



Health Legislation Amendment Act 2007

No. 180, 2007

An Act to amend the law in relation to health and private health insurance, 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. 180, 2007

An Act to amend the law in relation to health and private health insurance, and for related purposes

[Assented to 28 September 2007]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Health Legislation Amendment Act 2007*.

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
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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.	28 September 2007
2. Schedule 1, items 1 to 3	1 April 2007.	1 April 2007
3. Schedule 1, items 4 to 4B	The day after this Act receives the Royal Assent.	29 September 2007
4. Schedule 1, item 5	1 April 2007.	1 April 2007
5. Schedule 1, item 6	The day after this Act receives the Royal Assent.	29 September 2007
6. Schedule 2, items 1 to 6	1 August 2007.	1 August 2007
7. Schedule 2, item 7	Immediately after the commencement of item 15 of Schedule 1 to the <i>National Health Amendment (Pharmaceutical Benefits) Act 2007</i> .	28 September 2007
8. Schedule 2, items 8 to 11	1 August 2007.	1 August 2007

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule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—Private health insurance

Part 1—Amendments

Private Health Insurance Act 2007

1 Paragraph 84-1(1)(b)

Repeal the paragraph, substitute:

- (b) the insurance under the policy, or under a policy in the product, is *health insurance business; and

2 Paragraph 84-1(1)(c)

Omit “policy.”, substitute “policy; and”.

3 After paragraph 84-1(1)(c)

Insert:

- (d) the *health insurance business is not business of a kind specified in the Private Health Insurance (Complying Product) Rules as excluded from subsection 63-1(1).

4 Subsection 126-20(4)

After “discrimination”, insert “in relation to the applicant’s *complying health insurance policies”.

4A Subsection 270-45(4)

Omit “The *member”, substitute “Unless the Minister or the Council otherwise determines, the *member”.

4B At the end of section 270-45

Add:

- (5) For the purposes of the Council making a determination under subsection (4) in relation to a *member who has made a disclosure under subsection (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:
 - (a) be present during any deliberations of Council for the purposes of making the determination; or

(b) take part in the making by the Council of the determination.

Part 2—Transitional provisions

5 Transitional provision in relation to health cover for overseas visitors

- (1) This item applies in relation to business that, at any time in the period starting on 1 April 2007 and ending on 30 June 2008 (the *transition period*), is covered by subrule 17(2) of the Private Health Insurance (Health Insurance Business) Rules made under the *Private Health Insurance Act 2007*.
- (2) During the transition period, sections 63-1 and 84-1 of the *Private Health Insurance Act 2007* do not apply in relation to insurance that is that kind of business.

6 Certain business taken to be health insurance business for certain purposes during transition period

For the purposes of:

- (a) paragraphs 12BAA(7)(d) and (8)(b) of the *Australian Securities and Investments Commission Act 2001*; and
- (b) paragraph 765A(1)(c) of the *Corporations Act 2001*; and
- (c) paragraph (k) of the definition of *insurance business* in subsection 3(1) of the *Insurance Act 1973*; and
- (d) paragraph 9(1)(b) of the *Insurance Contracts Act 1984*;

business that, at any time during the period starting on the day this item commences and ending on 30 June 2008, is covered by rule 18 of the Private Health Insurance (Health Insurance Business) Rules made under the *Private Health Insurance Act 2007* is, during that period, taken to be health insurance business.

Schedule 2—Pharmaceutical benefits

National Health Act 1953

1 Subsection 84(1)

Insert:

Schedule equivalent has the meaning given by section 84AJ.

2 Subsection 84(1B)

Repeal the subsection, substitute:

(1B) If:

- (a) a prescription directs a repeated supply of a pharmaceutical benefit (the *specified benefit*); and
- (b) another pharmaceutical benefit (the *supplied benefit*) is supplied, on the repeated supply, in accordance with subsection 103(2A);

then, for the purposes of determining whether a repeated supply of the specified benefit has occurred, the supplied benefit is taken to be the repeated supply, upon the prescription, of the specified benefit.

3 Paragraph 84AAA(1)(a)

Repeal the paragraph, substitute:

- (a) the supply of the pharmaceutical benefit is made within 20 days after the day of a previous supply to the person of:
 - (i) the pharmaceutical benefit; or
 - (ii) another pharmaceutical benefit that has the same pharmaceutical item as the pharmaceutical benefit; or
 - (iii) another pharmaceutical benefit that is Schedule equivalent to the pharmaceutical benefit;whether or not the previous supply was a supply of a kind described in paragraph 84C(4A)(a); and

4 At the end of Division 1 of Part VII

Add:

84AJ When pharmaceutical benefits are Schedule equivalent

A pharmaceutical benefit (the *first benefit*) is *Schedule equivalent* to another pharmaceutical benefit (the *second benefit*) if the Schedule of Pharmaceutical Benefits referred to in paragraph 103(2A)(b) states that the first benefit and the second benefit are equivalent.

5 Paragraph 84C(3)(b)

Omit “the pharmaceutical benefit”, substitute “a pharmaceutical benefit”.

6 Subsections 88(1AA) and (1B)

After “the pharmaceutical benefit” (first occurring), insert “that he or she is directing”.

7 Subsection 88(1D)

After “the pharmaceutical benefit” (first occurring), insert “that he or she is directing”.

8 Paragraphs 88(8)(a) and (b)

Repeal the paragraphs, substitute:

- (a) the supply of a pharmaceutical benefit (the *first benefit*) and another pharmaceutical benefit (the *second benefit*) is directed; and
- (b) the second benefit is:
 - (i) Schedule equivalent to the first benefit; or
 - (ii) if the first benefit is a listed brand of a pharmaceutical item—another listed brand of the pharmaceutical item;

9 Paragraph 103(2)(a)

Omit “as specified”, substitute “that is directed to be supplied”.

10 Subsection 103(2A)

Omit “in lieu of a listed brand of a pharmaceutical item specified in a prescription (the *specified benefit*), another listed brand of the pharmaceutical item”, substitute “instead of the pharmaceutical benefit that is directed to be supplied in a prescription (the *specified benefit*), another pharmaceutical benefit”.

11 After paragraph 103(2A)(b)

Insert:

- (c) the substitute benefit is a listed brand of a pharmaceutical item; and
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*[Minister's second reading speech made in—
House of Representatives on 13 September 2007
Senate on 20 September 2007]*

(179/07)
