



# Contingence Aids Payment Scheme 2020

made under section 12 of the

*National Health Act 1953*

## Compilation No. 6

**Compilation date:** 1 July 2024

**Includes amendments:** F2024L00705

**Registered:** 29 July 2024

Prepared by the Office of Parliamentary Counsel, Canberra

---

## About this compilation

### This compilation

This is a compilation of the *Continence Aids Payment Scheme 2020* that shows the text of the law as amended and in force on 1 July 2024 (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 Register ([www.legislation.gov.au](http://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 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 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

---

# Contents

<b>Part 1—Preliminary</b>	1
1 Name of Instrument.....	1
3 Repeal of previous instrument and maintenance of Scheme.....	1
4 Interpretation .....	1
<b>Part 2—Participation in the Scheme</b>	4
5 Eligibility criteria .....	4
6 Application to participate in the Scheme .....	5
7 Notification to Chief Executive Medicare .....	5
8 Requirement to notify change of circumstances .....	6
9 Decision that a person has ceased to be eligible .....	6
10 When participation ceases to have effect .....	6
<b>Part 3—Payments</b>	7
11 Amount of CAPS payment.....	7
12 Payment procedure.....	7
13 Payment by instalments.....	7
14 Payment to approved person .....	8
15 Notification of details of payments .....	9
<b>Part 4—Representatives and organisations</b>	10
16 Interpretation .....	10
17 Ceasing representation of a person.....	10
18 Authorised representative.....	10
19 Correspondence recipient .....	11
20 Authorised payment recipient .....	11
21 Responsible person for a participating person .....	11
22 Organisations authorised to receive CAPS payments .....	12
<b>Part 5—Miscellaneous</b>	14
23 Debts.....	14
24 Investigations .....	14
25 Review of decisions relating to eligibility.....	14
26 Review of Secretary’s decisions .....	14
<b>Part 6—Application, transitional and saving provisions</b>	16
27 Application of the <i>Continence Aids Payment Scheme Amendment (Eligibility) Instrument 2022</i> .....	16
<b>Schedule</b>	17
<b>Part 1—Eligible neurological condition</b>	17
<b>Part 2—Eligible other condition</b>	27
<b>Endnotes</b>	29
<b>Endnote 1—About the endnotes</b>	29
<b>Endnote 2—Abbreviation key</b>	30
<b>Endnote 3—Legislation history</b>	31
<b>Endnote 4—Amendment history</b>	32



## Part 1—Preliminary

### 1 Name of Instrument

This Instrument is the *Continence Aids Payment Scheme 2020*.

### 3 Repeal of previous instrument and maintenance of Scheme

- (2) This Instrument maintains in existence the Continence Aids Payment Scheme formulated by the *Continence Aids Payment Scheme 2010*.

### 4 Interpretation

- (1) In this Instrument:

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

*Amendment Act* means the *National Health Amendment (Continence Aids Payment Scheme) Act 2010*.

*approved form*, when used in a provision of this Instrument, means a form approved, whether before or after the commencement of this Instrument, by the Secretary or Chief Executive Medicare in writing for the purposes of that provision.

*authorised payment recipient*, for a participating person, means the person referred to subsection 20(3).

*authorised representative* means a person referred to in subsection 18(3).

*CAPS payment*, for a participating person, means:

- (a) for a financial year—the amount specified in subsection 11(1); or
- (b) for part of a financial year—the amount calculated in accordance with, subsection 11(2).

*continence aid* means a product intended to assist in the management of incontinence and, for the avoidance of doubt, includes continence-related products.

*correspondence recipient* means a person referred to in section 19.

*eligibility criteria* has the meaning given by section 5.

*eligible neurological condition* means a condition listed in Part 1 of the Schedule.

*eligible other condition* means a condition listed in Part 2 of the Schedule.

*family member*, in relation to a participating person, means:

- (a) the partner or a parent of the participating person; or

Section 4

---

- (b) a sister, brother or child of the participating person; or
- (c) any other person who, in the opinion of the Chief Executive Medicare, should be treated for the purposes of this definition as one of the relevant person's relations described in paragraph (a) or (b).

**health professional:**

- (a) means:
  - (i) a person engaged in a health care related vocation or profession who must be registered or licensed (however described) under a Commonwealth, State or Territory law in order to practise that vocation or profession; or
  - (ii) a person who is an eligible Aboriginal health worker under the *Health Insurance (Allied Health Services) Determination 2009* made under the *Health Insurance Act 1973*; but
- (b) does not include a person who is a family member of the relevant participating person.

Note: Section 10 of the *Acts Interpretation Act 1901* deals with references to legislation that has been amended or replaced.

**legal representative** means a person with legal authority under a law of a State or Territory to act for another person such as a guardian or attorney under a power of attorney.

**organisation** means an entity, including a body politic, with an Australian Business Number which provides, will provide or will facilitate the provision of continence aids to a participating person, but does not include a person:

- (a) with legal authority under a law of a State or Territory to act for the applicant or participating person; or
- (b) a person referred to in paragraphs 18(2)(a) to (c) or 20(1)(a) to (c).

