

National Health (COVID‑19 Supply of Pharmaceutical Benefits) Special Arrangement 2020

made under section 100 of the

National Health Act 1953

**Compilation No. 8**

**Compilation date:** 31 March 2023

**Includes amendments up to:** F2023L00401

**Registered:** 13 April 2023

**About this compilation**

**This compilation**

This is a compilation of the *National Health (COVID-19 Supply of Pharmaceutical Benefits) Special Arrangement 2020* that shows the text of the law as amended and in force on 31 March 2023 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

(1) This instrument is the *National Health (COVID‑19 Supply of Pharmaceutical Benefits) Special Arrangement 2020*.

3 Authority

This instrument is made under section 100 of the *National Health Act 1953*.

4 Repeal of this instrument

This instrument is repealed at the start of 1 April 2024.

5 Simplified outline of this instrument

This instrument makes a special arrangement for the supply of pharmaceutical benefits by approved hospital authorities based on a digital image of a paper‑based prescription, or a copy of a paper‑based prescription.

This instrument also modifies arrangements for supplies of pharmaceutical benefits in relation to written acknowledgement of receipt of the benefits and signatures for records of supplies of the benefits on pharmaceutical benefits prescription record forms.

Note: Part VII of the Act, and regulations or other instruments made for the purposes of that Part, have effect subject to this instrument (see subsection 100(3) of the Act).

6 Definitions

(1) In this instrument:

***Act*** means the *National Health Act 1953*.

***approved hospital authority*** has the same meaning as in Part VII of the Act.

***CTS claim*** has the same meaning as in Part VII of the Act.

***Medicare/DVA copy*** has the same meaning as in the Regulations.

***medication chart prescription*** has the same meaning as in the Regulations.

***paper‑based prescription***has the same meaning as in the Regulations.

***PBS prescriber*** has the same meaning as in Part VII of the Act.

***pharmaceutical benefit*** has the same meaning as in Part VII of the Act.

***pharmacist/patient copy*** has the same meaning as in the Regulations.

***Regulations*** means the *National Health (Pharmaceutical Benefits) Regulations 2017*.

***relevant streamlined authority code*** has the same meaning as in the Regulations.

(2) A reference in this Special Arrangement to the Act, the Regulations or the *Health Insurance Act 1973* is a reference to that legislation as in force from time to time.

(3) A reference in this Special Arrangement to a digital image of a prescription includes a reference to a digital image of so much of the prescription as would indicate that subsections 40(1), (2) and (2A) of the Regulations have been complied with.

Part 2—Special Arrangement for supplies of pharmaceutical benefits

Division 2—Supplies of pharmaceutical benefits by approved hospital authorities based on paper‑based prescriptions

9 Application of Division

(1) This Division applies to the supply of a pharmaceutical benefit by an approved hospital authority based on a paper‑based prescription.

Note: For a hospital authority to be approved under section 94 of the Act in respect of a hospital, the dispensing of drugs and medicinal preparations at that hospital must be performed by or under the direct supervision of a medical practitioner or pharmacist (see subsection 94(5) of the Act).

(2) However, this Division does not apply to the supply of a pharmaceutical benefit mentioned in subsection (1) if:

(a) the prescription is a medication chart prescription; or

(b) under a law of the State or Territory in which the benefit is to be supplied, the benefit may not be supplied on the basis of:

(i) a digital image of a prescription; or

(ii) a copy of a prescription.

Note: For the supply of a pharmaceutical benefit on basis of a medication chart prescription, see section 45 of the Regulations.

10 Modified application of section 44 of the Regulations—supplies on first presentation of prescription

(1) The requirement in subparagraph 44(3)(a)(ii) of the Regulations for the prescription for a supply of a pharmaceutical benefit to be given to the pharmacist or practitioner by whom, or under whose supervision, the benefit will be dispensed is taken to be met if:

(a) a digital image of the prescription, or a copy of the prescription, is instead given to the pharmacist or practitioner; and

(b) if the prescription is or would be an authority prescription—the requirements in subsection (2) are met for the prescription.

(2) The requirements in this subsection are met for a prescription if:

(a) if the pharmaceutical benefit prescribed has a relevant streamlined authority code:

(i) the PBS prescriber who wrote the prescription informs the pharmacist or practitioner of that code before the benefit is supplied; or

(ii) the code is displayed on the digital image of the prescription, or the copy of the prescription (as applicable); or

(b) otherwise:

(i) the Minister or the Chief Executive Medicare has notified (orally or by other means) the PBS prescriber who wrote the prescription that each relevant authorisation will be given; and

(ii) the PBS prescriber informs the pharmacist or practitioner of that notification before the benefit is supplied.

