

34. Section 82 of the Principal Act is amended:

- (a) by inserting “under section 23DM or any other matter referred to the Committee by the Minister” after “Minister” (second occurring);
- (b) by adding at the end the following subsections:

“(2) Where:

- (a) after consideration of a matter (in this section called the ‘**original matter**’) referred to it under section 23DM in relation to:

- (i) a practitioner; or

- (ii) a body corporate that employs or employed a practitioner;

it appears to the Committee that a person who:

- (iii) employs or employed the practitioner; or

- (iv) is or was an officer of a body corporate that employs or employed the practitioner;

may have caused or permitted the practitioner to initiate excessive pathology services; and

- (b) the conduct of that person is not a matter that has been referred to the Committee under section 23DM;

the Committee may determine, in writing, that the Committee should inquire into whether the person caused or permitted the practitioner to initiate excessive pathology services.

“(3) Where the Committee determines under subsection (2) to inquire into a matter:

- (a) the matter is taken, for the purposes of this Division, to have been referred to the Committee by the Minister under section 23DM; and

- (b) that matter and the original matter may be dealt with by the Committee as if they were one single matter.”.

35. After section 82 of the Principal Act the following section is inserted:

Guidelines relating to making of determinations

“82A. (1) The Minister may determine, in writing, guidelines to be applied by a committee in making determinations under subsection 82 (2).

“(2) Without limiting the generality of the matters to which guidelines made under subsection (1) may relate, guidelines may specify circumstances in which relevant determinations may be made.

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“(3) A determination under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

Determination by Minister

36. Section 106 of the Principal Act is amended:

- (a) by omitting from paragraph (3) (a) “or application for judicial review of the determination under Division 4 of that Part”;
- (b) by omitting from paragraph (3) (b) “or an application for judicial review of the determination under Division 4 of that Part”;
- (c) by omitting from paragraph (3) (c) “or a judicial review under Division 4 of that Part”.

Determination by Minister

37. Section 106FK of the Principal Act is amended:

- (a) by omitting from paragraph (3) (a) “or application for judicial review of the determination under Division 4 of that Part”;
- (b) by omitting from paragraph (3) (b) “or an application for judicial review of the determination under Division 4 of that Part”;
- (c) by omitting from paragraph (3) (c) “or a judicial review under Division 4 of that Part”.

Heading to Part VA

38. The heading to Part VA of the Principal Act is amended by omitting “AND APPLICATIONS TO PRESCRIBED COURTS”.

Interpretation

39. Section 107 of the Principal Act is amended by omitting the definitions of “Judge” and “prescribed Court”.

References to Tribunal

40. Section 107A of the Principal Act is amended:

- (a) by inserting at the end of paragraph (1) (a) “or”;
- (b) by omitting from paragraph (1) (b) “or” (last occurring);
- (c) by omitting paragraph (1) (c);
- (d) by omitting subsections (2), (3) and (4).

Repeal of Division 4 of Part VA

41. Division 4 of Part VA of the Principal Act is repealed.

Heading to Division 5 of Part VA

42. The heading to Division 5 of Part VA of the Principal Act is omitted and the following heading is substituted:

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“Division 5—Appeals from Tribunals”.

Appeals from Tribunals

43. Section 124 of the Principal Act is amended by omitting “or a judgment or order of a prescribed Court under Division 4”.

Appeal to Federal Court of Australia

44. Section 124A of the Principal Act is amended:

- (a) by omitting “or before a prescribed Court under Division 4”;
- (b) by omitting “, or any judgment or order of the prescribed Court, as the case may be,”.

Interpretation

45. Section 124B of the Principal Act is amended:

- (a) by adding “or” at the end of paragraph (a) of the definition of “relevant offence” in subsection (1);
- (b) by adding the following word and paragraphs at the end of the definition of “relevant offence” in subsection (1):

“; or (d) an offence against:

(i) subsection 29A (1) or (2) or section 29B, 29C, 29D, 30 or 86A of the *Crimes Act 1914*; or

(ii) section 67 of that Act by virtue of paragraph (b) or (e) of that section;

being an offence that relates to a claim for payment in respect of the rendering of a professional service and is committed after the commencement of this paragraph; or

- (e) an offence against section 6, 7 or 7A of the *Crimes Act 1914*, being an offence that relates to an offence referred to in paragraph (d) and is committed after the commencement of this paragraph;”.