**participating person** means:

- (a) a person approved under section 6 to participate in the Scheme; or
- (b) a person taken to participate, and to be eligible to participate, in the Scheme under item 3 of the Amendment Act,

unless the person's participation has ceased to have effect under this Instrument.

Note: Item 3 of the Amendment Act and section 10 of this Instrument deal with when a person's participation ceases to have effect.

**permanent and severe incontinence** means frequent and uncontrollable moderate to large loss of urine or faeces which impacts on a person's quality of life and which is unlikely to improve with medical, surgical or clinical treatment regimes.

**residential care** has the same meaning as in the *Aged Care Act 1997*.

**residential care service** has the same meaning as in the *Aged Care Act 1997*.

**respite care** has the same meaning as in the *Aged Care Act 1997*.

***Scheme*** means the Continence Aids Payment Scheme formulated by the *Continence Aids Payment Scheme 2010* and maintained in existence by this Instrument.

***Secretary*** includes a person authorised by the Secretary to act on his or her behalf in approving forms for, or related to, this Instrument.

- (2) Nothing in this Instrument is intended to affect the operation of any law of a State or Territory that deals with legal representatives.
- (3) References to a legal representative in particular provisions and not in others is not intended to limit a legal representative's powers to act for the represented person.

## Part 2—Participation in the Scheme

### 5 Eligibility criteria

- (1) The eligibility criteria for a person to participate in the Scheme are that the person:
    - (a) suffers from permanent and severe incontinence:
      - (i) caused by an eligible neurological condition; or
      - (ii) Caused by an eligible other condition; and the person has or is eligible to have a pensioner concession card issued under Division 1 of Part 2A.1 of the *Social Security Act 1991* or is the dependant of a holder of a pensioner concession card, as defined in section 6A of the *Social Security Act 1991*; or
      - (iii) caused by an eligible other condition and the person has a Department of Veterans' Affairs Pensioner Concession Card or entitlement, whether as a primary cardholder or a dependant of a cardholder; and
    - (b) is an Australian citizen or permanent resident within the meaning of those terms in the *Australian Citizenship Act 2007*; and
    - (c) is not ineligible because of subsection (2).
  - (2) A person in any of the following categories is not eligible to participate in the Scheme:
    - (a) (for the avoidance of doubt) people who suffer from transient, rather than permanent and severe, incontinence;
    - (b) children under 5 years of age;
    - (c) care recipients, under the *Aged Care Act 1997*:
      - (i) who are being provided with residential care through a residential care service (other than residential care provided as respite care); or
      - (ii) who are receiving a home care package and the care recipient's care plan includes continence aids;
    - (d) NDIS participants where an NDIS plan is in effect for the NDIS participant and the NDIS plan includes a consumables budget (that includes continence aids) as evidence that reasonable and necessary support will be funded under the National Disability Insurance Scheme;
    - (e) people eligible to receive assistance for continence aids under the Rehabilitation Appliances Program (or replacement program if the name of that program is changed) through the Department of Veterans' Affairs;
    - (f) Australian citizens or permanent residents who have resided outside Australia for a continuous period of three years (including any periods of leave from the country in which that person resides);
    - (g) a person serving a prison sentence.
  - (3) For a person who:
    - (a) is eligible to participate in the Scheme under subparagraph (1)(a)(iii); and
    - (b) meets the other eligibility criteria for participation in the Scheme; and
-



(c) applied to participate in the Scheme between 1 July 2010 and the commencement of the *Continence Aids Payment Scheme Variation 2011 (No.2)*;

the CAPS payment is the amount calculated in accordance with section 11 with effect from the date of application.

- (4) Subsection (3) applies, even if the person's application was rejected, provided that the person would have been eligible to participate in the Scheme if subparagraph (1)(a)(iii) had been in effect at that time.
- (5) For the purposes of this section:

**NDIS participant** means a participant within the meaning of the *National Disability Insurance Scheme Act 2013*.

**NDIS plan** means a plan, for an NDIS participant, within the meaning of the *National Disability Insurance Scheme Act 2013*.

## 6 Application to participate in the Scheme

- (1) A person may apply to the Chief Executive Medicare to participate in the Scheme.
- (2) The Chief Executive Medicare must approve a person to participate in the Scheme if:
- (a) the applicant meets the eligibility criteria; and
  - (b) the application is made on the approved form; and
  - (c) the application:
    - (i) includes a statement prepared and signed by a health professional certifying that the applicant has been diagnosed by a doctor with an eligible neurological condition or eligible other condition, as the case may be, which has caused permanent and severe incontinence; and  
Note: Health professional is defined in subsection 4(1).
    - (ii) includes any other document or information required by the approved form.

Note: Section 14 of the Act provides that if an application is refused the Chief Executive Medicare must give the applicant a signed notice that includes the reasons for the decision and advising that the person may apply to the Chief Executive Medicare for a review of the decision. The application for review of the decision is dealt with in section 25 of this Instrument.

## 7 Notification to Chief Executive Medicare

- (1) A participating person, legal representative or authorised representative must notify the Chief Executive Medicare promptly on becoming aware that the participating person does not meet the eligibility criteria.