Note: A paper‑based prescription prepared in duplicate in accordance with paragraph 40(2)(a) or (b) of the Regulations will include a part on which the words “pharmacist/patient copy” appear and a part on which the words “Medicare/DVA copy” appear.

11 Modified application of section 51 of the Regulations—repeated supplies of pharmaceutical benefits

(1) This section applies if:

(a) an approved hospital authority supplies a pharmaceutical benefit on the basis of a paper‑based prescription as mentioned in section 10 of this instrument; and

(b) subsection 51(4) of the Regulations applies to the benefit.

(2) The requirements in each of paragraphs 51(4)(b) and (c) of the Regulations for the supplier of the benefit to write the words “immediate supply necessary” on, and to sign, the Medicare/DVA copy of the prescription are taken to be met if the pharmacist or practitioner by whom, or under whose supervision, the benefit will be dispensed instead writes those words on, and signs:

(a) the digital image of the prescription, or the copy of the prescription (as applicable); or

(b) a print‑out of a digital image of the prescription.

12 Modified application of section 52 of the Regulations—repeat authorisations

(1) Subsection 52(3) of the Regulations, modified by this section, applies if:

(a) an approved hospital authority supplies a pharmaceutical benefit on the basis of a paper‑based prescription as mentioned in section 10 of this instrument; and

(b) subsequent supplies of the pharmaceutical benefit can be made under the prescription at the time of the supply mentioned in paragraph (a); and

(c) one of the following applies:

(i) the prescription contains a direction to supply the benefit more than once;

(ii) a deferred supply authorisation that contains a direction to supply the benefit more than once is attached to the prescription;

(iii) a repeat authorisation that contains a direction to supply the benefit more than once is attached to the prescription.

(2) The requirements in subparagraph 52(3)(a)(iii) of the Regulations for the approved hospital authority to:

(a) attach the repeat authorisation prepared under paragraph 52(3)(a) of the Regulations to the pharmacist/patient copy of the prescription; and

(b) give the repeat authorisation and pharmacist/patient copy to the person to whom the benefit is supplied;

are taken to be met if the approved hospital authority instead:

(c) attaches the repeat authorisation to a print‑out of the digital image of the prescription, or the copy of the prescription (as applicable); and

(d) retains both:

(i) the repeat authorisation; and

(ii) the print‑out of the digital image of the prescription, or the copy of the prescription (as applicable).

13 Modified application of section 53 of the Regulations—deferred supply authorisations

(1) Subsection 53(3) of the Regulations, modified by this section, applies if:

(a) an approved hospital authority supplies a pharmaceutical benefit on the basis of a paper‑based prescription as mentioned in section 10 of this instrument; and

(b) defers, in accordance with subsection 53(2) of the Regulations, the supply of one or more pharmaceutical benefits directed to be supplied by the prescription.

(2) The requirement in subparagraph 53(3)(c)(i) of the Regulations for the approved hospital authority to mark on the pharmacist/patient copy and the Medicare/DVA copy of the prescription, across the wording relating to the pharmaceutical benefit the supply of which is being deferred, the words “original supply deferred”, is met if the approved hospital authority instead writes those words on:

(a) the digital image of the prescription, or the copy of the prescription (as applicable); or

(b) a print‑out of the digital image of the prescription (if applicable).

(3) The requirement in subparagraph 53(3)(c)(ii) of the Regulations for the approved hospital authority to attach the deferred supply authorisation prepared by the approved hospital authority (under paragraph 53(3)(a) of the Regulations) to the pharmacist/patient copy is met if the approved hospital authority instead:

(a) attaches the deferred supply authorisation to a print‑out of the digital image of the prescription, or the copy of the prescription (as applicable); and

(b) retains:

(i) the deferred supply authorisation; and

(ii) the print‑out of the digital image of the prescription, or the copy of the prescription (as applicable).

(4) If the approved hospital authority writes the words “original supply deferred” on the digital image of the prescription, the print‑out referred to in paragraph (2)(b) of this section must be of the digital image including that writing.

