



National Health Amendment (Technical Changes to Averaging Price Disclosure Threshold and Other Matters) Act 2024

No. 88, 2024

An Act to amend the *National Health Act 1953*, 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. 88, 2024

An Act to amend the *National Health Act 1953*, and for related purposes

[Assented to 26 September 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *National Health Amendment (Technical Changes to Averaging Price Disclosure Threshold and Other Matters) Act 2024*.

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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 September 2024
2. Schedule 1	1 July 2022.	1 July 2022

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

National Health Act 1953

1 At the end of subsection 99ADH(6)

Add:

Example: The 12.5% average unadjusted price reduction test was passed using data from the data collection periods ending on 30 September 2022, 31 March 2023 and 30 September 2023. A price reduction occurred on 1 April 2024. The next reduction day for which the 12.5% average unadjusted price reduction test could be passed would be 1 October 2025, using data from the data collection periods ending on 31 March 2024, 30 September 2024 and 31 March 2025.

2 At the end of section 99ADH

Add:

(8) For the purposes of paragraph (6)(b), this section did not apply to the brand of the pharmaceutical item in relation to any of those data collection periods if the approved ex-manufacturer price of the brand of the pharmaceutical item had not been reduced under subsection (3) as a result of calculations using data from any of those 3 data collection periods.

(9) Subsection (8) is included to avoid doubt.

3 Subsection 99ADHC(1)(note)

After “Note”, insert “1”.

4 At the end of subsection 99ADHC(1)(after the note)

Add:

Note 2: There are various consequences of a brand being a designated brand, including the changed threshold in subparagraphs 99ADH(1)(c)(ii) and (iii), the limits on price reductions in subsections (4) and (5) of this section, the Minister’s powers under Division 3CA of this Part relating to certain discounting and incentives, and the minimum stockholding requirements in Division 3CAA of this Part. For example, if a brand satisfies paragraphs (1)(a)(i) and (ii) of this section at the end of the data collection period ending on 31 March 2024, the brand will become a designated brand, and these consequences will

apply to the brand, on and from 1 April 2025 (subject to subsection (3) of this section).

5 At the end of Division 3BA of Part VII

Add:

99ADHD Meaning of *previous data collection period*

- (1) This section sets out, for the purposes of section 99ADHC, the meaning of the expression *the previous data collection period* for a brand of a pharmaceutical item.
- (2) This section is included to avoid doubt.

General rule

- (3) The *previous data collection period*, for the brand of the pharmaceutical item, is the data collection period for the brand of the pharmaceutical item that immediately preceded the corresponding data collection period for the brand of the pharmaceutical item in the immediately preceding year.

Example 1: A data collection period ends on 30 September 2025. The corresponding data collection period in the immediately preceding year ends on 30 September 2024: see subsection (5). Therefore, the *previous data collection period* is the data collection period ending on 31 March 2024.

Example 2: A data collection period ends on 31 March 2025. The corresponding data collection period in the immediately preceding year ends on 31 March 2024: see subsection (5). Therefore, the *previous data collection period* is the data collection period ending on 30 September 2023.

Newly listed brands

- (4) If, on the day before a determination under subsection 85(6) came into force for a brand of a pharmaceutical item (the *new brand*) there are, or have previously been, any related brands of the new brand, the *previous data collection period*, for the new brand's first data collection period and the 2 data collection periods immediately following the first data collection period, is taken to end:

- (a) when the previous data collection period for the related brands ends; or
- (b) if the previous data collection period cannot be ascertained under paragraph (a)—when the previous data collection period would have ended if a determination under subsection 85(6) had remained in force for the related brands.

Example: A new brand is listed (that is, a determination comes into force under subsection 85(6) for the brand) on 1 July 2024 and its first data collection period ends on 30 September 2024. The immediately following data collection period ends on 31 March 2025. So:

- (a) on any day between 1 July 2024 and 30 September 2024, the corresponding data collection period for any related brand is the data collection period ending on 30 September 2023, and the *previous data collection period* for the related brand (and the new brand) is the data collection period ending on 31 March 2023; and
- (b) on any day between 1 October 2024 and 31 March 2025, the corresponding data collection period for any related brand is the data collection period ending on 31 March 2024 and the *previous data collection period* for the related brand (and the new brand) is the data collection period ending on 30 September 2023.

Meaning of corresponds

- (5) A data collection period in a year *corresponds* to a data collection period in another year if begins on the same day of the same month in the other year.
- (6) In this section, a reference to a related brand of a brand of a pharmaceutical item includes a reference to a brand of a pharmaceutical item that would be a related brand of the brand of pharmaceutical item (within the meaning of Division 3B) but for the fact that it is a brand of an exempt item.

6 Validation of acts and things done in interim period

An act or thing that was done at any time during the period:

- (a) starting immediately after the commencement of Part 2 of Schedule 1 to the *National Health Amendment (Enhancing the Pharmaceutical Benefits Scheme) Act 2021*; and
- (b) ending at the end of the day before the day on which this item commences;

Schedule 1 Amendments

is as valid, and is taken always to have been as valid, as it would have been if the amendments made by this Schedule had come into effect immediately after the commencement of Part 2 of Schedule 1 to the *National Health Amendment (Enhancing the Pharmaceutical Benefits Scheme) Act 2021*.

Note: Part 2 of Schedule 1 to the *National Health Amendment (Enhancing the Pharmaceutical Benefits Scheme) Act 2021* commenced on 1 July 2022.

[*Minister's second reading speech made in—
House of Representatives on 21 August 2024
Senate on 11 September 2024*]

(101/24)

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Disclosure Threshold and Other Matters) Act 2024* No. 88, 2024