



Medical Indemnity Legislation Amendment Act 2006

No. 116, 2006

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 116, 2006

An Act to amend legislation relating to medical indemnity, and for related purposes

[Assented to 4 November 2006]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Medical Indemnity Legislation
Amendment Act 2006*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	4 November 2006
2. Schedule 1, item 1	1 July 2004.	1 July 2004
3. Schedule 1, items 2 to 19	The day on which this Act receives the Royal Assent.	4 November 2006
4. Schedule 1, items 20 and 21	1 July 2004.	1 July 2004
5. Schedule 1, items 22 and 23	The day on which this Act receives the Royal Assent.	4 November 2006
6. Schedule 2	The day on which this Act receives the Royal Assent.	4 November 2006

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

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Principal amendments

Medical Indemnity Act 2002

1 Paragraph 34ZB(1)(c)

Repeal the paragraph.

2 Section 34ZC

Before “A run-off cover indemnity”, insert “(1)”.

3 After paragraph 34ZC(a)

Insert:

- (ab) at the time the claim is first notified to the MDO or medical indemnity insurer, the person is a person to whom subsection 34ZB(2) applies; and

4 At the end of section 34ZC

Add:

- (2) Paragraph (1)(c) does not apply to a payment that a medical indemnity insurer makes or is liable to make unless the payment is or would be made:
 - (a) in relation to a claim made in relation to medical indemnity cover that section 26A or 26C of the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* requires the insurer to provide for the person; and
 - (b) in the insurer’s ordinary course of business.

5 Paragraph 34ZD(1)(a)

Omit “paragraph 34ZC(b)”, substitute “paragraph 34ZC(1)(b)”.

6 Subsection 34ZD(2)

Omit “paragraph 34ZC(c)”, substitute “paragraph 34ZC(1)(c)”.

7 Subparagraph 34ZE(2)(a)(ii)

Omit “paragraphs 34ZC(a) to (e)”, substitute “paragraphs 34ZC(1)(a) to (e)”.

8 Subsection 34ZH(1)

Repeal the subsection, substitute:

- (1) The amount of a run-off cover indemnity is:
- (a) if it is payable to an MDO—the amount of the payment referred to in paragraph 34ZC(1)(b); or
 - (b) if it is payable to a medical indemnity insurer—the amount of the payment referred to in paragraph 34ZC(1)(c), but only to the extent that the payment is or would be made:
 - (i) in relation to a claim made in relation to medical indemnity cover that section 26A or 26C of the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* requires the insurer to provide for a person; and
 - (ii) in the insurer’s ordinary course of business.

9 Paragraph 34ZU(2)(c)

Repeal the paragraph, substitute:

- (c) be given to the Medicare Australia CEO within a period, starting on the day after the day on which the person becomes aware of the cessation, of:
- (i) 61 days; or
 - (ii) such greater number of days as the Minister determines by legislative instrument.

10 Subsection 40(3)

Omit “paragraph (1)(d)”, substitute “paragraph (1)(e)”.

Note: This item fixes an incorrect cross-reference.

Medical Indemnity (Prudential Supervision and Product Standards) Act 2003

11 Subsection 6(2) (note 2)

Omit “ERB cover”, substitute “extended reporting benefit cover”.

12 Subsection 6(2) (note 2)

Omit “DDR cover”, substitute “Death, disability and retirement cover”.

13 Subsection 6(4) (note)

Omit “ERB cover”, substitute “Extended reporting benefit cover”.

14 Subsection 6(4) (note)

Omit “DDR cover”, substitute “death, disability and retirement cover”.

Note: The heading to section 7 is altered by omitting “DDR” and substituting “**death, disability and retirement**”.

15 Subsection 18(1) (note)

Omit “ERB and DDR cover”, substitute “extended reporting benefit cover and death, disability and retirement cover”.

16 Subsection 19(1) (note)

Omit “ERB and DDR cover”, substitute “extended reporting benefit cover and death, disability and retirement cover”.

17 Subsection 21(1) (note)

Omit “ERB and DDR cover”, substitute “extended reporting benefit cover and death, disability and retirement cover”.

18 After paragraph 22(2)(c)

Insert:

- ; and (d) the medical indemnity cover does not relate to all compensation claims that are made against the health care professional, during a period that includes the whole of the claims period for the regulated insurance contract, in relation to the health care professional’s otherwise uncovered prior incidents.

19 Subparagraph 22(3)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) if the client gives the insurer a written response to the compulsory offer—that response;

20 Paragraph 26A(4)(a)

Repeal the paragraph, substitute:

- (a) it covers incidents that occurred while the practitioner was registered or licensed as a medical practitioner under a State or Territory law that provides for the registration or licensing of medical practitioners; and

21 Subsection 26A(6)

Repeal the subsection.

22 Paragraph 26D(2)(b)

Omit “within 28 days after providing the medical indemnity cover”, substitute “within the notification period”.

23 After subsection 26D(2)

Insert:

(2A) The notification period for the purposes of paragraph (2)(b) is a period, starting on the day after the day on which the insurer provides the medical indemnity cover in question, of:

- (a) 61 days; or
- (b) such greater number of days as the Minister administering the *Medical Indemnity Act 2002* determines by legislative instrument.

Schedule 2—Technical amendments relating to legislative instruments

Medical Indemnity Act 2002

1 Subsection 12(1)

After “The Minister may”, insert “, by legislative instrument,”.

2 Subsection 12(5)

Repeal the subsection.

3 Paragraph 22(1)(b)

Omit “in writing”, substitute “, by legislative instrument,”.

4 Subsection 22(6)

Repeal the subsection.

5 Subsection 27A(1)

Omit “writing”, substitute “legislative instrument”.

6 Subsection 27A(5)

Repeal the subsection.

7 Subsection 34X(1)

Omit “writing”, substitute “legislative instrument”.

8 Subsection 34X(5)

Repeal the subsection.

9 Subsection 34ZN(1)

Omit “writing”, substitute “legislative instrument”.

10 Subsection 34ZN(5)

Repeal the subsection.

11 Paragraph 34ZP(2)(a)

Omit “determines in writing”, substitute “, by legislative instrument, determines”.

12 Subsection 34ZP(3)

Repeal the subsection.

13 Subsection 43(1)

Omit “writing”, substitute “legislative instrument”.

14 Subsection 43(4)

Repeal the subsection.

Medical Indemnity (Prudential Supervision and Product Standards) Act 2003

15 Subsection 13(9)

After “APRA may”, insert “, by legislative instrument,”.

16 Subsection 13(11)

Repeal the subsection.

17 Paragraph 26A(4)(d)

Omit “in writing”, substitute “, by legislative instrument,”.

18 Subsection 26A(5)

Repeal the subsection.

19 Subparagraph 26D(2)(b)(iii)

Omit “in writing”, substitute “, by legislative instrument,”.

20 Subsection 26D(3)

Repeal the subsection.

*[Minister's second reading speech made in—
House of Representatives on 13 September 2006
Senate on 12 October 2006]*

(134/06)