



Medical Research Future Fund (Consequential Amendments) Act 2015

No. 117, 2015

**An Act to deal with consequential matters arising
from the enactment of the *Medical Research Future
Fund Act 2015*, and for related purposes**

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

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**An Act to deal with consequential matters arising
from the enactment of the *Medical Research Future
Fund Act 2015*, and for related purposes**

[Assented to 26 August 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Medical Research Future Fund
(Consequential Amendments) Act 2015*.

No. 117, 2015 Medical Research Future Fund (Consequential Amendments) Act 2015

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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 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 26 August 2015 |
| 2. Schedule 1 | The later of the following days: (a) the day after this Act receives the Royal Assent; (b) the day after the <i>Medical Research Future Fund Act 2015</i> receives the Royal Assent. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 27 August 2015 |
| 3. Schedule 2 | A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day Schedule 1 to this Act commences, they commence on the day after the end of that period. | 29 October 2015 (F2015L01667) |
| 4. Schedule 3 | The later of: (a) immediately after the commencement of Schedule 1 to this Act; and (b) the commencement of Schedule 1 to the <i>Acts and Instruments (Framework Reform) Act 2015</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 5 March 2016 (paragraph (b) applies) |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation 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—Main amendments

COAG Reform Fund Act 2008

1 Subsection 5(2) (after note 2A)

Insert:

Note 2AA: An amount originating in the Medical Research Future Fund may be transferred to the COAG Reform Fund—see the *Medical Research Future Fund Act 2015*.

2 After paragraph 7(1)(ba)

Insert:

(baa) the grant is not covered by subsection 21(1) of the *Medical Research Future Fund Act 2015*; and

3 Subsection 7(3) (after note 1A)

Insert:

Note 1AA: The provision referred to in paragraph (1)(baa) deals with the channelling, through the COAG Reform Fund, of State/Territory grants payments from the Medical Research Future Fund established by the *Medical Research Future Fund Act 2015*. For terms and conditions of those grants, see the *Medical Research Future Fund Act 2015*.

DisabilityCare Australia Fund Act 2013

4 Subparagraphs 16(a)(iii) to (vi)

Repeal the subparagraphs, substitute:

- (iii) paragraph 18(1)(j), 136(1)(j), 137(e) or 218(1)(f) of the *Nation-building Funds Act 2008*; or
- (iv) paragraph 19(a) of the *Medical Research Future Fund Act 2015*;

5 Subparagraphs 16(b)(iii) to (vi)

Repeal the subparagraphs, substitute:

- (iii) paragraph 18(1)(k), 136(1)(k), 137(f) or 218(1)(g) of the *Nation-building Funds Act 2008*; or

- (iv) paragraph 19(b) of the *Medical Research Future Fund Act 2015*;

6 Subparagraphs 16(c)(iii) to (vi)

Repeal the subparagraphs, substitute:

- (iii) a paragraph of subsection 18(1), 136(1) or 218(1) or of section 137 of the *Nation-building Funds Act 2008*; or
- (iv) paragraph 19(c) of the *Medical Research Future Fund Act 2015*;

Future Fund Act 2006

7 Section 4 (note)

Omit “and the *DisabilityCare Australia Fund Act 2013*”, insert “, the *DisabilityCare Australia Fund Act 2013* and the *Medical Research Future Fund Act 2015*”.

8 Section 5

Insert:

Medical Research Future Fund means the Medical Research Future Fund established by section 11 of the *Medical Research Future Fund Act 2015*.

9 Section 5

Insert:

Medical Research Future Fund Special Account means the Medical Research Future Fund Special Account established by section 14 of the *Medical Research Future Fund Act 2015*.

10 Section 13 (note 2A)

Omit “the Education Investment Fund the Health and Hospitals Fund and the DisabilityCare Australia Fund”, substitute “the Education Investment Fund, the Health and Hospitals Fund, the DisabilityCare Australia Fund and the Medical Research Future Fund”.

11 After paragraph 28(5)(ba)

Insert:

- (bb) the *Medical Research Future Fund Act 2015*;
-

12 At the end of subsection 28(5)

Add:

; (h) subsection 50(1) of the *Medical Research Future Fund Act 2015*.

13 Section 33 (note)

Omit “and the *DisabilityCare Australia Fund Act 2013*”, insert “, the *DisabilityCare Australia Fund Act 2013* and the *Medical Research Future Fund Act 2015*”.

14 At the end of paragraph 35(b)

Add:

or (iv) the *Medical Research Future Fund Act 2015*;

15 At the end of subsection 55(3)

Add:

; and (c) the *Medical Research Future Fund Act 2015*.

