



Health Insurance Amendment (Professional Services Review Scheme) Act 2023

No. 82, 2023

**An Act to amend the *Health Insurance Act 1973*,
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 82, 2023

**An Act to amend the *Health Insurance Act 1973*,
and for related purposes**

[Assented to 28 September 2023]

The Parliament of Australia enacts:

1 Short title

This Act is the *Health Insurance Amendment (Professional Services Review Scheme) Act 2023*.

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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. The whole of this Act	The day after this Act receives the Royal Assent.	29 September 2023

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Professional Services Review Scheme

Part 1—Main amendments

Health Insurance Act 1973

1 Subsection 81(1)

Insert:

Associate Director means an Associate Director of Professional Services Review appointed under section 83A.

Note: In this Part, a reference to the Director includes a reference to an Associate Director, subject to certain exceptions (see subsection 83A(2)).

2 Subsection 81(1) (at the end of the definition of *Director*)

Add:

Note: In this Part, a reference to the Director includes a reference to an Associate Director, subject to certain exceptions (see subsection 83A(2)).

3 Division 2 of Part VAA (heading)

After “The Director”, insert “and Associate Directors”.

4 Subsection 83(2)

Repeal the subsection.

5 After section 83

Insert:

83A Associate Directors of Professional Services Review

- (1) The Minister may appoint a medical practitioner to be an Associate Director of Professional Services Review.
- (2) In this Part (other than section 83, paragraph 106ZM(2)(b), sections 106ZPL and 106ZPLA and Subdivision A of Division 6 of

this Part) a reference to the Director includes a reference to an Associate Director.

6 Subsection 84(3)

Repeal the subsection.

7 Subsection 84(4)

Omit “other than a medical practitioner”.

8 Subsection 85(3)

Repeal the subsection.

9 Subsection 85(4)

Omit “other than a medical practitioner”.

10 Division 6 of Part VAA (heading)

After “the Director,”, insert “Associate Directors,”.

11 After Subdivision A of Division 6 of Part VAA

Insert:

Subdivision AB—Associate Directors

106ZFA Term of office

- (1) An Associate Director is to be appointed for the period, not exceeding 3 years, specified in the instrument of appointment.
- (2) An Associate Director is eligible for re-appointment.

106ZFB Associate Director’s terms and conditions of appointment

- (1) An Associate Director holds office on a full-time or a part-time basis as specified in the instrument of appointment.
- (2) An Associate Director holds office on such other terms and conditions (in respect of matters not provided for by this Act) as are determined in the instrument of appointment.

106ZFC Outside employment

- (1) A person who holds the office of an Associate Director on a full-time basis must not engage in any paid employment outside the duties of that office without the Minister's written approval.
- (2) A person who holds the office of an Associate Director on a part-time basis must not engage in any paid employment that, in the Minister's opinion, conflicts with the proper performance of the Associate Director's functions.

106ZFD Leave of absence

- (1) If an Associate Director holds office on a full-time basis, the Associate Director has such recreational leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant an Associate Director leave of absence, other than recreational leave, on such terms and conditions as to remuneration or otherwise as the Minister determines in writing.

106ZFE Resignation

An Associate Director may resign by writing signed and delivered to the Minister.

106ZFF Termination of an Associate Director's appointment

- (1) The Minister may terminate the appointment of an Associate Director:
 - (a) for misbehaviour; or
 - (b) if the Associate Director is unable to perform the duties of the Associate Director's office because of physical or mental incapacity.
- (2) The Minister may terminate an Associate Director's appointment if the Associate Director:
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or

- (b) is appointed on a full-time basis and is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
- (c) is appointed on a full-time basis and engages, except with the Minister's approval, in paid employment outside the duties of the Associate Director's office; or
- (d) is appointed on a part-time basis and engages in paid employment that, in the Minister's opinion, conflicts with the proper performance of the Associate Director's duties.

106ZFG Acting appointments

The Minister may appoint a person to act as an Associate Director:

- (a) during a vacancy in the office of that Associate Director (whether or not an appointment has previously been made to the office); or
- (b) during any period or during all periods when that Associate Director is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

106ZFH Remuneration and allowances

- (1) An Associate Director is to be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) If no determination of that remuneration is in operation, an Associate Director is to be paid such remuneration as is specified in the regulations.
- (3) An Associate Director is to be paid such allowances as are specified in the regulations.
- (4) This section has effect subject to the *Remuneration Tribunal Act 1973*.

12 Subsection 106ZPB(2)

Repeal the subsection.

13 Subsection 106ZPB(3)

Omit “(other than a medical practitioner)”.

14 Subsection 106ZPH(4)

Omit “Subsections 106ZPB(2) and (3) apply”, substitute
“Subsection 106ZPB(3) applies”.

15 Subsection 106ZPH(4)

Omit “they apply”, substitute “it applies”.

16 After subparagraph 106ZPLA(a)(i)

Insert:

(ia) the Associate Directors;

17 Paragraph 129AAD(1)(b)

Omit “paid; and”, substitute “paid.”.

18 Paragraph 129AAD(1)(c)

Repeal the paragraph.

19 Subsections 129AAD(12) and (13)

Repeal the subsections.

20 After paragraph 130(5E)(a)

Insert:

(aa) an Associate Director of Professional Services Review
appointed under section 83A; or

21 Subsection 130(5E)

After “help the Director,”, insert “Associate Director,”.

Part 2—Other minor amendments

Health Insurance Act 1973

22 Subsection 106ZD(1)

Repeal the subsection, substitute:

- (1) The Minister may terminate the appointment of the Director:
 - (a) for misbehaviour; or
 - (b) if the Director is unable to perform the duties of the Director's office because of physical or mental incapacity.

23 Subsection 106ZK(1)

Repeal the subsection, substitute:

- (1) The Minister may terminate the appointment of a Panel member:
 - (a) for misbehaviour; or
 - (b) if the Panel member is unable to perform the duties of the Panel member's office because of physical or mental incapacity.

24 Subsection 106ZPG(1)

Repeal the subsection, substitute:

- (1) The Minister may terminate the appointment of a member of the Authority:
 - (a) for misbehaviour; or
 - (b) if the member of the Authority is unable to perform the duties of the member's office because of physical or mental incapacity.

Part 3—Application of amendments

25 Application of amendments

- (1) The amendments of sections 83, 84 and 85 of the *Health Insurance Act 1973* made by Part 1 of this Schedule apply in relation to appointments made after the commencement of this Schedule.
- (2) The amendments of section 129AAD of the *Health Insurance Act 1973* made by Part 1 of this Schedule apply in relation to notices given after the commencement of this Schedule (whether the amount to which the notice relates is paid before or after that commencement).
- (3) The amendments of subsections 106ZD(1), 106ZK(1) and 106ZPG(1) of the *Health Insurance Act 1973* made by Part 2 of this Schedule apply in relation to appointments terminated after the commencement of this Schedule (whether the appointment is made before or after that commencement).

*[Minister's second reading speech made in—
House of Representatives on 24 May 2023
Senate on 14 June 2023]*

(51/23)

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