

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 120

Issued by the authority of the Minister for Human Services

Medicare Australia Act 1973

Human Services Legislation Amendment Regulations 2011 (No. 1)

Background

The *Medicare Australia Act 1973* (the Act) establishes the statutory office of the Chief Executive Officer (CEO) of Medicare Australia, and establishes Medicare Australia to assist the CEO in the performance of his or her functions.

Section 44 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Human Services Legislation Amendment Act 2011* (the HSLA Act) renames the Act as the *Human Services (Medicare) Act 1973* (Medicare Act), and substantially amends the Act. In particular, the position of CEO is abolished and replaced by a position called the Chief Executive Medicare, to which only an SES officer in the Department of Human Services can be appointed. Medicare Australia is also abolished, and its functions subsumed by the Department of Human Services.

The HSLA Act received Royal Assent on 25 May 2011, and the relevant amendments to the Act commence on 1 July 2011.

Subsection 4(1) of the *Acts Interpretation Act 1901* permits the exercise of a power and the making of a legislative instrument in respect of an Act which has been enacted but has not commenced. Therefore, the Governor-General is able to make the Regulations under section 44 as amended by the HSLA Act. The Regulations are, in part, empowered by provisions of the Act that will not commence until 1 July 2011.

New section 5 of the Act, as amended by the HSLA Act, will set out the Chief Executive Medicare's functions. Under paragraph 5(1)(e) of the Act, these include any functions prescribed by regulations.

The purpose of the Regulations is to amend the *Medicare Regulations 1975* to prescribe functions of the Chief Executive Medicare. Those new regulations prescribe functions that the Minister of Human Services had previously directed the CEO of Medicare to perform.

The Regulations also replace references to Medicare Australia and the Chief Executive Officer of Medicare Australia that are found in 28 other sets of Regulations and replaces these with references to the Department of Human Services and Chief Executive Medicare.

Details of the Regulations are set out in Attachment A.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on 1 July 2011 to coincide with the commencement of the amendments in the HSLA Act.

Authority: Section 44 of the *Medicare
Australia Act 1973*

ATTACHMENT A

Details of the *Human Services Legislation Amendment Regulations 2011 (No. 1)*

Regulation 1 — Name of Regulations

This regulation provides that the Regulations are the *Human Services Legislation Amendment Regulations 2011 (No. 1)*.

Regulation 2 — Commencement

This regulation provides that the Regulations commence on 1 July 2011.

Regulation 3 — Amendment of the *Medicare Australia Regulations 1975*

This regulation provides that Schedule 1 to the Regulations amends the *Medicare Australia Regulations 1975*.

Regulation 4 — Amendment of other legislation

This regulation provides that Schedule 2 to the Regulations amends the Regulations listed.

Schedule 1 — Amendments of *Medicare Australia Regulations 1975*

Item [1] — Regulation 1

This item renames the Regulations as *Human Services (Medicare) Regulations 1975* (Medicare Regulations).

Item [2] in Schedule 1 to the *Human Services Legislation Amendment Act 2011* (HSLA Act) renames the *Medicare Australia Act 1973* as the *Human Services (Medicare) Act 1973* (Medicare Act). Therefore, it is appropriate to rename the Regulations made under the Medicare Act as the *Human Services (Medicare) Australia Regulations 1975*.

Item [2] — Regulation 3

This item substitutes the current regulation 3 of the Medicare Regulations for a new regulation 3, which contains definitions for the purposes of the Regulations. Item [2] inserts the following definitions of terms used in the Regulations: ‘Act’; ‘Aged Care Act’; ‘approved supplier’; ‘emergency’; ‘healthcare providers’; ‘Health Department’; ‘Health Insurance Act’; ‘Health Secretary’; ‘lifetime health cover’; ‘National Health Act’; ‘PBS information’; ‘person affected by an emergency’; ‘personal information’; ‘Pharmaceutical Benefits Regulations’; ‘Private Health Insurance Act’; ‘reappraisal period’; and ‘State or Territory body’.

The term ‘Act’ is defined by reference to the Medicare Act.

The following terms are defined by reference to the Act or Regulations to which they relate: ‘Aged Care Act’; ‘Health Insurance Act’; ‘National Health Act’; ‘Pharmaceutical Benefits Regulations’; and ‘Private Health Insurance Act’.

The following terms apply the definitions of those terms as they are found in other Acts or Regulations: ‘approved supplier’; ‘lifetime health cover’; ‘personal information’; and ‘reappraisal period’.

The following terms are based on their definitions as they existed in Ministerial Directions previously made by the Minister for Human Services: ‘emergency’; ‘healthcare providers’; ‘PBS information’; ‘person affected by an emergency’; and ‘State or Territory body’.

The definitions of ‘Health Secretary’ and ‘Health Minister’ mirror the definitions that are used in other Commonwealth legislation, as amended by the HSLA Act, to refer to the Secretary and Minister with health responsibilities.

The defined term ‘emergency’ is used primarily in regulation 21, which relates to the Chief Executive Medicare’s function of providing emergency services. As defined in regulation 3, ‘emergency’ means an emergency or disaster in Australia or an emergency or disaster that affects one or more Australian citizens or permanent residents. An emergency includes:

- an emergency or disaster that has been the subject of a declaration under section 80J or 80K of the *Privacy Act 1988*; or

- any circumstance in respect of which the Australian Government has decided to implement a special program of assistance.

The definition of ‘emergency’ in regulation 3 is intentionally wide, so that the Chief Executive Medicare and Departmental employees can quickly respond to any situation in which the Government considers that urgent assistance needs to be provided to people adversely affected by that situation (that is, ‘person affected by an emergency’ – see regulation 3A). The definition mirrors that in regulation 4 of the *Human Services (Centrelink) Regulations 1997*.