Repeal of certain sections

46. Sections 124FE and 124FF of the Principal Act are repealed.

Further amendments of the Principal Act

47. The Principal Act is further amended as set out in Schedule 2.

**PART 6—AMENDMENTS OF THE NATIONAL HEALTH ACT
1953**

Principal Act

48. In this Part, “Principal Act” means the *National Health Act 1953*⁴.

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Recognised days of absence of qualified nursing home patients etc.

49. Section 4AA of the Principal Act is amended by omitting subsection (6) and substituting the following subsection:

“(6) For the purposes of this section, a day in a relevant period is an eligible day in relation to a qualified nursing home patient of an approved nursing home if, on that day, the patient is absent from the nursing home and:

- (a) that absence is due to the fact that the patient has to be, is, or has been, in attendance at a hospital for the purpose of receiving hospital treatment; or
- (b) where paragraph (a) does not apply:
 - (i) if the relevant period is the year commencing on 1 July 1989—the number of recognised days of absence of the patient from the approved nursing home or another approved nursing home before that day during the relevant period is less than 28; or
 - (ii) in any subsequent relevant period—the number of recognised days of absence of the patient from the approved nursing home or another approved nursing home before that day during the relevant period (excluding any day that is a recognised day because paragraph (a) applies) is less than 28.”.

Interpretation

50. Section 39 of the Principal Act is amended by inserting the following definition:

“‘**Charter**’ means the Charter of Residents’ Rights and Responsibilities in Approved Nursing Homes referred to in section 45F;”.

Approval of nursing home

51. Section 40AA of the Principal Act is amended:

- (a) by omitting from subparagraph (6) (bc) (ii) all words after “Charter”;
- (b) by inserting after paragraph (6) (cd) the following paragraphs:
 - “(cda) a condition that the proprietor of the nursing home must not, in respect of a proposed admission to the home of a person as a short-term respite care patient, request, solicit or accept from that person or any other person, a payment that exceeds, or together with another payment exceeds, the amount of the fee that, under the regulations, the proprietor of the nursing home may request the person to pay in respect of the proposed admission;
 - (cdb) a condition that, where:

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- (i) an amount has been paid to the proprietor of the nursing home in respect of the proposed admission to the home of a person as a short-term respite care patient; and
- (ii) that person is not subsequently so admitted to the home;

the proprietor of the nursing home must, except in circumstances where the regulations otherwise provide, refund that amount to the payee in accordance with the regulations;”.

Agreement between proprietor and patient

52. Section 40ABB of the Principal Act is amended by omitting from subsection (2) “statement formulated under section 45F” and substituting “Charter”.

Referral of request to Nursing Homes Fees Review Committee of Inquiry

53. Section 40AEC of the Principal Act is amended:

- (a) by inserting in subsection (1) “by the proprietor of a nursing home” after “(2)”;
- (b) by omitting from subsection (1) “the appropriate Nursing Homes Fees Review Committee of Inquiry established” and substituting “a Nursing Homes Fees Review Committee of Inquiry established for that State”.

54. Section 45F of the Principal Act is repealed and the following section is substituted:

Charter of Residents’ Rights and Responsibilities

“45F. A statement of the rights and responsibilities of patients of approved nursing homes, to be called the Charter of Residents’ Rights and Responsibilities in Approved Nursing Homes, is set out in Schedule 2.”.

Conditions of registration

55. Section 73BA of the Principal Act is amended by omitting “the Schedule” and substituting “Schedule 1”.

Interpretation

56. Section 84 of the Principal Act is amended:

- (a) by omitting from the definition of “entitlement card” in subsection (1) all words after “includes” and substituting “an additional entitlement card, or a replacement entitlement card, issued under section 84H”;
- (b) by adding at the end of the definition of “general benefit

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prescription” in subsection (1) the following word and paragraph:
“or (d) a concession card prescription;”;

(c) by inserting in subsection (1) the following definitions:

“**‘concession card’** means a safety net concession card issued under section 84DA and includes an additional concession card, or a replacement concession card, issued under section 84H;

‘concession 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 a concession card;”.