Example: A participating person must notify the Chief Executive Medicare if the person begins receiving residential care through a residential care service (other than residential care provided as respite care) or a home care package that includes continence aids: see paragraph 5(2)(c).

## Section 8

---

- (2) A legal representative or authorised representative must notify the Chief Executive Medicare promptly on becoming aware that the participating person has died.

### 8 Requirement to notify change of circumstances

A participating person, or their legal representative or authorised representative, must notify the Chief Executive Medicare promptly if:

- (a) an event or change of circumstances happens that affects, or might affect, the participating person's eligibility to participate in the Scheme; or
- (b) the participating person, or their legal representative or authorised representative, becomes aware that such an event or change of circumstances is likely to happen.

### 9 Decision that a person has ceased to be eligible

If notification has not been given under subsection 7(1) or section 8, but the Chief Executive Medicare is satisfied that a participating person does not meet the eligibility criteria, the Chief Executive Medicare must decide, by determination in writing, that the person is not eligible to participate in the Scheme and the date on which the person ceased to be eligible.

Note : Section 15 of the Act provides that if the Chief Executive Medicare decides that a participating person is not eligible to participate in the scheme, he or she must give the person a signed notice that includes the reasons for the decision and advising that the person may apply to the Chief Executive Medicare for a review of the decision. The application for review of the decision is dealt with in section 25 of this Instrument.

### 10 When participation ceases to have effect

A person's participation in the Scheme ceases to have effect:

- (a) if notification is given under paragraph 7(1)—from the date the person ceased to meet the eligibility criteria; or
- (b) if the Chief Executive Medicare decides that the person is not eligible to participate—from the date specified in the determination under section 9.

Note: Where a person entitled to a CAPS payment has died, payment will be made to the estate: see paragraph 12(1)(c).

## Part 3—Payments

### 11 Amount of CAPS payment

- (1) The amount of the CAPS payment for a financial year is \$694.80.
- (2) However, if a person is approved under section 6 as a participating person after the beginning of a financial year, the CAPS payment for the person for that financial year is calculated on a pro rata basis, being the period starting on the date the application under section 6 was received and ending on 30 June (inclusive) of the financial year.

Example: A person applies on 1 August 2020. The person's CAPS payment is calculated for the period 1 August to 30 June 2021 (inclusive).

- (3) A participating person may not receive:
  - (a) more than the amount of the CAPS payment for a financial year in any one financial year;
  - (b) more than one payment for the same period in a financial year.

### 12 Payment procedure

- (1) The Chief Executive Medicare must pay a CAPS payment, or an instalment of a CAPS payment, to which a participating person has become entitled under the Scheme to:
  - (a) the person; or
  - (b) if there is an authorised payment recipient for the person—the authorised payment recipient; or
  - (c) if the person has died, the person's estate.
- (2) The CAPS payment must be made:
  - (a) in one transaction unless the person has elected, in the approved form, to receive the payment in two instalments (except where subsection 13(4) applies); and
  - (b) by way of electronic funds transfer to the bank account notified, in the approved form, to the Chief Executive Medicare.

### 13 Payment by instalments

- (1) A person may elect to receive the CAPS payment in two instalments, worked out in accordance with this section, in a financial year.
- (2) If the person is a participating person on 1 July in the financial year:
  - (a) the first instalment is half of the CAPS payment specified in subsection 11(1), to be paid no later than 30 July in the financial year; and
  - (b) the second instalment is the remaining half of the CAPS payment, to be paid on or after 1 January but no later than 31 January in the financial year.

Section 14

---

- (3) If an application under section 6 is received after 1 July but before 1 January in the financial year and is approved, the CAPS payment for the financial year is the amount calculated in accordance with subsection 11(2) with:
  - (a) the first instalment a pro rata amount calculated for the period starting on the day the application was received and ending on 31 December (inclusive) in that financial year, to be paid within 30 days of approval of the application; and
  - (b) the second instalment is the remaining amount of the CAPS payment, to be paid on or after 1 January but no later than 31 January in the financial year.
- (4) If an application under section 6 is received after 31 December in the financial year and is approved, the CAPS payment for that financial year is the amount calculated in accordance with 11(2), to be paid within 30 days of approval of the application.
- (5) However, despite anything in this Instrument, a second instalment must not be paid if the person's participation has ceased to have effect before January in the financial year.

#### 14 Payment to approved person

- (1) This section applies to a person who is a participating person because of an approval under section 6 of this Instrument (*approved person*).
- (2) The approved person is entitled to:
  - (a) the CAPS payment specified in subsection 11(1) or 11(2), whichever applies in the circumstances, in the financial year in which the application is approved; and
  - (b) the CAPS payment specified in subsection 11(1) in each subsequent financial year as long as the person's participation has not ceased on a date before 1 July of that financial year.
- (3) The Chief Executive Medicare must make a CAPS payment for the approved person:
  - (a) if the person is a participating person on 1 July in the financial year:
    - (i) by 30 July in the financial year; or
    - (ii) if the payment is by instalments, in the manner specified in subsection 13(2); or
  - (b) if an application under section 6 is received after 1 July but before 31 December in the financial year and is approved:
    - (i) within 30 days of approving the application; or
    - (ii) if the payment is by instalments, in the manner specified in subsection 13(3); or
  - (c) if an application under section 6 is received after 31 December in the financial year and is approved—within 30 days of approving the application.