Item [3] — Regulation 3A

This regulation provides an inclusive definition of the phrase ‘person affected by an emergency’. The definition mirrors that in regulation 5 of the *Human Services (Centrelink) Regulations 1997*. While ‘person affected by an emergency’ would usually have its ordinary – and broad – meaning, the definition makes it clear that a person affected by an emergency includes:

- A. a person who is indirectly affected by the emergency – such as a person who has not suffered any personal injury or property loss as a result of a natural disaster, but whose business is adversely affected because customers have been affected by the disaster, or travel to or from the disaster area is restricted;
- B. an individual (that is, a natural person) who has a family member directly or indirectly affected by the emergency; and
- C. an unincorporated organisation (which is not normally regarded as a ‘person’) directly or indirectly affected by the emergency.

Item [4] — Paragraph 9 (3) (g)

Item [4] amends paragraph 9(3)(g) by expanding the references to provisions of the *Flexible Care Subsidy Principles 1997* that are mentioned in the provision.

Item [5] — Paragraph 12 (b)

Item [5] replaces paragraph 12(b) with a new paragraph that is in substance the same as existing subparagraph 12(b)(i). Subparagraph 12(b)(ii) became redundant with the repeal of subsection 86.9(3) of the *Aged Care Act 1997*.

Item [6] — Part 3

Item [6] inserts a new Part 3 to prescribe functions of the Chief Executive Medicare. Section 5 of the Act (as amended by the HSLA Act) sets out the Chief Executive Medicare’s functions. Under paragraph 5(1)(e) of the Act these include any functions prescribed by regulations.

Item [6] inserts regulation 18 which provides that Part 3 prescribes the functions of the Chief Executive Medicare. Item [6] also inserts regulations 19 to 31 which set out the prescribed functions of the Chief Executive Medicare. These functions are in addition to the functions set out in section 5 of the Act. Paragraph 5(1)(f) of the Act also provides that the Chief Executive Medicare has the function of doing anything incidental or conducive to the performance of his or her other functions, including functions prescribed in regulations.

Most of the functions prescribed in Part 3 of the Medicare Regulations are derived from functions that the CEO of Medicare Australia had been directed to perform under the *Medicare Australia (Functions of Chief Executive Officer) Direction 2005* (2005 Direction). However, many of the functions that the CEO had been directed to perform (whether under the 2005 Direction or other directions given by the Minister for Human Services) are not prescribed as functions of the Chief Executive Medicare. This is because:

- the Chief Executive Medicare’s functions, particularly the service delivery functions in section 7 of the Medicare Act, are already very broad; and
- the Department of Human Services, which will deliver programs and services for the Chief Executive, has the full powers of the Executive.

Consequently, there is little need to expand on the Chief Executive’s functions in the regulations.

The primary purpose of Part 3 of the Medicare Regulations is to give the Chief Executive Medicare specific functions that require the collection, use and disclosure of personal information, and through that mechanism statutorily authorise that collection, use and disclosure for those functions.

Item [6] of the Regulations also inserts Part 4 (Miscellaneous) which includes regulation 32.

Regulation 18 – Prescribed functions

Regulation 18 simply provides that Part 3 of the Medicare Regulations prescribes functions of the Chief Executive Medicare, for the purposes of paragraph 5(1)(e) of the Medicare Act.

Regulation 19 — Delegated functions

Regulation 19 provides that it is a prescribed function of the Chief Executive Medicare to perform functions delegated to the Chief Executive Medicare under a Commonwealth, State or Territory law. Note that ‘function’ in this regulation includes ‘power’ – see the definition of ‘function’ in section 3 of the Act as amended by the HSLA Act, and the operation of paragraph 13(1)(b) of the *Legislative Instruments Act 2003*.

This regulation is intended to put beyond doubt the Chief Executive Medicare’s legal capacity to exercise powers delegated to him or her under Commonwealth, State and Territory laws. As a matter of practice, the CEO of Medicare Australia had been delegated a wide variety of powers under Commonwealth legislation, mostly related to health and welfare programs, and the Chief Executive Medicare will be similarly delegated those powers from 1 July 2011.

The CEO of Medicare Australia exercised few, if any, powers as delegate under State or Territory laws. However, Commonwealth-State co-operation in the delivery of human and related services is increasing. Sections 8AD and 8AE of the Medicare Act recognise that the Chief Executive Medicare may be given functions and powers under State or Territory laws, and that the Commonwealth agrees to this conferral of functions and powers. Consequently, regulation 19 also provides that it is a function

of the Chief Executive Medicare to exercise powers delegated to him or her under State or Territory laws, provided that this is permitted under sections 8AD and 8AE of the Act.

Section 8AC of the Medicare Act permits the Chief Executive Medicare to sub-delegate functions and powers that have been delegated to him or her, to Departmental officers.

Regulation 20 — Functions in relation to prescription shopping

Regulation 20 provides that it is a function of the Chief Executive Medicare to detect and prevent prescription shopping.

Regulation 20 prescribes various sub-functions including an education and prevention function, an identification and detection function, a disclosure function and an evaluation and reporting function.

The education and prevention function in subregulation 20(3) includes promoting awareness of the Prescription Shopping Program and its legal requirements, and promoting assistance measures and education to:

- healthcare providers (a term that is defined in regulation 3);
- prescription shoppers (a term that is defined in subregulation 20(9)); and
- the general public.

The identification and detection function in subregulation 20(4) includes identifying prescription shoppers, establishing and maintaining databases; and detecting and identifying prescription shoppers who may be illegally stockpiling pharmaceutical benefits.

The disclosure function in subregulations 20(5) and 20(6) includes disclosure of Pharmaceutical Benefits Scheme information about whether:

- a person is or is not a prescription shopper;
- a prescription shopper to the prescription shopper, a prescriber or an approved supplier of pharmaceutical benefits, for the purposes of administering the National Health Act.

The function also allows the disclosure function to be used to: administer the Chief Executive Medicare's functions under the National Health Act; protect public revenue; and discourage inefficient and improper use of Pharmaceutical Benefits.