Concessional benefit prescriptions, concession card prescriptions and entitlement card prescriptions

57. Section 84AA of the Principal Act is amended:

(a) by inserting in subsection (1A) “a concession card or” after “holder of” (wherever occurring);

(b) by inserting in subsection (3) “a concession card or” after “holder of” (wherever occurring).

Heading to Division 1A of Part VII

58. The heading to Division 1A of Part VII of the Principal Act is amended by omitting “**Pharmaceutical**” and substituting “**Safety net concession cards and pharmaceutical**”.

Eligibility for safety net concession card and pharmaceutical benefits entitlement card

59. Section 84C of the Principal Act is amended by inserting before subsection (1) the following subsection:

“(1AA) A person who is a general patient at any time during a relevant entitlement period is eligible to be issued with a concession card if:

(a) the total of the amounts charged (otherwise than under subsection 87 (2A)) to the person for supplies of pharmaceutical benefits (including supplies taken, because of subsection 99 (2A) to be supplies otherwise than under this Part) made to the person during the period; or

(b) the total of the amounts charged (otherwise than under subsection 87 (2A)) to the person and to the person’s family for supplies for pharmaceutical benefits (including supplies taken, because of subsection 99 (2A) to be supplies otherwise than under this Part) made to the person and the person’s family during the period;

is not less than \$300.”.

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60. After section 84D of the Principal Act the following section is inserted:

Issue of safety net concession card

“84DA. (1) Where:

- (a) a person applies to the Secretary for a safety net concession card in respect of a relevant entitlement period; and
- (b) the Secretary is satisfied that the person is eligible to be issued with such a card in respect of that period;

the Secretary must issue a safety net concession 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 safety net concession 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 such a card in respect of that period;

the pharmacist, medical practitioner or authority may issue a safety net concession card to the person in respect of that period.

“(3) An application under subsection (1) or (2) must:

- (a) be in the form approved by the Secretary; and
- (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 a safety net concession card, the person to whom the application is made must, in determining whether to issue a 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 safety net concession card in respect of a relevant entitlement period; and
- (b) the pharmacist, medical practitioner or authority issues such a card to the person in respect of that period;

the pharmacist, medical practitioner or authority must submit the application, and all documents that accompanied the application, to the Secretary by lodging them at a prescribed office within one month

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(or such longer period as is prescribed) after the day on which the card is issued.”.

Form of cards

61. Section 84F of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsections:

“(1) A concession card must be in the form approved by the Secretary for that card.

“(1A) An entitlement card must be in the form approved by the Secretary for that card.”;

(b) by inserting in subsection (2) “a concession card and” before “an entitlement card”;

(c) by inserting in subsection (3) “a concession card or” after “from”.

Persons covered by card

62. Section 84G of the Principal Act is amended by inserting “a concession card or” after “Where”.

Additional and replacement cards

63. Section 84H of the Principal Act is amended:

(a) by omitting from subsection (1) all words to and including “may” and substituting “Where a concession card or an entitlement card has been issued, an additional concession card or an additional entitlement card (as the case may be) may”;

(b) by inserting in paragraphs (2) (a) and (b) “a concession card or” after “holder of”;

(c) by omitting paragraph (3) (a) and substituting the following paragraph:

“(a) a person (in this subsection called the ‘**original card holder**’) has been issued with a concession card, or an entitlement card, in respect of a relevant entitlement period; and”;

(d) by omitting from subsection (3) “a replacement card” (first occurring) and substituting “a replacement concession card or a replacement entitlement card (as the case may be)”.

Fee to approved pharmacist etc. for issuing card

64. Section 84HA of the Principal Act is amended by omitting from subsection (1) “a pharmaceutical benefits entitlement card or an additional or replacement card” and substituting “a safety net concession card, a pharmaceutical benefits entitlement card or an additional or replacement card in relation to any of those cards”.

