

EXPLANATORY STATEMENT

NATIONAL HEALTH ACT 1953

NATIONAL HEALTH (CHEMOTHERAPY PRESCRIBING) CONSEQUENTIAL AMENDMENTS SPECIAL ARRANGEMENT 2021

PB 117 of 2021

Authority

Subsection 100(1) of the *National Health Act 1953* (the Act) enables the Minister to make special arrangements for providing an adequate supply of pharmaceutical benefits. Subsection 100(3) of the Act provides that Part VII of the Act, and instruments made for the purposes of Part VII, have effect subject to a special arrangement made under subsection 100(1).

Subsection 100(2) of the Act provides that the Minister may vary or revoke a special arrangement made under subsection 100(1).

Purpose

The purpose of the *National Health (Chemotherapy Prescribing) Consequential Amendments Special Arrangement 2021* (this instrument) is to make a consequential amendment to the *National Health (Chemotherapy Prescribing) Special Arrangement 2020 (PB 52 of 2020)* (the Special Arrangement).

This instrument amends the definition of ‘authorised prescriber’ in the Special Arrangement to align with the current definition of the term in the *National Health (Listing of Pharmaceutical Benefits) Instrument 2012* (Listing Instrument). This is a consequential amendment following amendments to the Listing Instrument made by the *National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2021 (No. 7)*.

Background

The purpose of the Special Arrangement is to make the supply of certain pharmaceutical benefits to patients who are also being prescribed pharmaceutical benefits for the purposes of chemotherapy under the *National Health (Efficient Funding of Chemotherapy) Special Arrangement 2011* more efficient and convenient.

Consultation

As this instrument does not make any substantive changes to the operation of the Special Arrangement, the Department did not undertake any specific consultation in relation to this instrument.

This instrument commences on 1 November 2021.

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of this instrument are set out in the Attachment.

Details of the *National Health (Chemotherapy Prescribing) Consequential Amendments Special Arrangement 2021*

Section 1 - Name

This section provides that the title of this instrument is the *National Health (Chemotherapy Prescribing) Consequential Amendments Special Arrangement 2021* and that it may also be cited as PB 117 of 2021.

Section 2 - Commencement

This section specifies that the whole of this instrument will commence on 1 November 2021.

Section 3 - Authority

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

Section 4 – Schedules

This section provides that 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

National Health (Chemotherapy Prescribing) Special Arrangement 2020 (PB 52 of 2020)

Item 1 – Subsection 5(1) (Definition of *authorised prescriber*)

This item amends the definition of authorised prescriber in subsection 5(1) of the Special Arrangement to provide that an authorised prescriber for a pharmaceutical benefit is a prescriber that is authorised under section 9 or 9A of the Listing Instrument to write a prescription for the supply of the benefit. The amended definition aligns with the definition of authorised prescriber in the Listing Instrument.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

National Health (Chemotherapy Prescribing) Consequential Amendments Special Arrangement 2021

(PB 117 of 2021)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Legislative Instrument makes a consequential amendment to the *National Health (Chemotherapy Prescribing) Special Arrangement 2020 (PB 52 of 2020)* (the Special Arrangement). This instrument amends the definition of ‘authorised prescriber’ in the Special Arrangement to align with the current definition of the term in the *National Health (Listing of Pharmaceutical Benefits) Instrument 2012* (Listing Instrument). This is a consequential amendment following amendments to the Listing Instrument made by the *National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2021 (No. 7)*.

The Special Arrangement is made under subsection 100(1) of the *National Health Act 1953* (the Act). Its purpose is to make the supply of certain pharmaceutical benefits to patients who are also being prescribed pharmaceutical benefits for the purposes of chemotherapy under the *National Health (Efficient Funding of Chemotherapy) Special Arrangement 2011* more efficient and convenient.

Human Rights Implications

This Legislative Instrument engages Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

This Legislative Instrument updates a definition in the Special Arrangement. The Special Arrangement forms part of the Pharmaceutical Benefits Scheme under the Act, which assists with the advancement of this human right by providing for subsidised access by patients to essential medicines. The Special Arrangement makes the supply of certain pharmaceutical benefits to patients receiving chemotherapy more efficient and convenient, and reduces contact with vulnerable patients.

Conclusion

This Legislative Instrument is compatible with human rights because it promotes the protection of human rights.

**Adriana Platona
First Assistant Secretary
Technology Assessment and Access Division
Department of Health**