The evaluation and reporting function in subregulation 20(7) also enables the use of Pharmaceutical Benefits Scheme information to evaluate the Program and to report (using de-identified information) to the Department of Health and Ageing (Health Department) and other bodies on the outcomes of the Program.

Subregulation 20(8) defines terms used in regulation 20. These include: 'nominated prescriber'; 'prescriber'; 'prescription shopper'; 'Prescription Shopping Program'; and 'target pharmaceutical benefits'.

Subregulation 20(9) defines 'prescription shopper' as a person who, in any 3 month period, has had supplied to him or her:

- pharmaceutical benefits prescribed by 6 or more different prescribers; or

- a total of 25 or more target pharmaceutical benefits; or
- a total of 50 or more pharmaceutical benefits.

Regulation 20 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 30 of the 2005 Direction.

Regulation 21 — Functions in relation to provision of emergency services

Regulation 21 provides that it is a function of the Chief Executive Medicare to:

- provide a service, benefit, program or facility to a person affected by an emergency; and
- participate in disaster planning and policy activities.

Subregulation 21(2) makes it clear that the Chief Executive Medicare is able to perform these emergency-related functions for, or under an arrangement with, a State or Territory body (as defined in regulation 3).

Subregulation 21(3) provides that the provision of emergency services function includes a number of activities, for example:

- establishing and maintaining a register of persons affected by the emergency;
- receiving, processing, investigating, deciding and paying claims for assistance;
- referring persons to other relevant organisations;
- providing information to a State or Territory body about a person affected by an emergency which will assist that body to provide a payment, benefit or other assistance; and
- working with other government and non-government bodies in relation to the provision of assistance.

The purpose of regulation 21 is two-fold. First, it makes clear that the Chief Executive Medicare can assist or co-operate with State and Territory bodies in responding to emergencies.

Second, the regulation is intended to ensure that, in responding to emergencies, the Chief Executive Medicare can collect, use and disclose personal information, particularly where prior consent to that collection, use or disclosure cannot reasonably be obtained from a person because of the circumstances of the emergency.

Regulation 21 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 33 of the 2005 Direction.

Regulation 22 — Functions in relation to aged care payments

Regulation 22 provides that it is a function of the Chief Executive Medicare to:

- make payments to a proprietor of eligible premises (as directed by the Health Department);
- make payments related to residential care subsidies under section 60 of the *Aged Care (Consequential Provisions) Act 1997*; and

- undertake action to recover overpayments concerning the above.

Regulation 22 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 34 of the 2005 Direction.

Regulation 23 — Function in relation to lifetime health cover

Regulation 23 provides that it is a function of the Chief Executive Medicare to assist the Health Department with communications to members of the public about lifetime health cover.

Lifetime health cover was introduced on 1 July 2000. It provides for health funds to charge different premiums based on the age of members when they first take out hospital cover with a registered health benefits organisation.

Under lifetime health cover, individuals who take out hospital cover early in life are charged lower premiums throughout their life, relative to people who take out cover later. In particular, individuals who delay taking out hospital cover are charged a 2 per cent loading on top of their premium for every year they are aged over 30 when they first take out such cover.

Subregulation 23(2) provides that the function includes:

- identifying, and providing information to, persons who have become subject to, or will soon become subject to, the operation of lifetime health cover; and
- providing information and reports on matters relevant to lifetime health cover to the Health Department.

Subregulation 23(3) also clarifies that, in performing the functions mentioned in the regulation, the Chief Executive Medicare can use personal information collected for the performance of the Chief Executive Medicare's medicare functions. Section 6 of the Act, as amended by the HSLA Act, provides that the Chief Executive Medicare's medicare functions are those conferred on him or her under the *Health Insurance Act 1973*.

Regulation 23 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia in section 4 of the *Medicare Australia (Function of Chief Executive Officer — Lifetime Health Cover) Direction 2007*.

Regulation 24 — Functions in relation to inappropriate practices

Regulation 24 provides that it is a function of the Chief Executive Medicare to undertake activities related to inappropriate practices and other compliance related matters. These include:

- devising and implementing measures to detect and prevent inappropriate practices by practitioners or other persons;
- preventing or detecting activities relating to claims for, or the receipt of, medicare benefits that may constitute a criminal offence;

- investigating the conduct of a person for the purpose of deciding whether to request the Director of Professional Services Review to review the provision of services by that person;
- investigating whether activities relating to claims for, or the receipt of, medicare benefits may constitute a criminal offence; and
- taking action to recover an amount of medicare benefit that is recoverable by the Commonwealth.

Paragraph 24(1)(d) provides that if there is sufficient evidence that an offence may have been committed, the Chief Executive Medicare can refer the matter to the Australian Federal Police or the Director of Public Prosecutions.

Subregulation 24(2) provides definition of terms that are used in subregulation 23(1). The terms 'inappropriate practice', 'practitioner' and 'service' are defined by reference to their meanings in the Health Insurance Act.

Regulation 24 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 4 of the 2005 Direction.

Regulation 25 — Functions in relation to provision of pharmaceutical benefits

Regulation 25 provides that it is a function of the Chief Executive Medicare to perform functions relating to the provision of pharmaceutical benefits. These include:

- processing claims for payments relating to pharmaceutical benefits under Part VII of the *National Health Act 1953*;
- processing claims, and making payments regarding claims, for pharmaceutical benefits on behalf of the Rehabilitation Commission and the Military Rehabilitation and Compensation Commission under Acts relevant to those Commissions;
- devising and implementing measures to prevent and detect contraventions of Part VII of the National Health Act or the *National Health (Pharmaceutical Benefits) Regulations 1960*;
- investigating cases where there are reasonable grounds to suspect that an offence may have been committed;
- referring cases to the Australian Federal Police or the Director of Public Prosecutions (if there is sufficient evidence that an offence may have been committed); and
- undertaking action to recover an amount of pharmaceutical benefits that is recoverable by the Commonwealth.