## **15 Notification of details of payments**

- (1) The Chief Executive Medicare, as soon as practicable after making a CAPS payment, must give a written statement containing details about the payment to:
  - (a) the participating person or his or her correspondence recipient; and
  - (b) if the payment was made to an organisation—the organisation.

## Part 4—Representatives and organisations

### 16 Interpretation

(1) In this part:

*assisted person* means:

- (a) a person applying to participate in the Scheme; or
- (b) a participating person,  
who is unable to act on his or her own behalf because of a physical or mental impairment.

### 17 Ceasing representation of a person

In this Part:

- (a) if a person is recognised as representing another person because of a particular status under the social security law or veterans' entitlements law, and the person ceases to hold that status, the person's representation of the other person under the Scheme is also taken to cease;
- (b) if a person may authorise, in accordance with this Part, another to do something, the person may also revoke the authorisation by notice in writing to the Chief Executive Medicare;
- (c) if a person is authorised, in accordance with this Part, to do something and wishes to end the arrangement, the person may cease the arrangement by notice in writing to the Chief Executive Medicare.

### 18 Authorised representative

- (1) This section applies to an assisted person who does not have a legal representative.
- (2) The assisted person may be represented for the purposes of the Scheme, other than to receive payments, by one of the following, subject to subsection (3):
  - (a) the assisted person's correspondence nominee appointed under section 123C of the *Social Security (Administration) Act 1999*; or
  - (b) the assisted person's Department of Veterans' Affairs (*DVA*) trustee, as recognised by DVA for the purposes of veterans' entitlements (see the *Veterans' Entitlements Act 1986*); or
  - (c) if the person does not have a representative mentioned in paragraph (a) or (b)—a responsible person approved as an authorised representative under section 21.
- (3) A person mentioned in subsection (2) who signs the application form for an assisted person, or nominates him or herself, in the approved form, after the application has been made, as the person authorised to represent the assisted person is taken to be the assisted person's authorised representative.

- (4) An authorised representative must act in the interests of the assisted person at all times.

### **19 Correspondence recipient**

An applicant, participating person or an assisted person's legal representative or authorised representative may authorise, in the approved form, another person (*correspondence recipient*) to receive correspondence under the Scheme for the applicant or participating person.

### **20 Authorised payment recipient**

- (1) One of the following people may receive payments as agent for a participating person if the conditions mentioned in subsection (2) are satisfied:
- (a) the person recognised as the participating person's payment nominee for the purposes of the social security law; or
  - (b) the person recognised as the participating person's trustee or agent for the purposes of veterans' entitlements; or
  - (c) a responsible person approved as an authorised payment recipient under section 21; or
  - (d) an organisation authorised in accordance with subsection 22(2).
- (2) The conditions are:
- (a) the person who is to receive the payments as agent for the participating person has been notified to the Chief Executive Medicare, in the approved form, that that person is to receive the payments; and
  - (b) if the applicant or participating person has a legal representative—the Chief Executive Medicare has not been notified by the legal representative that the CAPS payments are to be made to another person in accordance with this Instrument.
- (3) The person who is to receive the payments as agent for the participating person is the authorised payment recipient of the participating person.

### **21 Responsible person for a participating person**

- (1) The Secretary may approve an individual to represent an assisted person or a minor:
- (a) as an authorised representative to act for the person; or
  - (b) as an authorised payment recipient to receive payments as agent of the person; or
  - (c) as both (a) and (b).
- (2) However, the Secretary must not approve an individual unless the Secretary is satisfied that:
- (a) if the assisted person has a legal representative, or representation by a person referred to in paragraph 18(2)(a) or (b) or 20(1)(a) or (b)—the representative does not oppose the approval; and

## Section 22

---

- (b) the individual provides care or assistance to the person; and
  - (c) the arrangement for the receipt of CAPS payments is for the benefit of the person; and
  - (d) the individual seeking approval will use the funds only for the purpose for which they are provided.
- (3) The Secretary may revoke an approval if satisfied that it is appropriate to do so in the circumstances, having regard to the matters mentioned in this section.

Note: Section 26 of this Instrument provides that if the Secretary makes a decision under subsection (1) or (3), he or she must give the participating person and the individual a signed notice that includes the reasons for the decision and advising that the person may apply to the Secretary for a review of the decision.