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Period of effect of card

65. Section 84J of the Principal Act is amended by omitting “An” and substituting “A concession card or an”.

Return of card

66. Section 84K of the Principal Act is amended:

- (a) by inserting “a concession card or” after “Where”;
- (b) by omitting “entitlement” (second occurring).

Offences

67. Section 84L of the Principal Act is amended:

- (a) by inserting in subsection (1) “a concession card or” after “issue”;
- (b) by omitting from subsection (1) “the entitlement card” and substituting “such a card”;
- (c) by inserting in subsection (2) “a concession card or” after “include in”;
- (d) by inserting in subsection (4) “84DA (5) or” after “subsection”.

Limited charges for pharmaceutical benefits

68. Section 87 of the Principal Act is amended:

- (a) by inserting before paragraph (3A) (c) the following paragraph:
“(ba) a holder of a concession card;”;
- (b) by inserting before paragraph (3B) (c) the following paragraph:
“(ba) a holder of a concession card;”.

Entitlement to refund in certain circumstances

69. Section 87A of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) “a pensioner, a dependant of a pensioner, the holder of” and substituting “the holder of a concession card or”;
- (b) by inserting in paragraph (1) (a) “a concession card or” after “with”.

Approvals to be subject to conditions

70. Section 92A of the Principal Act is amended by inserting in paragraph (1) (ca) “, a concession card prescription” after “concessional benefit prescription” (wherever occurring).

Interpretation

71. Section 99F of the Principal Act is amended by adding “or subsection 84C (1AA)” at the end of the definition of “general patient restricted safety net”.

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72. (1) Section 117A of the Principal Act is repealed and the following section is substituted:

Nursing Homes Fees Review Committees of Inquiry

“117A. (1) The Minister may establish in each State one or, where appropriate, more than one committee, each called a Nursing Homes Fees Review Committee of Inquiry for the State in which it is established.

“(2) A committee consists of 3 persons appointed by the Minister.”.

(2) A committee established under section 117A of the Principal Act and in existence immediately before the commencement of this section continues in existence, after that commencement, as if it were a committee established under section 117A of the Principal Act as amended by this Act.

Schedule

73. The Schedule is amended by omitting the heading and substituting:

“SCHEDULE 1”.

New Schedule

74. The Principal Act is amended by adding at the end the following Schedule:

“SCHEDULE 2

Section 45F

**CHARTER OF RESIDENTS’ RIGHTS AND RESPONSIBILITIES
IN APPROVED NURSING HOMES**

Preamble

Every person has the right to freedom and respect and the right to be treated fairly by others. A person’s rights do not diminish when he or she moves into a nursing home, regardless of his or her physical or mental frailty or ability to exercise or fully appreciate his or her rights.

A positive, supportive and caring attitude by family, friends, nursing home proprietors and staff, carers and the community will help people who live in nursing homes to continue as integral, respected and valued members of society.

Australian society has a strong commitment to social justice principles. Those principles recognise the aspirations of all Australians to a dignified and secure way of life with equal access to health care, housing and education, and equal rights in civil, legal and consumer matters. They form the basis of a society which is free of prejudice and is caring, just and humane.

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This Charter affirms those social justice principles.

The personal, civil, legal and consumer rights of each resident are not diminished in any way when he or she moves into a nursing home.

The Charter also recognises that residents of nursing homes have the responsibility to ensure that the exercising of their individual rights does not affect others' individual rights, including those providing care. The Charter recognises that residents have specific rights and responsibilities which balance the needs of the individual against the needs of the nursing home community as a whole.