Regulation 25 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 20 of the 2005 Direction.

Regulation 26 — Functions in relation to hearing services

Regulation 26 provides that it is a function of the Chief Executive Medicare to act as a claims acceptance body and a claims payment body under section 21 of the *Hearing Services Administration Act 1997*.

However, under subregulation 26(2), the function only has effect when a declaration is in effect that declares the Chief Executive Medicare to be a claims acceptance body or a claims payment body.

The function involves recovering service provider debts and disclosing certain information to the Health Department about a claim accepted or paid by the Chief Executive Medicare (including client, voucher, provider, practitioner and item numbers, dates, hearing loss details, hearing device details, and costs and payment details).

Subregulation 26(4) defines terms used in the regulation. The definitions ‘contracted service provider’, ‘hearing services’ and ‘voucher’ are defined by reference to their meaning in the *Hearing Services Administration Act 1997*.

Regulation 26 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 22 of the 2005 Direction.

Regulation 27 — Functions in relation to military compensation

Regulation 27 provides that it is a function of the Chief Executive Medicare to process claims for compensation, and make payments regarding those claims, on behalf of the Military Rehabilitation and Compensation Commission.

Regulation 27 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 23 of the 2005 Direction.

Regulation 28 — Functions in relation to claims for treatment provided under certain Acts

Regulation 28 provides that it is a function of the Chief Executive Medicare to process claims for payments and make payments on behalf of the Repatriation Commission and the Military Rehabilitation and Compensation Commission concerning:

- the provision of medical treatment under the Seamen’s War Pensions and Allowances Regulations; and
- the provision of treatment under the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*, *Military Rehabilitation and Compensation Act 2004*, *Safety, Rehabilitation and Compensation Act 1988* and *Veterans’ Entitlements Act 1986*.

Regulation 28 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 24 of the 2005 Direction.

Regulation 29 — Function in relation to registration of sonographers

Regulation 29 provides that it is a function of the Chief Executive Medicare to establish and maintain a register of sonographers.

Regulation 29 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 27 of the 2005 Direction.

Regulation 30 — Function in relation to mental health care by medical practitioners

Regulation 30 provides that it is a function of the Chief Executive Medicare to establish and maintain a register of medical practitioners who may provide focused psychological strategies under the Access to Psychiatrists, Psychologists and General Practitioners through the Medical Benefits Schedule Initiative administered by the Health Department.

Regulation 30 replicates, in large measure, and updates a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 28 of the 2005 Direction.

Regulation 31 — Functions in relation to allocation of identification numbers

Regulation 31 provides that it is a function of the Chief Executive Medicare to allocate identification numbers to:

- medical practitioners and participating dental practitioners under the *National Health Act 1953*; and
- the places of practice of practitioners, approved pathology practitioners and participating optometrists under the *Health Insurance Act 1973*.

Regulation 31 replicates, in large measure, a direction given by the Minister of Human Services to the CEO of Medicare Australia under section 18 of the 2005 Direction.

Part 4 — Miscellaneous

Item [6] also inserts new Part 4 in the Regulations to provide for miscellaneous matters. Part 4, consisting of one regulation, is exactly the same as the current Part 3 of the *Medicare Regulations 1975*; it has simply been moved to after new Part 3.

Regulation 32 — Prescribed period

Section 41C of the Act protects the names ‘medicare’, ‘Medicare Australia’ and any prescribed symbol. Subsection 41(8) of the Act provides that nothing affects the use of, or rights conferred by law relating to the use of, the name or symbol on or after the commencement of section 41C (1 October 1983) if a person used it in good faith within a prescribed period before that date.

Regulation 18 of the *Medicare Australia Regulations 1975* prescribed the period of 2 years commencing on 1 January 1981 for the purpose of paragraph 41C(8)(a) of the Act. Regulation 32 replicates regulation 18 of the *Medicare Australia Regulations 1975* without any change.

Item [7] — Further amendments — Chief Executive Officer

Item [7] amends regulations 5 to 17 of the *Medicare Regulations 1975* by omitting references to the ‘Medicare Australia CEO’ and replacing them with references to ‘Chief Executive Medicare’ in the provisions listed in the item.

Schedule 2 — Amendments of other legislation

Part 1 — Amendments of *Australian Citizenship Regulations 2007*

Item [1] — Regulation 4, definition of *Centrelink*

This item substitutes the definition of ‘Centrelink’ to include a note which explains that Centrelink was abolished by the HSLA Act.

Item [2] — Regulation 4, after definition of *Hague Convention on Intercountry Adoption*

Item [2] inserts a new definition of ‘Human Services Department’ which is used in the *Australian Citizenship Regulations 2007*. Describing the Department in this manner reduces the need to amend references to the Department if its title changes in the future.

Item [3] — Schedule 3, items 9, 10, 11 and 12

Item [3] omits references ‘Centrelink’ and replaces them with references to the ‘Human Services Department or Centrelink’.

Items 9 to 12 refer to a person who holds a concession card or health care card ‘...endorsed by Centrelink...’. Although, as a result of the HSLA Act, Centrelink ceases to be a separate agency on 1 July 2011 and becomes integrated with the Department of Human Services, some individuals will continue to hold concession cards or health care cards after 1 July 2011 that were endorsed by Centrelink before that date. Although item 56 of Schedule 2 to the HSLA Act enables such cards to be treated as if they were endorsed by the Department of Human Services, to avoid confusion, references to both Centrelink and the Department are inserted in items 9 to 12 of Schedule 3 to the *Australian Citizenship Regulations 2007*.

Part 2 — Amendment of *Australian Crime Commission Regulations 2002*

Item [4] — Schedule 6, items 115 and 128

Item [4] omits items 115 and 128 in Schedule 6 to the *Australian Crime Commission Regulations 2002* which refer to the ‘Commonwealth Services Delivery Agency’ and ‘Medicare Australia’.