### **22 Organisations authorised to receive CAPS payments**

- (1) In paragraphs 4(c), (d), (e) and (f) and subsections (5) and (6), a reference to a “participating person” includes a former participating person and, where the context permits, an authorised representative or correspondence nominee.
- (2) An applicant, participating person, or assisted person’s legal representative, authorised representative or authorised payment recipient, other than an organisation, may authorise, in the approved form, an organisation to receive CAPS payments, or instalments of CAPS payments, as the authorised payment recipient for a person entitled to the payment.
- (3) If the organisation agrees to receive the CAPS payments as agent, the organisation must provide details to the Chief Executive Medicare for the payments in the approved form.
- (4) The organisation must comply with the following obligations:
  - (a) assist the participating person to obtain continence aids that are appropriate to his or her needs;
  - (b) assist the participating person to use the CAPS payment as a contribution towards to the cost of purchasing continence aids;
  - (c) inform the participating person of any unused CAPS payment amount 30 days before the end of the financial year to which the payment relates;
  - (d) refund to the estate of a participating person who has died any unused portion of a CAPS payment;
  - (e) refund to the participating person any unused portion of a CAPS payment if notified, in writing, that:
    - (i) the person has ceased to meet the eligibility criteria; or
    - (ii) the person wishes to terminate the payment arrangement with the organisation;
  - (f) refund to the participating person any unused portion of a CAPS payment if the participating person was not entitled to the payment at the time it was made;
  - (g) inform the Chief Executive Medicare promptly on becoming aware that the participating person does not meet the eligibility criteria.



- (5) An organisation which receives a CAPS payment as agent for a participating person must:
- (a) keep records that:
    - (i) are in a collated and accessible form; and
    - (ii) contain details of the amounts received and the dates the amounts were received; and
    - (iii) contain details of how the amounts were used; and
  - (b) in relation to each of those records, retain the record for the period ending 3 years after 30 June of the year in which the record was made.
- (6) An organisation must provide details on the use of a CAPS payment if requested to do so by the participating person or his or her authorised representative.
- (7) The Secretary may direct, in writing, the Chief Executive Medicare to decline to make a CAPS payment to an organisation if the Secretary is satisfied that:
- (a) the arrangement for the payment is not operating to the benefit of the participating person; or
  - (b) the organisation has not complied with an obligation imposed by this Instrument in respect of any participating person.
- (8) If a direction is given under subsection (7) the Chief Executive Medicare must comply with the direction.

Note: Section 26 of this Instrument provides that if the Secretary makes a decision under subsection (7), he or she must give the participating person and the organisation a signed notice that includes the reasons for the decision and advising that the person or organisation may apply to the Secretary for a review of the decision.

## Part 5—Miscellaneous

### 23 Debts

If a participating person or former participating person has received, either directly or through an agent, a CAPS payment to which the person was not entitled, the amount paid is a debt due to the Commonwealth, recoverable by the Chief Executive Medicare.

### 24 Investigations

The Chief Executive Medicare may conduct investigations, as he or she thinks appropriate, in order to ensure that an applicant or a participating person meets the eligibility criteria.

### 25 Review of decisions relating to eligibility

- (1) For sections 14 and 15 of the Act, a person aggrieved by a decision under section 6 or 9 of this Instrument may apply, in the way set out in subsection (2), to the Chief Executive Medicare for review of the decision.
- (2) The application for review must:
  - (a) be made by written notice given to the Chief Executive Medicare within 28 days after the day on which the person received notice of the decision; and
  - (b) set out the reasons for making the request.

Note: Sections 14 and 15 of the Act provide for the reconsideration of decisions by the Chief Executive Medicare and review of such decisions by the Administrative Appeals Tribunal.

### 26 Review of Secretary's decisions

*Decisions to which this section applies*

- (1) This section applies to decisions of the Secretary under the following provisions of this Instrument:
  - (a) subsection 21(1);
  - (b) subsection 21(3);
  - (c) subsection 22(7).

*Secretary must give notice of decision*

- (2) After making a decision referred to in subsection (1), the Secretary must give each person or organisation referred to in subsection (3) a signed notice that states:
  - (a) the decision; and
  - (b) the day when the decision has effect; and
  - (c) the reasons for the decision; and

- (d) that, within 28 days after receiving the notice (or such longer period allowed by the Secretary), the person or organisation may apply to the Secretary for a review of the decision; and
  - (e) how the person or organisation may apply for the review.
- (3) For subsection (2), the persons or organisations are:
- (a) for a decision under subsection 21(1) or (3):
    - (i) the participating person; and
    - (ii) the individual; and
  - (b) for a decision under subsection 22(7):
    - (i) the participating person; and
    - (ii) the organisation.

*Aggrieved person or organisation may seek internal review of decision*

- (4) A person or organisation that is aggrieved by a decision of the Secretary referred to in subsection (1) may apply for a review of the decision.
- (5) An application under subsection (4) must:
- (a) be made by written notice given to the Secretary;
  - (b) be made within:
    - (i) 28 days after the day on which the person or organisation received notice of the decision; or
    - (ii) if the Secretary allows a longer period (whether before or after the end of the 28-day period referred to in subparagraph (i))—that longer period; and
  - (c) set out the reasons for making the request.
- (6) If an application is made under subsection (4), the Secretary must review the decision and give the person or organisation a signed notice that states:
- (a) the decision; and
  - (b) the day when the decision has effect; and
  - (c) the reasons for the decision; and
  - (d) that, within 28 days after receiving the notice, the person or organisation may apply to the Administrative Appeals Tribunal for a review of the Secretary's decision.

*External merits review*

- (7) An application may be made to the Administrative Appeals Tribunal for the review of the Secretary's decision mentioned in subsection (6).