EACH RESIDENT OF A NURSING HOME HAS THE RIGHT:

- to quality care which is appropriate to his or her needs.
- to full information about his or her own state of health and about available treatments.
- to be treated with dignity and respect, and to live without exploitation, abuse or neglect.
- to live without discrimination or victimisation. The resident is not obliged to feel grateful to those providing his or her care and accommodation.
- to personal privacy.
- to live in a safe, secure and homelike environment, and to move freely both within and outside the nursing home without undue restriction.
- to be treated and accepted as an individual. Each resident's individual preferences are to be taken into account and treated with respect.
- to continue his or her cultural and religious practices and to retain the language of his or her choice, without discrimination.
- to select and maintain social and personal relationships with any other person without fear, criticism or restriction.
- to freedom of speech.
- to maintain his or her personal independence, which includes a recognition of personal responsibility for his or her own actions and choices. Some actions may involve an element of risk which the resident has the right to accept, and which should then not be used to prevent or restrict those actions.
- to maintain control over, and to continue making decisions about, the personal aspects of his or her daily life, his or her financial affairs and his or her possessions.
- to be involved in the activities, associations and friendships of his or her choice, both within and outside the nursing home.
- to have access to services and activities which are available generally in the community.

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- to be consulted on, and to choose to have input into, decisions about the living arrangements of the nursing home.
- to have access to information about his or her rights, care, accommodation, and any other information which relates to him or her personally.
- to complain and to take action to resolve disputes.
- to have access to advocates and other avenues of redress. Reprisal in any form shall not be made against any resident who takes action to enforce his or her rights.

EACH RESIDENT OF A NURSING HOME HAS THE RESPONSIBILITY:

- to respect the rights and needs of other people within the nursing home, and to respect the needs of the nursing home community as a whole.
- to respect the right of staff and the proprietor to work in an environment which is free from harassment.
- for his or her own health and well-being, as far as he or she is capable.
- to inform his or her medical practitioner, as far as he or she is able, about his or her relevant medical history and his or her current state of health.”.

PART 7—AMENDMENTS OF THE STATES GRANTS (NURSE EDUCATION TRANSFER ASSISTANCE) ACT 1985

Principal Act

75. In this Act, “**Principal Act**” means the *States Grants (Nurse Education Transfer Assistance) Act 1985*⁵.

Interpretation

76. Section 3 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“ **‘approved course’** means any of the following courses:

- (a) a basic nurse undergraduate course;
- (b) a basic nurse degree course;
- (c) an extended nurse degree course;

‘basic nurse degree course’ means a three-year course leading to the award of a degree that provides an initial qualification in relation to nursing;

‘eligible student’ means a student (other than a student who is registered, or is eligible for registration, as a nurse under a law of a State or Territory) who:

- (a) is enrolled at a higher education institution for:

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- (i) a basic nurse undergraduate course; or
 - (ii) a basic nurse degree course; or
- (b) is enrolled at a higher education institution for an extended nurse degree course and has not yet satisfied the requirements for the completion of 3 years of that course;

‘extended nurse degree course’ means a course, longer than a three-year course, leading to the award of a degree that provides an initial qualification in relation to nursing;”.

Special nurse education transfer grants

77. Section 4 of the Principal Act is amended:

- (a) by omitting from subsections (1), (2) and (3) “basic nurse undergraduate courses” and substituting “approved courses to eligible students”;
- (b) by inserting in subparagraphs (3) (c) (i) and (ii) “eligible” before “students”;
- (c) by omitting from subparagraphs (3) (c) (i) and (ii) “basic nurse undergraduate” and substituting “approved”.

**PART 8—AMENDMENTS OF THE THERAPEUTIC GOODS ACT
1989**

Principal Act

78. In this Part, “**Principal Act**” means the *Therapeutic Goods Act 1989*⁶.

Interpretation

79. Section 3 of the Principal Act is amended by omitting from subsection (1) the definition of “sponsor” and substituting the following definition:

“**‘sponsor’**, in relation to therapeutic goods, means:

- (a) a person who exports, or arranges the exportation of, the goods from Australia; or
- (b) a person who imports, or arranges the importation of, the goods into Australia; or
- (c) a person who, in Australia, manufactures the goods, or arranges for another person to manufacture the goods, for supply (whether in Australia or elsewhere);

but does not include a person who:

- (d) exports, imports or manufactures the goods; or
- (e) arranges the exportation, importation or manufacture of the goods;

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on behalf of another person who, at the time of the exportation, importation, manufacture or arrangements, is a resident of, or is carrying on business in, Australia;”.