As a result of the HSLA Act, the Commonwealth Services Delivery Agency (also known as Centrelink) and Medicare Australia cease to be separate agencies and are integrated into the Department of Human Services on 1 July 2011. Item 120 of Schedule 6 to the *Australian Crime Commission Regulations 2002* already mentions the Department of Human Services. References to Commonwealth Services Delivery Agency and Medicare Australia as separate agencies are redundant and are therefore being deleted.

Part 3 — Amendments of *Child Support (Assessment) Regulations 1989*

Item [5] — Regulation 3, before definition of *Tax Act*

Item [5] inserts a new definition of ‘Human Services Department’ in the *Child Support (Assessment) Regulations 1989*. The definition defines the Department by reference to the Minister administering the *Human Services (Centrelink) Act 1997*. Describing the Department in this manner reduces the need to amend references to the Department if its title changes in the future.

Item [6] — Paragraphs 12 (1)(a) and (b)

Item [6] omits references to the ‘Commonwealth Services Delivery Agency’, ‘Centrelink’ and ‘Child Support Agency’ in paragraphs 12(1)(a) and (b) and inserts a reference to ‘the Human Services Department’.

As a result of the HSLA Act, the Commonwealth Services Delivery Agency (also known as Centrelink) ceases to be a separate agency and is integrated into the Department of Human Services on 1 July 2011. Therefore, references to the Commonwealth Services Delivery Agency become redundant.

The ‘Child Support Agency’ has never been an agency distinct from a Commonwealth department of state, despite the word ‘Agency’ appearing in its title. In 2009, the child support program became incorporated into the Department of Human Services. As a result of including the Department of Human Services in paragraph (a), paragraph (b) becomes redundant, and is deleted.

Part 4 — Amendments of *Child Support Reform (New Formula and Other Measures) Regulations 2007*

Item [7] — Regulation 4, after definition of *existing assessment*

Item [7] inserts a new definition of ‘Human Services Department’ in the *Child Support Reform (New Formula and Other Measures) Regulations 2007*. The definition defines the Department by reference to the Minister administering the *Human Services (Centrelink) Act 1997*. Describing the Department in this manner reduces the need to amend references to the Department if its title changes in the future.

Item [8] — Paragraphs 32(1)(a) and (b)

Item [8] omits references to the ‘Commonwealth Services Delivery Agency’, ‘Centrelink’ and ‘Child Support Agency’ in paragraphs 32(1)(a) and (b) and inserts a reference to ‘the Human Services Department’.

As a result of the HSLA Act, the Commonwealth Services Delivery Agency (also known as Centrelink) ceases to be a separate agency and becomes integrated into the Department of Human Services on 1 July 2011. Therefore, references to the Commonwealth Services Delivery Agency become redundant.

The ‘Child Support Agency’ has never been an agency distinct from a Commonwealth department of state, despite the word ‘Agency’ appearing in its title.

In 2009, the child support program became incorporated into the Department of Human Services. As a result of including the Department of Human Services in paragraph (a), paragraph (b) becomes redundant and is deleted.

Part 5 — Amendment of *Child Support (Registration and Collection) Regulations 1988*

Item [9] — Regulation 8, not including the note

This item amends regulation 8 of the *Child Support (Registration and Collection) Regulations 1988* by replacing references to ‘Child Support Agency’ with ‘Department’.

The ‘Child Support Agency’ has never been an agency distinct from a Commonwealth department of state, despite the word ‘Agency’ appearing in its title. In 2009, the child support program became incorporated into the Department of Human Services. The amendment corrects this anomaly.

Part 6 — Amendments of *Civil Aviation Safety Regulations 1998*

Item [10] — Subregulation 67.010 (1), after definition of *Designated Aviation Medical Examiner’s Handbook*

Item [10] inserts a definition of ‘Human Services Department’ in the *Civil Aviation Safety Regulations 1998*. Describing the Department in this manner reduces the need to amend references to the Department if its title changes in the future.

Item [11] — Further amendments — Medicare Australia

Item [11] amends the provisions listed by omitting references to ‘Medicare Australia’ and inserting a reference to ‘the Human Services Department’.

As a result of the HSLA Act, Medicare Australia ceases to be a separate agency and becomes integrated into the Department of Human Services on 1 July 2011. Therefore, references to Medicare Australia are being replaced.

Part 7 — Amendments of *Customs Administration Regulations 2000*

Items [12], [13] and [14] — Schedule 2, item 126; Schedule 2, after item 137; and Schedule 2, item 153

Items [12] to [14] amend Schedule 2 to the *Customs Administration Regulations 2000* by repealing the references in that Schedule to ‘Centrelink’ and ‘Medicare Australia’, and inserting references to ‘Department of Human Services’, respectively.

Part 8 — Amendments of *Electoral and Referendum Regulations 1940*

Item [15] — Schedule 1, item 11

Schedule 1 to the *Electoral and Referendum Regulations 1940* sets out details of authorities and permitted purposes of the use of information in the Australian electoral roll.

Item 11 in Schedule 1 to the *Electoral and Referendum Regulations 1940* refers to ‘Centrelink’. As a result of the HSLA Act, Centrelink ceases to be a separate agency and becomes integrated into the Department of Human Services on 1 July 2011. Therefore, references to Centrelink become redundant.

The amendment in item [15] omits item 11 for this reason.

The substance of item 11 is incorporated into item 18 which provides for the Department of Human Services.

Item [16] — Schedule 1, item 18

Item [16] amends item 18 in Schedule 1 to the *Electoral and Referendum Regulations 1940* by incorporating the substance of items 11 and 23, which provided for Centrelink and Medicare Australia.