## Part 6—Application, transitional and saving provisions

### 27 Application of the *Continence Aids Payment Scheme Amendment (Eligibility) Instrument 2022*

- (1) This section applies in relation to a person who was, immediately before 1 October 2022, eligible to participate in the Scheme.
- (2) Despite the amendments made by Schedule 1 to the *Continence Aids Payment Scheme Amendment (Eligibility) Instrument 2022*, this instrument, as in force immediately before 1 October 2022, continues to apply to the person until the end of 30 June 2023.

## Schedule

### Part 1—Eligible neurological condition

Category 1	CONGENITAL MORPHOLOGICAL DISORDERS
	Agenesis of Corpus Callosum
	Anorectal Malformation
	Apert Syndrome
	Arnold-Chiari Syndrome
	Arthrogryposis
	Bladder Exstrophy
	Caudal agenesis
	Caudal Regression Syndrome
	Cerebral Neuronal Migration Disorders
	Charge Syndrome
	Cloacal Exstrophy
	Congenital Epispadias
	Congenital Hydrocephalus
	Dandy-Walker malformation
	Developmental Cord Disorder
	Hirschsprung's Disease
	Holoprosencephaly
	Imperforate Anus
	Incomplete Corpus Callosum/Aicardi Syndrome
	Lissencephaly
	Megalencephaly
	Microcephaly
	Neural tube defect
	Polymicrogyria
	Pontocerebellar Hypoplasia
	Posterior Urethral Valve Syndrome
	Prune Belly Syndrome
	Sacral Agenesis

## Schedule

### Part 1 Eligible neurological condition

---

	Schizencephaly
	Spinal Agenesis
	Spinal Dysraphism
	Spinal Hemangioma
	Syringobulbia
	Syringomyelia
	Tethered spinal cord
	Vater Syndrome/Vacterl Syndrome
	Velocardiofacial Syndrome
<b>Category 2</b>	<b>CEREBRAL PALSY</b>
	Dystonic Cerebral Palsy
	Hereditary Spastic Paralysis
	Spastic Quadriplegia
	Mixed cerebral palsy
<b>Category 3</b>	<b>SYNDROMES ASSOCIATED WITH INTELLECTUAL IMPAIRMENT</b>
	2-Hydroxyglutaric Aciduria
	Alpers Disease
	Angelman Syndrome
	Alpha Thalassaemia X-linked intellectual disability Syndrome
	Bardet Biedl Syndrome
	Beare-Stevenson Syndrome
	Cyclin Dependent Kinase-Like 5 Gene Mutation
	Chime Syndrome
	Chromosome 1 Deletion
	Chromosome 5q deletion (Cri Du Chat Syndrome)
	Chromosome 13q Deletion Syndrome
	Chromosome 15q Duplication Syndrome
	Chromosome 18q Deletion Syndrome
	Chromosome 1p36 Deletion Syndrome/Mono 1p36
	Chromosome 22 Ring

---

Chromosome 2q Deletion Syndrome
Chromosome 6 Ring Syndrome
Chromosome 8 Inversion or Duplication
Chromosome 9p Deletion Syndrome
Chromosome 9q Deletion Syndrome
Chromosome 11q (Jacobsen Syndrome)
Chromosome Xp Duplication
Cockayne Syndrome
Coffin-Lowry Syndrome
Cognitive Impairment
Cohen Syndrome
Congenital disorders of glycosylation
Congenital Neurological Infections
Cornelia de Lange Syndrome
Costello Syndrome
Cowden Disease
Developmental Delay
Developmental Delay associated with Autism, Autism Spectrum Disorder and Aspergers Syndrome
Dravet Syndrome
Fragile X Syndrome
Fumarase Deficiency
GLUT1-Deficiency Syndrome
Glutaric Aciduria Type 1
Goldenhar's Syndrome
Hunter Syndrome
Hurler-Scheie Syndrome
Hypomyelination disorders
Joubert Syndrome
Kabuki Syndrome
Langer-Gideon Syndrome
Lawrence Moon Biedel Syndrome

## Schedule

### Part 1 Eligible neurological condition

---

Lennox-Gastaut Syndrome
Lesch-Nyhan Syndrome
Lowe Syndrome
Mannosidosis
Maple Syrup Urine Disease
Meningitis
Menkes Syndrome
Mitochondrial Diseases
Molybdenum Cofactor Deficiency
Mowat-Wilson Syndrome
Mucopolidosis IV
Myotonic Dystrophy (Type 1)
Neonatal Hypoxic ischaemic encephalopathy
Neonatal Onset Multisystem Inflammatory Disease
Neuronal ceroid lipofuscinosis
Normal Pressure Hydrocephalus
OHDO Syndrome
Opitz Trigonoccephaly Syndrome
Ohtahara Syndrome
Ouvrier Syndrome
Pallister-Killian Mosaic Syndrome
Peroxisome Biogenesis Disorder
Phelan McDermid Syndrome/22q 13 Deletion Syndrome
Phenylketonuria
Prader-Willi Syndrome
Pyruvate Dehydrogenase Deficiency/Leigh's Disease
Rasmussen's Disease
Rett Syndrome
Rubinstein-Taybi Syndrome
Sensory Integration Disorder/Dysfunction
Smith-Lemli-Opitz Syndrome
Smith-Magenis Syndrome

