



Midwife Professional Indemnity (Commonwealth Contribution) Scheme (Amendment and Repeal) Rule 2016

I, Sussan Ley, Minister for Health and Aged Care, make the following instrument under section 90 of the *Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2010*.

Dated 12/8/2016

Sussan Ley
Minister for Health and Aged Care

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1 Name

This is the *Midwife Professional Indemnity (Commonwealth Contribution) Scheme (Amendment and Repeal) Rule 2016*.

2 Commencement

This instrument commences on 1 January 2017.

3 Authority

This instrument is made under section 90 of the *Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2010*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Midwife Professional Indemnity (Commonwealth Contribution) Scheme Rules 2010

1 Rule 3 (after definition of Board)

Insert:

corporation means a corporation within the meaning of section 57A of the *Corporations Act 2001*.

endorsed by the Board means endorsed by the Board under section 94 of the National Law to prescribe schedule 2, 3, 4 and 8 medicines and to provide associated services required for midwifery practice in accordance with relevant state and territory regulation.

National Law means:

- (a) for a State or Territory other than Western Australia, the Health Practitioner Regulation National Law set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* (Qld) and adopted (with or without modifications) by legislation of that State or Territory of Australia as a law of that jurisdiction; and
- (b) for Western Australia, the legislation enacted by the *Health Practitioner Regulation National Law (WA) Act 2010* (WA) that corresponds to the *Health Practitioner Regulation National Law Act 2009* (Qld).

2 Rule 5

Repeal the rule, substitute:

5. Meaning of the term eligible midwife (1 January 2017–30 June 2018)

- (1) This rule applies until the end of 30 June 2018.
- (2) For the purposes of paragraph (b) of the definition of **eligible midwife** in subsection 5(1) of the Act, the person must meet the requirements that are specified in subrule (3) or the requirements that are specified in subrule (4).
- (3) The person must have:
 - (a) current general registration as a midwife in Australia with no restrictions on practice;
 - (b) midwifery experience that constitutes the equivalent of 3 years full time post initial registration as a midwife;
 - (c) current competence, as recognised by the Board, to provide pregnancy, labour, birth and post natal care to women and their infants;

- (d) successfully completed a professional practice review program approved by the Board for midwives working across the continuum of midwifery care;
 - (e) undertaken 20 additional hours per year of continuing professional development relating to the continuum of midwifery care;
 - (f) either successfully completed, or provided a formal undertaking to the Board that they will complete within 18 months of recognition as an eligible midwife:
 - (i) an accredited and approved program of study determined by the Board to develop midwives' knowledge and skills in prescribing, or
 - (ii) a program, recognised by the Board, that is substantially equivalent to such an approved program of study; and
 - (g) not be, or have been at any time after 1 January 2017, endorsed by the Board.
- (4) The person must be endorsed by the Board.

5A. Meaning of the term eligible midwife (beginning 1 July 2018)

- (1) This rule applies beginning on 1 July 2018.
- (2) For the purposes of paragraph (b) of the definition of *eligible midwife* in subsection 5(1) of the Act, the person must meet the requirements that are specified in subrule (3).
- (3) The person must be endorsed by the Board.

3 After Rule 8

Insert:

9. Claims by eligible midwives

For paragraph 11(3)(g) and subsection 31(5) of the Act, eligible midwives who practise effectively as self-employed midwives but operate their practice through a corporation whose shareholders and directors are each practising midwives, and there are no shareholders or directors who are not practising midwives, are not included in the class of eligible midwives who are ordinarily, or could reasonably be expected in the ordinary course of business to be, engaged as employees (and therefore indemnified from liability by their employer).

Schedule 2—Repeals

Midwife Professional Indemnity (Commonwealth Contribution) Scheme Rules 2010 (No. 2)

1 The whole of the instrument

Repeal the instrument.