Item 18 in Schedule 1 is expanded to provide that information on the Australian electoral roll may be used for:

- preventing and detecting fraud relating to identity or incorrect payments;
- identifying or locating clients for debt management, determination or correction purposes;
- undertaking compliance, investigation or enforcement activities relating to the Chief Executive Medicare’s service delivery functions; or
- recovering overpayments or other amounts due to the Commonwealth.

Item [17] — Schedule 1, item 23

Item 23 in Schedule 1 to the *Electoral and Referendum Regulations 1940* refers to ‘Medicare Australia’. As a result of the HSLA Act, Medicare Australia ceases to be a separate agency and becomes integrated into the Department of Human Services on 1 July 2011. Therefore, references to Medicare Australia become redundant.

The amendment in item [17] omits item 23 for this reason.

The substance of item 23 is incorporated into item 18 which provides for the Department of Human Services.

Items [18] and [19] — Schedule 3, item 7; and Schedule 4, item 7

Items [18] and [19] amend item 7 in each of Schedules 3 and 4 to the *Electoral and Referendum Regulations 1940* by replacing the reference to ‘Centrelink’ with a reference to ‘Centrelink or the Department of Human Services’.

Although Centrelink ceases to be a separate agency on 1 July 2011 and becomes integrated into the Department of Human Services, some individuals may hold ‘current concession cards’ after 1 July 2011 that were issued by Centrelink. Although item 56 of Schedule 2 to the HSLA Act enables such cards to be treated as if they were issued by the Department of Human Services, to avoid confusion, references to both Centrelink and the Department are inserted in item 7 in each of Schedules 3 and 4.

Part 9 — Amendments of *Family Law Regulations 1984*

Item [20] — Paragraph 12CB(e)

Item [20] amends paragraph 12CB(e) of the *Family Law Regulations 1984* by omitting ‘Centrelink’ and inserting ‘Department of Human Services’. The reference to Centrelink becomes redundant on 1 July 2011 when, as a result of the HSLA Act, Centrelink ceases to be a separate statutory agency and is integrated into the Department.

Item [21] — Paragraph 12CB(g)

As a result of the amendments in item [22], a full stop is inserted at the end of paragraph 12CB(g).

Item [22] — Paragraphs 12CB(h) and (j)

Item [22] omits the references to ‘Child Support Agency’ and ‘Medicare Australia’ in paragraphs 12CB(h) and (j).

As a result of the HSLA Act, Medicare Australia ceases to be a separate statutory agency and is integrated into the Department of Human Services on 1 July 2011. Therefore, references to Medicare Australia are redundant from that date.

The ‘Child Support Agency’ has never been a separate agency despite the word ‘Agency’ appearing in its title. In 2009, the child support program became incorporated into the Department of Human Services. The amendment in item [22] corrects this anomaly.

Part 10 — Amendments of *Financial Transaction Reports Regulations 1990*

Item [23] — Subregulation 2(1), after definition of *higher education institution*

Item [23] inserts a definition of ‘Human Services Department’ in subregulation 2(1) of the *Financial Transaction Reports Regulations 1990*. Describing the Department in

this manner reduces the need to amend references to the Department if its title changes in the future.

Items [24], [25] and [26] — Regulations 10A and 11C

Items [24] to [26] amend regulations 10A and 11C of the *Financial Transaction Reports Regulations 1990* by omitting references to ‘a Centrelink officer’ and ‘agency records’ in those regulations, and insert in their places references to ‘an employee of the Human Services Department’ and ‘records of the Department’, respectively.

Part 11 — Amendments of *Health Insurance (Diagnostic Imaging Services Table) Regulations 2010*

Item [27] — Amendments — Medicare Australia CEO

Item [27] omits references to the ‘Medicare Australia CEO’ and inserts references to ‘Chief Executive Medicare’ in the provisions listed in the item. As a result of new section 4 of the Medicare Act, the position of CEO of Medicare Australia is abolished and replaced with the Chief Executive Medicare – a Senior Executive Service position in the Department of Human Services. Therefore, references to the ‘Medicare Australia CEO’ become redundant on 1 July 2011.

Part 12 — Amendments of *Health Insurance (General Medical Services Table) Regulations 2010*

Item [28] — Schedule 1, subparagraph 2.20.8(1)(b)(i)

Item [28] substitutes subparagraph 2.20.8(1)(b)(i) in Schedule 1 to the *Health Insurance (General Medical Services Table) Regulations 2010* to:

- replace the reference to ‘Medicare Australia CEO’ with ‘Chief Executive Medicare’; and
- remove the reference to section 28 of the *Medicare Australia (Functions of Chief Executive Officer) Direction 2005*.

Under section 28 of the Direction, Medicare Australia’s CEO was directed to perform the function of establishing and maintaining a register of general practitioners who may provide Focussed Psychological Strategies under the Better Outcomes in Mental Health Care Initiative administered by the Department of Health and Ageing.

As a result of the amendments of the Medicare Act by the HSLA Act, the legislative basis of the Ministerial Directions in the Act has been abolished (together with the position of Medicare Australia CEO).

However, regulation 30 of these Regulations provides that it is a function of the Chief Executive Medicare to establish and maintain a register of medical practitioners who may provide focused psychological strategies under the Access to Psychiatrists, Psychologists and General Practitioners through the Medical Benefits Schedule Initiative administered by the Health Department (see item [6] of Schedule 1 to these

Regulations). This Initiative is the new name for the Focussed Psychological Strategies under the Better Outcomes in Mental Health Care Initiative.

Item [29] — Schedule 1, subclause 2.20.8(2), table, items 2721, 2723, 2725 and 2727

Item [30] — Schedule 1, subclause 2.22.1(4), table, item 4001

Item [31] — Paragraph 2.37.8 (c)

Items [29] to [31] amend the provisions listed in those items by omitting the reference ‘Medicare Australia’ and inserting a reference to ‘the Chief Executive Medicare’.