16 After paragraph 63(1)(c)

Insert:

or (d) the *Medical Research Future Fund Act 2015*;

17 After paragraph 63(2)(ab)

Insert:

(ac) the *Medical Research Future Fund Act 2015*; or

18 After subsection 81(1D)

Insert:

Medical Research Future Fund

(1E) A report under subsection (1) for a period must include a report of the following during the period:

- (a) the performance of the investments of the Medical Research Future Fund;
- (b) the total amount debited from the Medical Research Future Fund Special Account for the purpose mentioned in paragraph 18(d) of the *Medical Research Future Fund Act 2015*;

- (c) the total amount debited from the Medical Research Future Fund Special Account for the purpose mentioned in paragraph 19(d) of the *Medical Research Future Fund Act 2015*;
- (d) the total amount debited from the Medical Research Future Fund Special Account for the purpose mentioned in paragraph 19(e) of the *Medical Research Future Fund Act 2015*;
- (e) the total amount debited from the Medical Research Future Fund Special Account for the purpose mentioned in paragraph 19(f) of the *Medical Research Future Fund Act 2015*.

19 After subsection 81(2D)

Insert:

- (2E) A report under this section must include a benchmark in relation to the amounts referred to in paragraphs (1E)(b) to (e).

20 After paragraph 83B(1)(da)

Insert:

- or (db) subsection 50(1) of the *Medical Research Future Fund Act 2015*;

21 After subparagraph 84(1)(b)(iia)

Insert:

- (iib) a provision of the *Medical Research Future Fund Act 2015*;

22 After subparagraph 84(1)(b)(vii)

Insert:

- or (viii) the Medical Research Future Fund Special Account;

23 After subsection 84(4A)

Insert:

Transfer of amounts to the Medical Research Future Fund Special Account

- (4B) If an amount is credited to the Fund Account under subsection (1), the nominated Minister may, by writing, direct that a specified amount is to be:
- (a) debited from the Fund Account; and
 - (b) credited to the Medical Research Future Fund Special Account;
- on a specified day.

24 Paragraph 84(5)(b)

Omit “and (4A)”, substitute “, (4A) and (4B)”.

25 Subsection 84(6)

Omit “or (4A)”, substitute “, (4A) or (4B)”.

26 At the end of paragraph 2(2)(a) of Schedule 2

Add:

or (vii) paragraph 18(e) of the *Medical Research Future Fund Act 2015*;

27 At the end of paragraph 2(2)(b) of Schedule 2

Add:

or (vii) paragraph 18(f) of the *Medical Research Future Fund Act 2015*;

28 At the end of paragraph 2(2)(c) of Schedule 2

Add:

or (vii) a paragraph of section 18 of the *Medical Research Future Fund Act 2015*;

29 Clause 1 of Schedule 2A

Omit “or the DisabilityCare Australia Fund”, substitute “, the DisabilityCare Australia Fund or the Medical Research Future Fund”.

30 Subclauses 2(2) and (3), 3(2) and (3), and 5(2) and (3), of Schedule 2A

Omit “subsection”, substitute “subclause”.

31 At the end of Schedule 2A

Add:

6 Transfers from the Future Fund to the Medical Research Future Fund

- (1) If an amount is debited from the Medical Research Future Fund Special Account for a purpose mentioned in section 19 of the *Medical Research Future Fund Act 2015*, the nominated Minister may, by writing, direct that a specified amount is to be:
 - (a) debited from the Fund Account; and
 - (b) credited to the Medical Research Future Fund Special Account;on a specified day.
- (2) The specified amount must not exceed the amount debited from the Medical Research Future Fund Special Account as mentioned in subclause (1).
- (3) A direction under subclause (1) is not a legislative instrument.

Nation-building Funds Act 2008

32 At the end of paragraph 20(a)

Add:

or (vii) paragraph 18(e) of the *Medical Research Future Fund Act 2015*;

33 At the end of paragraph 20(b)

Add:

or (vii) paragraph 18(f) of the *Medical Research Future Fund Act 2015*;

34 At the end of paragraph 20(c)

Add:

or (vii) a paragraph of section 18 of the *Medical Research Future Fund Act 2015*;

35 At the end of paragraph 138(a)

Add:

or (vii) paragraph 18(e) of the *Medical Research Future Fund Act 2015*;

36 At the end of paragraph 138(b)

Add:

or (vii) paragraph 18(f) of the *Medical Research Future Fund Act 2015*;

37 At the end of paragraph 138(c)

Add:

or (vii) a paragraph of section 18 of the *Medical Research Future Fund Act 2015*;

38 At the end of paragraph 219(a)

Add:

or (vii) paragraph 18(e) of the *Medical Research Future Fund Act 2015*;

39 At the end of paragraph 219(b)

Add:

or (vii) paragraph 18(f) of the *Medical Research Future Fund Act 2015*;

40 At the end of paragraph 219(c)

Add:

or (vii) a paragraph of section 18 of the *Medical Research Future Fund Act 2015*;

Schedule 2—Amendments relating to the abolition of the Health and Hospitals Fund

COAG Reform Fund Act 2008

1 Subsection 5(2) (note 2)

Omit “, the Education Investment Fund or the Health and Hospitals Fund”, substitute “or the Education Investment Fund”.