Forms etc. of therapeutic goods

80. Section 16 of the Principal Act is amended:

- (a) by omitting from subsection (1) “For the purposes of this Part, therapeutic goods are” and substituting “Subject to this section, therapeutic goods are, for the purposes of this Part,”;
- (b) by omitting subsection (2) and substituting the following subsections:

“(2) The Secretary may, by order published in the *Gazette*, determine that a group of therapeutic goods (not being therapeutic devices) identified in the order is to be treated as single therapeutic goods for the purposes of this Part because the goods within the group have common characteristics.

“(3) The Secretary may, by order published in the *Gazette*, determine that a group of therapeutic goods (being therapeutic devices) identified in the order is to be treated as single therapeutic goods for the purposes of this Part because the goods within the group:

- (a) have common characteristics; and
- (b) have been produced by the same manufacturer.”.

Schedule

81. The Schedule to the Principal Act is amended by omitting “*Sea Installations Act 1989*” and substituting “*Sea Installations Act 1987*”.

SCHEDULE 1

Section 23

**CONSEQUENTIAL AMENDMENTS OF THE HEALTH
INSURANCE ACT 1973 RELATING TO
DIAGNOSTIC IMAGING SERVICES**

Paragraph 23DA (4) (a):

Omit the paragraph, substitute:

“(a) a determination under paragraph 124F (2) (d) or (e), subparagraph 124FB (1) (e) (iv), (v) or (vi) or 124FC (1) (e) (iv) or (v) or paragraph 124FF (2) (d), (e) or (f); or”.

Subsection 124B (1) (definition of “determination”):

Omit “or 124FC (1)”, substitute “, 124FC (1) or 124FF (1), (2) or (5)”.

Paragraph 124FA (1) (a):

Omit “(2A)”, substitute “(3)”.

Paragraph 124FA (2) (a):

Omit “(2A)”, substitute “(3)”.

Paragraph 124FB (1) (a):

Omit “(2A)”, substitute “(3)”.

Paragraph 124FC (1) (a):

Omit “(2A)”, substitute “(3)”.

Subsection 124H (7):

Insert “, 124FE (1) or (2), 124FF (1), (2) or (5)” after “124FC (1)”.

Subsection 124J (2A):

Insert “or 124FE (1) or (2)” after “124FA (1) or (2)”.

Subsection 124J (5A):

Omit the subsection, substitute:

“(5A) A Committee may:

- (a) conduct simultaneously a hearing pursuant to a notice under subsection 23DL (4) and a hearing or hearings pursuant to a determination or determinations made under subsection 124FA (1) or (2) in the course of proceedings in relation to that notice; and
- (b) conduct simultaneously a hearing pursuant to a notice under subsection 23ZJ (1) and a hearing or hearings pursuant to a

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SCHEDULE 1—continued

determination or determinations made under subsection 124FE (1) or (2) in the course of proceedings pursuant to that notice.”.

Subsection 124J (5B):

Add at the end “or 124FE (1) or (2)”.

Subsection 124J (7):

Omit “2”.

Paragraph 124J (7) (b):

Omit “both”, substitute “a majority of the remaining”.

Subsection 124J (8):

Omit “or (2A)”, substitute “, (3) or (4)”.

Subsection 124J (10):

Add at the end:

“; and (c) in the case of a hearing pursuant to a notice under subsection 23DZJ (1)—any person in relation to whom the Committee makes a determination under subsection 124FE (1) or (2) in the course of proceedings pursuant to that notice; and

(d) in the case of a hearing pursuant to a determination made under subsection 124FE (1) or (2) in the course of proceedings pursuant to a notice under subsection 23DZJ (1):

(i) the person to whom the notice under subsection 23DZJ (1) relates; and

(ii) any other person in relation to whom the Committee makes a determination under subsection 124FE (1) or (2) in the course of those proceedings.”.

Paragraph 124T (2) (b):

Omit the paragraph, substitute:

“(b) in the case of a determination of a kind referred to in paragraph 124F (2) (b) or (c), subparagraph 124FB (1) (e) (ii) or (iii) or 124FC (1) (e) (ii) or (iii) or paragraph 124FF (2) (b) or (c)—the person concerned has been counselled or reprimanded, as the case may be;”.