As a result of the HSLA Act, Medicare Australia ceases to be a separate statutory agency and is integrated into the Department of Human Services on 1 July 2011. Therefore, references to Medicare Australia in these provisions are redundant from that date.

New section 4 of the Medicare Act abolishes the position of CEO of Medicare Australia and replaces it with the Chief Executive Medicare – a Senior Executive Service position in the Department of Human Services.

Item [32] — Further Amendments – Medicare Australia CEO

Item [32] amends the provisions listed by omitting the reference to ‘Medicare Australia CEO’ and inserting ‘Chief Executive Medicare’.

Part 13 — Amendment of *Health Insurance (Pathology Services) Regulations 1989*

Item [33] — Regulation 5

Item [33] amends regulation 5 of the *Health Insurance (Pathology Services) Regulations 1989* by omitting the reference to ‘the office of Medicare Australia’ and inserting a reference to ‘the Department of Human Services’.

Part 14 — Amendment of *Health Insurance (Pathology Services Table) Regulations 2010*

Item [34] — Schedule 1, subclause 2.12.1(3), definition of *practice location*

Item [34] amends the definition of ‘practice location’ in subclause 2.12.1(3) by omitting the reference to ‘Medicare Australia CEO’ and inserting ‘Chief Executive Medicare’.

Part 15 — Amendment of *Health Insurance (Professional Services Review) Regulations 1999*

Item [35] — Schedule 2, item 7

Item [35] amends item 7 in Schedule 2 to the *Health Insurance (Professional Services Review) Regulations 1999* by omitting the reference to ‘Medicare Australia’ and inserting a reference to ‘Human Services Department’.

Part 16 — Amendments of *Health Insurance Regulations 1975*

Item [36] — Subregulation 6DA (1)

Item [36] amends subregulation 6DA(1) by omitting the reference to ‘Medicare Australia CEO’ and inserting ‘Chief Executive Medicare’.

Item [37] — Subregulation 6DA (7)

Item [37] omits the reference to ‘an employee of Medicare Australia’ and inserts a reference to ‘a Departmental employee’ – a term defined in the HSLA Act. As a result of the HSLA Act, Medicare Australia employees become employees of the Department of Human Services because of Medicare Australia’s integration into the Department on 1 July 2011.

Item [38] — Regulation 28

Item [38] substitutes regulation 28 of the *Health Insurance Regulations 1975* to enable the Chief Executive Medicare to delegate all or any of the Chief Executive Medicare’s powers set out in regulation 27.

Item [39] — Schedule 3, Part 1, clause 1, definition of *VP*, subparagraph (g)(xiii)

Item [39] replaces the reference to ‘Medicare Australia’s’ with ‘Human Services Department’s’.

Item [40] — Further amendments — Medicare Australia CEO

Item [40] amends the provisions listed by omitting the reference to ‘Medicare Australia CEO’ and inserting ‘Chief Executive Medicare’.

Part 17 — Amendments of *Health Insurance (Vocational Registration of General Practitioners) Regulations 1989*

Item [41] — Subregulation 2(1), definition of *Medicare Australia CEO*

Item [41] omits the definition of ‘Medicare Australia CEO’ from subregulation 2(1).

Item [42] — Further amendments — Medicare Australia CEO

Item [42] amends the provisions listed by omitting the reference to ‘Medicare Australia CEO’ and inserting ‘Chief Executive Medicare’.

Part 18 — Amendment of *Income Tax Assessment Regulations 1997*

Item [43] — Paragraph 61-220.01(5)(c)

Item [43] omits the reference to the ‘Chief Executive Officer of Medicare Australia’ and inserts a reference to ‘Chief Executive Medicare’.

Part 19 — Amendments of *Medical Indemnity Regulations 2003*

Item [44] — Amendments — Medicare Australia CEO

Item [44] omits the references to the ‘Chief Executive Officer of Medicare Australia’ and inserts references to ‘Chief Executive Medicare’ in the provisions listed.

Part 20 — Amendments of *Military Rehabilitation and Compensation Regulations 2004*

Item [45] — Subregulation 3 (1), after definition of *Act*

Item [45] inserts a definition of ‘Human Services Department’ to mean the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*. Describing the Department in this manner reduces the need to amend references to the Department if its title changes in the future.

Item [46] — Subregulation 21 (1), table, item 2

Item [46] substitutes item 2 of the table in subregulation 21(1) to omit the references to ‘an employee of Centrelink’ and ‘a contractor of Centrelink’ in that item, and replace them with references to ‘an employee of the Human Services Department’ and ‘a contractor of the Human Services Department’, respectively.

Part 21 — Amendments of *National Health (Pharmaceutical Benefits) Regulations 1960*

Item [47] — Subparagraph 19 (1)(b)(i)

Item [47] amends subparagraph 19(1)(b)(i) of the *National Health (Pharmaceutical Benefits) Regulations 1960* by replacing references to the ‘Medicare Australia CEO’ with references to the ‘Chief Executive Medicare’. As a result of new section 4 of the Medicare Act, the position of CEO of Medicare Australia is abolished and replaced with the Chief Executive Medicare – a Senior Executive Service position in the Department of Human Services. Therefore, references to the ‘Medicare Australia CEO’ become redundant on 1 July 2011.

Items [48] and [49] — Subsection 22(2)

Items [48] and [49] amend subparagraph 22(2)(a)(i) and paragraph 22(2)(b) by replacing references to the ‘Medicare Australia CEO’ with references to the ‘Chief Executive Medicare’.

Item [50] — Schedule 6

Item [50] amends Schedule 6 by inserting the address of the Department of Human Services in each capital city. The purpose of Schedule 6 is to prescribe offices where an application for a safety net concession card and a pharmaceutical benefits entitlement card may be lodged.