2 At the end of subparagraph 7(1)(b)(v)

Add “and”.

3 Subparagraph 7(1)(b)(vi)

Repeal the subparagraph.

4 Subsection 7(3) (note 1)

Omit “, the Education Investment Fund or the Health and Hospitals Fund”, substitute “or the Education Investment Fund”.

DisabilityCare Australia Fund Act 2013

5 Subparagraph 16(a)(iii)

Omit “, 137(e) or 218(1)(f)”, substitute “or 137(e)”.

6 Subparagraph 16(b)(iii)

Omit “, 137(f) or 218(1)(g)”, substitute “or 137(f)”.

7 Subparagraph 16(c)(iii)

Omit “, 136(1) or 218(1)”, substitute “or 136(1)”.

Future Fund Act 2006

8 Section 5 (definitions of *Health and Hospitals Fund* and *Health and Hospitals Fund Special Account*)

Repeal the definitions.

9 Section 13 (note 2A)

Omit “the Health and Hospitals Fund,”.

10 Paragraph 28(5)(f)

Repeal the paragraph.

11 Subsections 81(1C) and (2C)

Repeal the subsections.

12 Paragraph 83B(1)(d)

Repeal the paragraph.

13 Subparagraph 84(1)(b)(vi)

Repeal the subparagraph.

14 Subsection 84(4)

Repeal the subsection.

15 Paragraph 84(5)(b)

Omit “(4),”.

16 Subsection 84(6)

Omit “(4),”.

17 Subparagraphs 2(2)(a)(v), (b)(v) and (c)(v) of Schedule 2

Repeal the subparagraphs.

18 Clause 1 of Schedule 2A

Omit “, the Health and Hospitals Fund”.

19 Clause 4 of Schedule 2A

Repeal the clause.

Health Insurance Act 1973

20 After Part IV

Insert:

Part IVAA—Payments relating to the former Health and Hospitals Fund

46AA Payments relating to the former Health and Hospitals Fund

- (1) The Minister may, by writing, direct that, on a specified day, a specified amount is to be paid to a person if:
 - (a) the payment relates to the creation or development of health infrastructure; and
 - (b) before the repeal of Chapter 4 of the *Nation-building Funds Act 2008*:
 - (i) the HHF Advisory Board (within the meaning of Chapter 4) had advised the Minister that the making of the payment in relation to the creation or development of that infrastructure satisfied the HHF evaluation criteria; and
 - (ii) the Minister had recommended, under section 258 of that Act, the making of the payment in relation to that infrastructure; and
 - (iii) the person is not a State or Territory.

Note: Chapter 4 of the *Nation-building Funds Act 2008* established the Health and Hospitals Fund which provided payments in relation to the creation or development of health infrastructure.

- (2) Two or more directions under subsection (1) may be set out in the same document.
- (3) A direction under subsection (1) is not a legislative instrument.

46AB Terms and conditions

- (1) The terms and conditions on which a payment is made to a person under section 46AA are to be set out in a written agreement between the Commonwealth and the person.
- (2) The person must comply with the terms and conditions.
- (3) The agreement may be entered into by the Minister on behalf of the Commonwealth.

46AC Appropriation

The amounts payable under section 46AA are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

46AD Constitutional basis

- (1) This Part has effect as provided by this section.

Grants under section 96 or 122 of the Constitution

- (2) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making grants of financial assistance to a State or Territory.

Medical and dental services

- (3) This Part has the effect it would have if its operation with respect to making payments were expressly confined to payments relating to the creation or development of health infrastructure with respect to the provision of medical and dental services.

Pharmaceutical, sickness and hospital benefits

- (4) This Part has the effect it would have if its operation with respect to making payments were expressly confined to payments relating to the creation or development of health infrastructure with respect to the provision of pharmaceutical, sickness and hospital benefits.

Benefits to students

- (5) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments for the purposes of the creation or development of health infrastructure through the provision of benefits to students.

Communication

- (6) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments for the purposes of the creation or development of health infrastructure with respect to postal, telegraphic, telephonic or other like services.

Territories

- (7) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments for the purposes of the creation or development of health infrastructure in or with respect to a Territory.