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SCHEDULE 1—continued

Section 129AD:

Omit “or 124FC (1)”, substitute “, 124FC (1) or 124FF (5)”.

SCHEDULE 2

Section 47

**FURTHER AMENDMENTS OF THE HEALTH INSURANCE
ACT 1973**

Paragraph 23D (2) (a):

Omit “or application for judicial review of the determination under Division 4 of that Part” and “or application” (second occurring).

Paragraph 23D (2) (b):

Omit “or an application for judicial review of a determination under Division 4 of that Part” and “or application”.

Paragraph 23D (2) (c):

Omit “or a judicial review under Division 4 of that Part”.

Paragraph 94 (c):

Insert “initiated excessive pathology services or” before “rendered”.

Paragraphs 94 (d) and (e):

Insert “initiate excessive pathology services or” before “render”.

Paragraph 104 (a):

Insert “initiated excessive pathology services or” before “rendered”.

Paragraph 104 (b):

Insert “initiate excessive pathology services or” before “render”.

Section 104:

Omit “the excessive services”, substitute “those services”.

Paragraph 105 (2) (a):

Insert “initiated excessive pathology services or” before “render”.

Paragraph 105 (2A) (a):

Insert “initiate excessive pathology services or” before “render”.

Subsection 124B (1) (definition of “determination”):

Omit “, 124FC (1) or 124FF (1)”, substitute “or 124FC (1)”.

Subsection 124E (2B):

Omit the subsection.

Subsection 124E (2C):

Omit “or 23DM (4)” and “or (2B)”.

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SCHEDULE 2—continued

Subsection 124E (3):

Omit “, (2A) or (2B)”, substitute “or (2A)”.

Subsection 124H (7):

Omit “, 124FE (1) or (2), 124FF (1)”.

Subsection 124J (2A):

Omit “or 124FE (1) or (2)”.

Paragraph 124J (5A) (b):

Omit the paragraph.

Subsection 124J (5B):

Omit “or 124FE (1) or (2)”.

Subsection 124J (8):

Omit “, (2A) or (2B)” and substitute “or (2A)”.

Paragraphs 124J (10) (c) and (d):

Omit the paragraphs.

Subsection 124S (6):

Omit “6”, substitute “5”.

Paragraph 124T (2) (b):

(a) Omit “, 124FC”, substitute “or 124FC”.

(b) Omit “or 124FF (1) (e) (ii) or (iii)”.

NOTES

1. No. 81, 1954, as amended. For previous amendments, see No. 47, 1957; No. 83, 1967; No. 68, 1969; No. 84, 1972; Nos. 128 and 216, 1973; No. 115, 1974; Nos. 37 and 91, 1976; No. 137, 1980; No. 61, 1981; No. 98, 1982; No. 69, 1983; Nos. 78, 134 and 165, 1984; Nos. 24 and 127, 1985; Nos. 115 and 163, 1986; Nos. 72, and 132, 1987; Nos. 79, 99 and 155, 1988; No. 87, 1989; and No. 3, 1990.
2. No. 129, 1986, as amended. For previous amendments, see Nos. 80 and 99, 1988.
3. 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; Nos. 28, 75 and 94, 1986; Nos. 44, 131, 132 and 141, 1987; Nos. 85, 87, 99 and 155, 1988; Nos. 59, 84, 95 and 164, 1989; and No. 3 1990.

NOTES—continued

4. 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; Nos. 28, 75, 94 and 115, 1986; Nos. 22, 44, 72, 118, 131 and 132, 1987; Nos. 79, 87, 99 and 155, 1988; No. 95, 1989; and Nos. 3 and 106, 1990.
5. No. 164, 1985, as amended. For previous amendments, see No. 75, 1986; No. 132, 1987; No. 79, 1988; No. 80, 1988; and No. 95, 1989.
6. No. 21, 1990.

ADDITIONAL NOTE

The heading to section 10FA of the *Aged or Disabled Persons Homes Act 1954* is amended by omitting “**Eligible organisation**” and substituting “**Organisation**”.

[*Minister’s second reading speech made in—
House of Representatives on 8 November 1990
Senate on 14 November 1990*]