---



Sotos Syndrome
Sturge-Weber Syndrome
Subcortical Band Heterotopia
Translocation of Chromosome 2
Translocation Trisomy 5/18
Trichothiodystrophy
Triploidy
Trisomy 10
Trisomy 13 (Patau syndrome)
Trisomy 18 (Edward Syndrome)
Trisomy 20p
Trisomy 21 (Down Syndrome)
Trisomy 47
Trisomy 4p
Trisomy 9
Tuberous Sclerosis
Turner Syndrome
Urea Cycle Defect
Valproate Embryopathy
West Syndrome
Williams Syndrome
Wolf-Hirschhorn Syndrome
X-Linked Adrenoleukodystrophy
Young-Simpson Syndrome
<b>Category 4</b>
<b>PARAPLEGIA and QUADRIPLÉGIA</b>
Paraparesis
Spinal Cord Compression
Spinal Cord Infarction
Spinal Cord Damage
Tetraplegia
Transverse Myelitis

**Schedule**

**Part 1** Eligible neurological condition

---

---

---

**Category 5**

**ACQUIRED NEUROLOGICAL CONDITIONS**

Acquired Brain Injury

Acute disseminated encephalomyelitis

Adhesive Arachnoiditis

Alcoholic Encephalopathy

Alzheimer's Disease

Amyloidosis

Arachnoiditis

Ascending Polyneuropathy

Astrocytoma

Autonomic Neuropathy

Basal Ganglia Infarction

Benign Meningioma

Brown-Sequard Syndrome

Cauda Equina compression syndrome

Cerebral Abscess

Cerebral Aneurysm

Cerebral Anoxia

Cerebral Toxoplasmosis

Cerebral Tumour

Cerebrovascular Disease

Chronic Hypoxia

Chronic Inflammatory Demyelinating Polyneuropathy (CIDP)

Cortical-Basal Ganglionic Degeneration

Dementia (any cause)

Developmental/Motor Dyspraxia

Diabetic Autonomic Neuropathy

Diabetic Neuropathic Bladder

Dorsal Pontine Band Syndrome

Encephalitis

Ependymoma

---

---

Epilepsy
Focal Cerebral Degeneration
Glioblastoma Multiforme
Glioblastoma of Spine
Hepatic Encephalopathy
Hydrocephalus (communicating or non-communicating)
Hypoxic Brain Injury
Inoperable Neurogenic Incontinence
Intracerebral Haemorrhage (Subarachnoid Haemorrhage, Subdural Haematoma)
Korsakoff's Syndrome
Lambert-Eaton Myasthenic syndrome
Lewi Body Disease
Macrocephaly
Malignant Meningioma
Meningoencephalitis
Metastatic Carcinoma with Neurological Syndrome
Multiple Systems Atrophy
Myopathy
Nemaline Myopathy
Oligodendroglioma
Pachymeningitis
Periventricular Leukomalacia
Picks Disease
Pilocytic Astrocytoma
Poliomyelitis
Polymyoneuropathy
Posterior Leuco Encephalopathy
Primary Dystonia (case by case)
Primary or secondary CNS B-cell neoplasm
Progressive supranuclear palsy
Progressive Systemic Sclerosis

---

## Schedule

### Part 1 Eligible neurological condition

---

	Sacral Neuroplexy
	Sacral Plexopathy
	Schizophrenia (Catatonic)
	Schwannoma
	Spinal Canal Disease
	Spinal Chordoma
	Spinal Ependymoma
	Spinal Tumour
	Stroke/Cerebrovascular Accident (CVA)
<b>Category 6</b>	<b>DEGENERATIVE NEUROLOGICAL DISEASES</b>
	Alexander Disease
	Amyotrophic Lateral Sclerosis
	Ataxia Telangiectasia
	Canavan disease
	Cauda Equina Syndrome
	Cervical Myelopathy
	Creutzfeldt-Jakob Disease (CJD)
	Cytochrome C Oxidase Deficiency
	Dejerine-Sottas Disease
	Demyelinating Neuropathy
	Demyelination of White Matter
	Fahr's Disease
	Friedreich's Ataxia
	Guillain Barre Syndrome
	Huntington Chorea
	Huntington Disease
	Hypoxic Ischaemic Encephalopathy
	Idiopathic Axonal Neuropathy
	Krabbe disease
	Kugelberg-Welander Syndrome
	Machado Joseph Disease

---

Metachromatic Leukodystrophy
Mitochondrial Myopathy with Encephalopathy
Morquio Syndrome
Motor Neurone Disease
Multiple Sclerosis
Muscular Dystrophy
Myotonic dystrophy
Myoneural Disorders
Neuroaxonal Dystrophy
Neurofibromatosis NF
Neurogenic Bowel
Neuromyelitis optica
Niemann-Pick Disease Type C
Pallister-Hall Syndrome
Parkinson Disease
Parkinsonism
PEHO Syndrome (Progressive encephalopathy with oedema, hypsarrhythmia and optic atrophy)
Pelizaeus Merzbacher Disease
Primary Lateral Sclerosis
Progressive Supranuclear Palsy/Steele Richardson Syndrome
Sanfilippo Syndrome
Sarcoidosis of the Brain
Shy-Drager Syndrome
Spinal Cord Syndrome
Spinal Muscular Atrophy Type 1
Spinal Muscular Atrophy Type 2
Spinocerebellar Degeneration
Stiff-Mans Syndrome
Striato-Nigral Degeneration
Subacute sclerosing pan-encephalitis
Thiamine deficiency
Vascular Myelopathy