Trade and commerce

- (8) This Act has the effect it would have if its operation with respect to making payments were expressly confined to making payments for the purposes of the creation or development of health infrastructure with respect to trade or commerce:
- (a) between Australia and other countries; or
 - (b) among the States; or
 - (c) between Territories or between a Territory and a State.

Corporations

- (9) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments to a corporation to which paragraph 51(xx) of the Constitution applies for the purposes of carrying out the corporation's activities.

Race

- (10) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments for the purposes of the creation or development of health infrastructure with respect to the people of any race for whom it is deemed necessary to make special laws.

Quarantine

- (11) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments for the purposes of the creation or development of health infrastructure with respect to quarantine.

External affairs

- (12) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments with respect to:
- (a) Australia's rights and obligations under an agreement with one or more countries; or
 - (b) matters that are of international concern.

Patents of invention

- (13) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments relating to the creation or development of health infrastructure with respect to the development of patents of invention.

Incidental to powers of the Parliament

- (14) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments for purposes relating to matters incidental to the exercise of any of the legislative powers of the Parliament.

Executive power

- (15) This Part has the effect it would have if its operation with respect to making payments were expressly confined to making payments for purposes relating to matters incidental to the exercise of any power vested in the Executive Government.

Medical Research Future Fund Act 2015

21 Subparagraph 19(a)(iii)

Omit “, 137(e) or 218(1)(f)”, substitute “or 137(e)”.

22 Subparagraph 19(b)(iii)

Omit “, 137(f) or 218(1)(g)”, substitute “or 137(f)”.

23 Subparagraph 19(c)(iii)

Omit “, 136(1) or 218(1)”, substitute “or 136(1)”.

Nation-building Funds Act 2008

24 Title

Omit “, the **Education Investment Fund and the Health and Hospitals Fund,**”, substitute “**and the Education Investment Fund,**”.

25 Section 3

Omit:

- Chapter 4 sets up the Health and Hospitals Fund, which will enhance the Commonwealth’s ability to make payments in relation to the creation or development of health infrastructure.

26 Section 4

Repeal the following definitions:

- (a) definition of *balance of the Health and Hospitals Fund*;
- (b) definition of *Health and Hospitals Fund*;
- (c) definition of *Health and Hospitals Fund investment function*;
- (d) definition of *Health and Hospitals Fund Investment Mandate*;
- (e) definition of *Health and Hospitals Fund Special Account*;
- (f) definition of *Health Department*;
- (g) definition of *Health Minister*;
- (h) definition of *HHF Advisory Board*;
- (i) definition of *HHF evaluation criteria*;
- (j) definition of *HHF Health Portfolio Special Account*;
- (k) definition of *investment of the Health and Hospitals Fund*;
- (l) definition of *payment in relation to the creation or development of health infrastructure*.

27 Section 4 (definition of person)

Omit “and Division 2 of Part 4.4”.

28 Section 4 (paragraph (b) of the definition of value)

Omit “or”.

29 Section 4 (paragraph (c) of the definition of value)

Repeal the paragraph.

30 Subparagraphs 20(a)(iv), (b)(iv) and (c)(iv)

Repeal the subparagraphs.

31 Section 29

Repeal the section.

32 Subsection 122(1)

Omit “29,”.

33 Subsection 122(3)

Omit “, 29”.

34 Subparagraphs 138(a)(iv), (b)(iv) and (c)(iv)

Repeal the subparagraphs.

35 Section 148

Repeal the section.

36 Subsection 207(1)

Omit “148,”.

37 Subsection 207(3)

Omit “, 148”.

38 Chapter 4

Repeal the Chapter.

39 Transitional provision

An agreement that is in force under section 261 of the *Nation-building Funds Act 2008* immediately before the repeal of that section is taken, after that repeal, to have been made under section 46AB of the *Health Insurance Act 1973* (as inserted by this Schedule).

Schedule 3—Amendments contingent on the Acts and Instruments (Framework Reform) Act 2015

Medical Research Future Fund Act 2015

1 Subsections 12(2) and 15(3)

Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act 2003*”.

1A Sections 32D and 32E

Omit “*Legislative Instruments Act 2003*” (wherever occurring), substitute “*Legislation Act 2003*”.

1B Subsection 32EA(2)

Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act 2003*”.

2 Subsection 39(7) (notes 1 and 2)

Repeal the notes, substitute:

- Note 1: Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the direction—see regulations made for the purposes of paragraph 44(2)(b) of that Act.
- Note 2: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the direction—see regulations made for the purposes of paragraph 54(2)(b) of that Act.

3 Subsection 42(2) (note)

Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act 2003*”.

[*Minister’s second reading speech made in—
House of Representatives on 27 May 2015
Senate on 10 August 2015*]

(199/14)
