

2004-2005

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HEALTH LEGISLATION AMENDMENT BILL 2005

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf of the Government

(Circulated by authority of the
Minister for Health and Ageing,
the Honourable Tony Abbott MP)

HEALTH LEGISLATION AMENDMENT BILL 2005

OUTLINE

The proposed government amendments amend the *Health Legislation Amendment Bill 2005*.

Schedule 3 - Amendments relating to health services tables *Health Insurance Act 1973*

This amendment will remove the proposed insertion of a new power in section 19A of the *Health Insurance Act 1973* (the 'Act') to enable the Minister for Health and Ageing (the 'Minister') to determine, by legislative instrument, that Medicare benefits are not payable in respect of professional services rendered in specified circumstances.

The purpose of the proposed new power had been to provide the Minister with greater responsiveness in determining that new technologies and procedures were not eligible to attract Medicare benefits, before the Government could be satisfied that the new technology or procedure is safe, effective, and represents value for money.

The Government amendment deletes item 5 of schedule 3 of the Bill and returns section 19A of the Act to its original form. The Government will continue to work closely with the Medical community to ensure that there are responsible processes in place to address issues of concern regarding the application of Medicare benefits.

Schedule 4 - Amendments relating to Medicare Australia CEO *Medical Indemnity Act 2002.*

This amendment adds Schedule 4 to amend the *Medical Indemnity Act 2002* to replace references to the HIC (Health Insurance Commission) with Medicare Australia CEO (Chief Executive Officer) in order to reflect the conferring of HIC functions to Medicare Australia.

The *Human Services Legislation Amendment Act 2005* amended the *Health Insurance Commission Act 1973* with the effect of abolishing the HIC and establishing Medicare Australia. Functions previously conferred on the HIC were conferred on the Medicare Australia CEO. Consequential amendments were made to various Acts, including the *Medical Indemnity Act 2002*, to substitute Medicare Australia CEO for any reference to the HIC. These amendments commenced on 1 October 2005.

The *Medical Indemnity Legislation Amendment (Competitive Neutrality) Act 2005* amends the *Medical Indemnity Act 2002* by inserting sections 59A and 59E which contain references to the HIC. The *Medical Indemnity Legislation Amendment (Competitive Neutrality) Act 2005* received Royal Assent on 18 October 2005 and therefore does not reflect the establishment of Medicare Australia in place of the HIC. The *Medical Indemnity Act 2002* requires amendment so that the legislation consistently refers to Medicare Australia CEO from 1 October 2005.

The retrospective nature of this amendment will not be contrary to subsection 48(2) of the *Acts Interpretation Act 1901* as the changes are only technical in nature (reflecting the establishment of Medicare Australia in place of the HIC) and would not affect the rights of

any person so as to disadvantage that person. Nor would they impose liabilities on any person in respect of anything done, or omitted to be done, before the date of registration.

Financial Impact

Schedule 3 – Amendments relating to health services tables

The financial impact of this amendment will have no significant impact upon the finances of the Commonwealth.

Schedule 4 – Amendments relating to Medicare Australia CEO

The financial impact of this amendment will be minimal as the amendment is only technical in nature.

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NOTES ON CLAUSES

Clause 1: Short title

Clause 1 provides that the Act may be cited as the *Health Legislation Amendment Act 2005*.

Clause 2: Commencement

Clause 2 provides that Schedule 4 will begin on 1 October 2005.

Clause 3: Schedule(s)

This clause provides that each Act that is specified in the Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule.

SCHEDULE 3 – AMENDMENTS RELATING TO ITEM 5 HEALTH SERVICES TABLES

This amendment omits item 5 of Schedule 3 (Page 10 lines 4 to 10).

SCHEDULE 4 – AMENDMENTS RELATING TO MEDICARE AUSTRALIA CEO

This amendment adds Schedule 4, Items 1 to 5 which omits "HIC" and substitutes "Medicare Australia CEO" in the *Medical Indemnity Act 2002*. These items insert "Medical Australia CEO" in place of "HIC" in order to reflect the establishment of Medicare Australia in place of the Health Insurance Commission.