Part 22 — Amendment of *National Health (Pharmaceuticals and Vaccines — Cost Recovery) Regulations 2009*

Item [51] — Subparagraph 5.1(1)(m)(i)

Item [51] amends subparagraph 5.1(1)(m)(i) by replacing the reference to ‘Medicare Australia’ with a reference to ‘Human Services Department’.

Part 23 — Amendment of *Ombudsman Regulations 1977*

Item [52] — Schedule 4, item 13

Item [52] amends item 13 in Schedule 4 by omitting the item. Item 13 refers to ‘Medicare Australia’ and the ‘Chief Executive Officer’ (of Medicare Australia) as the Principal Officer of a prescribed authority.

Part 24 — Amendments of *Privacy (Private Sector) Regulations 2001*

Item [53] — Regulation 6, definition of *Centrelink*

Item [53] amends the definition of ‘Centrelink’ in regulation 6 of the *Privacy (Private Sector) Regulations 2001* and insert definitions of ‘centrelink program’ and ‘Customer Reference Number’.

The definition of ‘Centrelink’ is amended by inserting a note at the end of the definition which explains that Centrelink was abolished on 1 July 2011 as a result of the HSLA Act. The term ‘centrelink program’ is defined by reference to its meaning in the HSLA Act.

The definition of ‘Customer Reference Number’ defines that term as a number assigned to an individual by Centrelink, or the Department of Human Services, in relation to a centrelink program. Although Centrelink ceases to be a separate statutory agency on 1 July 2011 and becomes integrated into the Department of Human Services, there will be individuals whose Customer Reference Numbers were issued by Centrelink before that date. Therefore, to avoid confusion, the definition refers to numbers issued by both Centrelink and the Department.

Item [54] — Subregulation 9 (1), heading

Item [54] amends the heading to subregulation 9(1) by omitting the reference to ‘Centrelink’ in the heading for the reasons set out in item [53].

Item [55] — Paragraphs 9 (1) (b), 10 (b) and 11 (b)

Items [55] amends paragraphs 9 (1)(b), 10(b) and 11(b) by stating that a Customer Reference Number (as defined in regulation 6) is a prescribed identifier for paragraph 7.2 (c) of the National Privacy Principles in Schedule 3 to the *Privacy Act 1988*.

Paragraph 7.2 (c) of the National Privacy Principles provides that an organisation must not use or disclose an identifier assigned to an individual by an agency unless the use or disclosure is by a prescribed organisation of a prescribed identifier in prescribed circumstances.

Item [56] — Schedule 2, items 68 and 69

Item [56] omits items 68 and 69 from Schedule 2. These items contain references to Centrelink and Child Support Agency. For the reasons set out in item [53], references to Centrelink become redundant on 1 July 2011.

The ‘Child Support Agency’ has never been a separate agency despite the word ‘Agency’ appearing in its title. In 2009, the child support program became incorporated into the Department of Human Services. The amendment corrects this anomaly.

Item [57] — Schedule 2, after item 96

Item [57] inserts new item 96A into Schedule 2 to the *Privacy (Private Sector) Regulations 2001*. This item inserts a reference to the Department of Human Services.

Schedule 2 specifies agencies for the purpose of the definition of ‘agency’ in the *Privacy Act 1988* and in relation to which paragraphs 100(2)(a) and (b) of that Act have been satisfied. Paragraphs 100(2)(a) and (b) of the *Privacy Act 1988* provide that, before prescribing an organisation, identifier and circumstances, the Minister must be satisfied that:

- the agency has agreed that the adoption, use or disclosure by the prescribed organisation of the identifier is appropriate; and
- the agency has consulted the Privacy Commissioner about the adoption, use or disclosure by the organisation of the identifier.

The Department of Human Services consulted with the Office of Privacy Commissioner in relation to these matters. The Privacy Commissioner indicated she was satisfied with the outcome.

Item [58] — Schedule 2, item 129A

Item [58] omits item 129A from Schedule 2. This item refers to Medicare Australia.

Item [59] — Schedule 3, Part 1, heading

Item [59] amends the heading to Part 1 of Schedule 3 by omitting the reference to Centrelink in the heading.

Part 25 — Amendment of *Proceeds of Crime Regulations 1987*

Item [60] — Paragraph 3B(j)

Item [60] omits paragraph 3B(j) which contains a reference to Medicare Australia.

Part 26 — Amendment of *Remuneration Tribunal (Miscellaneous Provisions) Regulations 1976*

Item [61] — Schedule 1, item 6

Item [61] omits item 6 of Schedule 1 which contains a reference to Medicare Australia and the Chief Executive Officer of Medicare Australia.

Part 27 — Amendments of *Student Assistance Regulations 2003*

Item [62] — Subregulation 3(1), definition of *Centrelink*

Item [62] omits the definition of ‘Centrelink’ in subregulation 3(1) of the *Student Assistance Regulations 2003*.

Item [63] — Regulation 4

Item [63] amends regulation 4 by recasting the provision to clarify its meaning, and by replacing the reference to ‘Centrelink’ with a reference to the Department of Human Services.

Item [64] — Subparagraphs 8 (d) (viii) and (x)

Item [65] — Subparagraph 8 (d) (xi)

Item [66] — Schedule 1, item 116

Item [67] — Schedule 1, after item 133

Item [68] — Schedule 1, item 205, paragraph (b)

Item [69] — Schedule 1, item 206, note

Items [64], [65], [66] and [68] amend the provisions listed by replacing references to ‘Centrelink’ with references to ‘the Department of Human Services’.

Items [65], [67] and [69] include a note which explains that information given to Centrelink before 1 July 2011 is taken, on or after that date, to have been given to the

Department of Human Services. The note is included to assist readers and refers to the relevant items in the HSLA Act.

Part 28 — Amendment of *Superannuation Guarantee (Administration) Regulations 1993*

Item [70] — Regulation 7AE

Item [70] amends regulation 7AE by replacing the reference to ‘Medicare Australia’ with a reference to ‘the Department administered by the Minister administering the Medicare Act’.