14 Keeping documents—authorised hospital authorities

If:

(a) an approved hospital authority supplies a pharmaceutical benefit:

(i) on the basis of a paper‑based prescription as mentioned in section 10 of this instrument; or

(ii) as a repeated supply as mentioned in section 11 of this instrument; or

(iii) on the basis of a repeat authorisation prepared in accordance with section 12 of this instrument;

(iv) on the basis of a deferred supply authorisation prepared in accordance with section 13 of this instrument; and

(b) the supply is of a kind specified in an item of the following table;

the approved hospital authority must keep a document specified in the item for at least 2 years from the date of supply.

| Documents to be kept for supplies | | |
| --- | --- | --- |
| Item | Kind of supply | Document |
| 1 | Both of the following apply in relation to the supply:  (a) the supply was the first or only supply of a pharmaceutical benefit authorised by the prescription;  (b) a CTS claim is made for the supply | The digital image of the prescription, or a print‑out of the digital image, or the copy of the prescription (as applicable) |
| 2 | Both of the following apply in relation to the supply:  (a) the supply was on the basis of a repeat authorisation or a deferred supply authorisation;  (b) a CTS claim is made for the supply | The repeat authorisation or deferred supply authorisation |
| 3 | After the supply, there are no remaining supplies of pharmaceutical benefits that are authorised by the prescription | The digital image of the prescription, or a print‑out of the digital image, or the copy of the prescription (as applicable) |

Note: For the requirement to produce documents relating to supplies of pharmaceutical benefits for which amounts are paid by the Commonwealth, see section 99ABB of the Act.

15 Keeping documents—PBS prescribers

If a PBS prescriber has written a prescription and has given an approved hospital authority a digital image of the prescription, or a copy of the prescription, the PBS prescriber must keep the prescription for at least 2 years from the date of the prescription.

Division 3—Receipt of pharmaceutical benefits

16 Application of section 57 of the Regulations—written acknowledgement of receipt of pharmaceutical benefits

Section 57 of the Regulations does not apply to the supply of a pharmaceutical benefit where it is not practicable for the approved supplier to obtain from the person to whom the benefit is supplied (whether or not for the person's own use) written acknowledgement that the person has received the benefit.

16A Application of subsection 84D(7) of the Act—signatures for records of supplies of pharmaceutical benefits on pharmaceutical benefits prescription record forms

(1) This section applies to a record made for the purposes of subsection 84D(6) of the Act of the supply of a pharmaceutical benefit on a pharmaceutical benefits prescription record form.

(2) The requirement in subsection 84D(7) of the Act for the record to be signed by a medical practitioner or pharmacist (as applicable under paragraph 84D(7)(d), (e) or (f) of the Act) does not apply if:

(a) the record is not handwritten; and

(b) it is not practicable for the medical practitioner or pharmacist to sign the record due to concerns relating to transmission of the coronavirus known as COVID‑19.

Part 3—Application, savings and transitional provisions

17 Continued application of Special Arrangement as in force before commencement of the *National Health (COVID‑19 Supply of Pharmaceutical Benefits) Amendment (Expansion of Telehealth and Telephone Attendances) Special Arrangement 2020*

This Special Arrangement, as in force immediately before the commencement of this section, continues to apply on and after that commencement in relation to the supply of a pharmaceutical benefit made under this Special Arrangement before that commencement.

17A Continued application of Special Arrangement as in force before commencement of the *National Health (COVID‑19 Supply of Pharmaceutical Benefits) Amendment (Additional Extension) Special Arrangement 2021*

This Special Arrangement, as in force immediately before the commencement of this section, continues to apply on and after that commencement in relation to the supply of a pharmaceutical benefit made under this Special Arrangement before that commencement.

17B Continued application of Special Arrangement as in force before 1 April 2022

This Special Arrangement, as in force immediately before 1 April 2022, continues to apply on and after 1 April 2022 in relation to the supply of a pharmaceutical benefit made under this Special Arrangement before 1 April 2022.

18 Transitional provision for existing prescriptions

(1) In this Section:

***repeal date***means the date this Special Arrangement is repealed, being at the start of 1 April 2023.

(2) This Special Arrangement continues to apply on and after the repeal date in relation to the supply of a pharmaceutical benefit made under this Special Arrangement if the prescription for the pharmaceutical benefit is dated before the repeal date.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) |
| C[x] = Compilation No. x | /sub‑subparagraph(s) |
| Ch = Chapter(s) | pres = present |
| def = definition(s) | prev = previous |
| Dict = Dictionary | (prev…) = previously |
| disallowed = disallowed by Parliament | Pt = Part(s) |
| Div = Division(s) | r = regulation(s)/rule(s) |
| ed = editorial change | reloc = relocated |
| exp = expires/expired or ceases/ceased to have | renum = renumbered |
| effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = *Legislation Act 2003* | Sch = Schedule(s) |
| LIA = *Legislative Instruments Act 2003* | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given | SLI = Select Legislative Instrument |
| effect | SR = Statutory Rules |
| (md not incorp) = misdescribed amendment | Sub‑Ch = Sub‑Chapter(s) |
| cannot be given effect | SubPt = Subpart(s) |
| mod = modified/modification | underlining = whole or part not |
| No. = Number(s) | commenced or to be commenced |

Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| National Health (COVID‑19 Supply of Pharmaceutical Benefits) Special Arrangement 2020 | 25 Mar 2020 (F2020L00312) | 26 Mar 2020 (s 2(1) item 1) |  |
| National Health (COVID‑19 Supply of Pharmaceutical Benefits) Amendment (Expansion of Telehealth and Telephone Attendances) Special Arrangement 2020 | 7 Apr 2020 (F2020L00414) | 8 Apr 2020 (s 2(1) item 1) | — |
| National Health (COVID‑19 Supply of Pharmaceutical Benefits) Special Arrangement Amendment (Extension and Record Forms) Instrument 2020 (PB 101 of 2020) | 24 Sept 2020 (F2020L01212) | 25 Sept 2020 (s 2(1) item 1) | — |
| National Health (COVID‑19 Supply of Pharmaceutical Benefits) Amendment (Extension) Special Arrangement 2021 (PB 37 of 2021) | 19 Mar 2021 (F2021L00257) | 20 Mar 2021 (s 2(1) item 1) | — |
| National Health (COVID‑19 Supply of Pharmaceutical Benefits) Amendment (Further Extension) Special Arrangement 2021 (PB 106 of 2021) | 21 Sept 2021 (F2021L01304) | 22 Sept 2021 (s 2(1) item 1) | — |
| National Health (COVID‑19 Supply of Pharmaceutical Benefits) Amendment (Additional Extension) Special Arrangement 2021 (PB 137 of 2021) | 21 Dec 2021 (F2021L01870) | 22 Dec 2021 (s 2(1) item 1) | — |
| National Health (COVID‑19 Supply of Pharmaceutical Benefits) Special Arrangement Amendment (Extension for Receipt Requirements and Hospital Supplies) Instrument 2022 (PB 32 of 2022) | 30 Mar 2022 (F2022L00432) | Sch 2: 1 Apr 2022 (s 2(1) item 3) Remainder: 31 Mar 2022 (s 2(1) items 1, 2) | — |
| National Health (COVID‑19 Supply of Pharmaceutical Benefits) Special Arrangement Amendment (Extension for Receipt Requirements) Instrument 2023 (PB 33 of 2023) | 31 Mar 2023 (F2023L00401) | Sch 2: 1 Apr 2023 (s 2(1) item 3) Remainder: 6:09 pm (A.C.T.) 31 Mar 2023 (s 2(1) items 1, 2) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| **Part 1** |  |
| s 2 | rep LA s 48D |
| s 4 | am F2020L01212; F2021L00257; F2021L01304; F2021L01870; F2022L00432; F2023L00401 |
| s 5 | rs F2020L00414 |
|  | am F2020L01212 |
|  | rs F2022L00432 |
|  | am F2023L00401 |
| s 6 | am F2020L00414; F2020L01212; F2021L01870; F2022L00432; F2023L00401 |
| **Part 2** |  |
| Division 1 | rep F2022L00432 |
| s 7 | am F2020L00414 |
|  | rep F2022L00432 |
| s 8 | rep F2022L00432 |
| **Division 2** |  |
| Division 2 | rs F2022L00432 |
|  | rep F2023L00401 |
| s 9 | rs F2020L00414 |
|  | am F2021L01870 |
|  | rs F2022L00432 |
|  | rep F2023L00401 |
| s 10 | rs F2020L00414; F2022L00432 |
|  | rep F2023L00401 |
| s 11 | rs F2020L00414; F2022L00432 |
|  | rep F2023L00401 |
| s 12 | ad F2020L00414 |
|  | rs F2022L00432 |
|  | rep F2023L00401 |
| s 13 | ad F2020L00414 |
|  | rs F2022L00432 |
|  | rep F2023L00401 |
| s 14 | ad F2020L00414 |
|  | rs F2022L00432 |
|  | rep F2023L00401 |
| s 15 | ad F2020L00414 |
|  | rs F2022L00432 |
|  | rep F2023L00401 |
| **Division 3** |  |
| Division 3 heading | rs F2022L00432 |
|  | rep F2023L00401 |
| s 12 | renum F2020L00414 |
| s 16 (prev s 12) | am F2020L01212; F2022L00432 |
| s 16A | ad F2020L01212 |
|  | rep F2023L00401 |
| **Part 3** |  |
| s 13 (second occurring) | ad F2020L00414 |
|  | renum |
|  | ed C1 |
| s 17 (prev s 13 second  occurring) | am F2022L00432 |
| s 17A | ad F2021L01870 |
|  | am F2022L00432 |
| s 17B | ad F2022L00432 |
| s 18 | ad F2021L01304 |
|  | am F2021L01870; F2022L00432 |
|  | rs F2023L00401 |
| s 19 | ad F2023L00401 |