## Schedule

### Part 1 Eligible neurological condition

---

	Vertebral Canal Stenosis
	Vertebral Degeneration
	Wallerian Degeneration of White Matter
	Wilson's Disease
<b>Category 7</b>	<b>BLADDER OR BOWEL INNERVATION DISORDERS</b>
	Atonic Bladder/Hypotonic Bladder
	Bladder Innervation Urgency
	Cystocele (not suitable for surgery)
	Dysfunctional Voiding
	Dystonic Bladder
	Ectopia Vesica
	Linear Sebaceous Nevus Genetic
	Myasthenia Gravis
	Neurogenic Bladder
	Neuronal Intestinal Dysplasia
	Neuropathic Bladder
	Post Bladder Surgery
	Prostatectomy with nerve removal or damage
	Pudendal Nerve Palsy
	Radical Prostatectomy
	Schmidli Autonomic Neuropathy
	Slow Transit Constipation
	Smooth Muscle Myopathy
	Sphincter Deficiency (anal or bladder)
	Spinal Stenosis

---

## Part 2—Eligible other condition

Category 8	OTHER
	Anal Carcinoma
	Anal Fistula
	Anterior rectal Prolapse
	Atonic Bladder
	Bilateral Nephrostomy Tubes
	Bladder Cancer
	Bladder Muscle Dysfunction
	Bladder Neck Dysfunction
	Bladder Neck Fibrosis
	Bladder Prolapse
	Bowel Cancer
	Bowel Prolapse
	Cervical Cancer
	Chronic Urinary Retention
	Crohn's disease
	Detrusor Instability
	Detrusor Overactivity
	Endometriosis
	Enterocutaneous Fistula
	Faecal Incontinence Post-Colectomy
	Hypertonic Bladder
	Irradiated Rectum/Radiation Proctitis/urethritis/Cystitis
	Ovarian or fallopian tube Carcinoma
	Post Ileorectal Anastomosis
	Post Ileal J Pouch Anastomosis
	Prostate Cancer
	Benign Prostatatic hypertrophy
	Rectal Prolapse
	Rectal Ulcer Syndrome
	Recto-vaginal fistula
	Ulcerative Colitis or Proctitis
	Transurethral Resection of the Prostate sequelae
	Urethral Stenosis
	Urinary Tract Fistula
	Uterine Cancer
	Uterine Prolapse

**Schedule**

**Part 2** Eligible other condition

---

---

Vaginal Prolapse
Vesico-Vaginal Fistula
Vulval carcinoma

---



## 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.

## Endnotes

### Endnote 2—Abbreviation key

---

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

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Continance Aids Payment Scheme 2020	18 June 2020 (F2020L00758)	1 July 2020 (s 2)	
Continance Aids Payment Scheme Amendment (Merits Review) Instrument 2020	15 Jan 2021 (F2021L00048)	16 Jan 2021 (s 2(1) item 1)	—
Continance Aids Payment Scheme Amendment (Indexation of CAPS Payment) Instrument 2021	2 June 2021 (F2021L00682)	1 July 2021 (s 2(1) item 1)	—
Continance Aids Payment Scheme Amendment (Indexation of CAPS Payment) Instrument 2022	29 June 2022 (F2022L00872)	1 July 2022 (s 2(1) item 1)	—
Continance Aids Payment Scheme Amendment (Eligibility) Instrument 2022	29 Sept 2022 (F2022L01278)	1 Oct 2022 (s 2(1) item 1)	—
Continance Aids Payment Scheme Amendment (Indexation of CAPS Payment) Instrument 2023	30 June 2023 (F2023L00911)	1 July 2023 (s 2(1) item 1)	—
Continance Aids Payment Scheme Amendment (Indexation of CAPS Payment) Instrument 2024	19 June 2024 (F2024L00705)	1 July 2024 (s 2(1) item 1)	—

## Endnotes

### Endnote 4—Amendment history

---

### Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s 2.....	rep LA s 48D
s 3.....	(1) rep LA s 48C
s 4.....	am F2022L01278; F2024L00705
<b>Part 2</b>	
s 5.....	am F2022L01278
s 7.....	am F2022L01278
<b>Part 3</b>	
s 11.....	am F2021L00682; F2022L00872; F2023L00911; F2024L00705
<b>Part 4</b>	
s 21.....	am F2021L00048
s 22.....	am F2021L00048
<b>Part 5</b>	
s 25.....	am F2021L00048
s 26.....	ad F2021L00048
<b>Part 6</b>	
Part 6.....	ad F2022L01278
s 27.....	ad F2022L01278
<b>Schedule</b>	
Schedule.....	am F2022L01278