

2004-2005-2006

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Medical Indemnity Legislation
Amendment Bill 2006**

No. , 2006

(Health and Ageing)

**A Bill for an Act to amend legislation relating to
medical indemnity, and for related purposes**

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
Schedule 1—Principal amendments		3
	<i>Medical Indemnity Act 2002</i>	3
	<i>Medical Indemnity (Prudential Supervision and Product Standards) Act 2003</i>	4
Schedule 2—Technical amendments relating to legislative instruments		7
	<i>Medical Indemnity Act 2002</i>	7
	<i>Medical Indemnity (Prudential Supervision and Product Standards) Act 2003</i>	8

1 **A Bill for an Act to amend legislation relating to**
2 **medical indemnity, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Medical Indemnity Legislation*
6 *Amendment Act 2006*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1, item 1	1 July 2004.	1 July 2004
3. Schedule 1, items 2 to 19	The day on which this Act receives the Royal Assent.	
4. Schedule 1, items 20 and 21	1 July 2004.	1 July 2004
5. Schedule 1, items 22 and 23	The day on which this Act receives the Royal Assent.	
6. Schedule 2	The day on which this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 passed by both Houses of the Parliament and assented to. It will not be
3 expanded to deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not
5 part of this Act. Information in this column may be added to or
6 edited in any published version of this Act.

7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule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

1
2
3

Schedule 1—Principal amendments

4

Medical Indemnity Act 2002

5

1 Paragraph 34ZB(1)(c)

6 Repeal the paragraph.

7

2 Section 34ZC

8 Before “A run-off cover indemnity”, insert “(1)”.

9

3 After paragraph 34ZC(a)

10 Insert:

- 11 (ab) at the time the claim is first notified to the MDO or medical
12 indemnity insurer, the person is a person to whom subsection
13 34ZB(2) applies; and

14

4 At the end of section 34ZC

15 Add:

- 16 (2) Paragraph (1)(c) does not apply to a payment that a medical
17 indemnity insurer makes or is liable to make unless the payment is
18 or would be made:
19 (a) in relation to a claim made in relation to medical indemnity
20 cover that section 26A or 26C of the *Medical Indemnity*
21 *(Prudential Supervision and Product Standards) Act 2003*
22 requires the insurer to provide for the person; and
23 (b) in the insurer’s ordinary course of business.

24

5 Paragraph 34ZD(1)(a)

25 Omit “paragraph 34ZC(b)”, substitute “paragraph 34ZC(1)(b)”.

26

6 Subsection 34ZD(2)

27 Omit “paragraph 34ZC(c)”, substitute “paragraph 34ZC(1)(c)”.

28

7 Subparagraph 34ZE(2)(a)(ii)

29 Omit “paragraphs 34ZC(a) to (e)”, substitute “paragraphs 34ZC(1)(a) to
30 (e)”.

1 **8 Subsection 34ZH(1)**

2 Repeal the subsection, substitute:

3 (1) The amount of a run-off cover indemnity is:

4 (a) if it is payable to an MDO—the amount of the payment
5 referred to in paragraph 34ZC(1)(b); or

6 (b) if it is payable to a medical indemnity insurer—the amount of
7 the payment referred to in paragraph 34ZC(1)(c), but only to
8 the extent that the payment is or would be made:

9 (i) in relation to a claim made in relation to medical
10 indemnity cover that section 26A or 26C of the *Medical*
11 *Indemnity (Prudential Supervision and Product*
12 *Standards) Act 2003* requires the insurer to provide for a
13 person; and

14 (ii) in the insurer’s ordinary course of business.

15 **9 Paragraph 34ZU(2)(c)**

16 Repeal the paragraph, substitute:

17 (c) be given to the Medicare Australia CEO within a period,
18 starting on the day after the day on which the person becomes
19 aware of the cessation, of:

20 (i) 61 days; or

21 (ii) such greater number of days as the Minister determines
22 by legislative instrument.

23 **10 Subsection 40(3)**

24 Omit “paragraph (1)(d)”, substitute “paragraph (1)(e)”.

25 Note: This item fixes an incorrect cross-reference.

26 ***Medical Indemnity (Prudential Supervision and Product***
27 ***Standards) Act 2003***

28 **11 Subsection 6(2) (note 2)**

29 Omit “ERB cover”, substitute “extended reporting benefit cover”.

30 **12 Subsection 6(2) (note 2)**

31 Omit “DDR cover”, substitute “Death, disability and retirement cover”.

32 **13 Subsection 6(4) (note)**

1 Omit “ERB cover”, substitute “Extended reporting benefit cover”.

2 **14 Subsection 6(4) (note)**

3 Omit “DDR cover”, substitute “death, disability and retirement cover”.

4 Note: The heading to section 7 is altered by omitting “DDR” and substituting “**death,**
5 **disability and retirement**”.

6 **15 Subsection 18(1) (note)**

7 Omit “ERB and DDR cover”, substitute “extended reporting benefit
8 cover and death, disability and retirement cover”.

9 **16 Subsection 19(1) (note)**

10 Omit “ERB and DDR cover”, substitute “extended reporting benefit
11 cover and death, disability and retirement cover”.

12 **17 Subsection 21(1) (note)**

13 Omit “ERB and DDR cover”, substitute “extended reporting benefit
14 cover and death, disability and retirement cover”.

15 **18 After paragraph 22(2)(c)**

16 Insert:

17 ; and (d) the medical indemnity cover does not relate to all
18 compensation claims that are made against the health care
19 professional, during a period that includes the whole of the
20 claims period for the regulated insurance contract, in relation
21 to the health care professional’s otherwise uncovered prior
22 incidents.

23 **19 Subparagraph 22(3)(c)(ii)**

24 Repeal the subparagraph, substitute:

25 (ii) if the client gives the insurer a written response to the
26 compulsory offer—that response;

27 **20 Paragraph 26A(4)(a)**

28 Repeal the paragraph, substitute:

29 (a) it covers incidents that occurred while the practitioner was
30 registered or licensed as a medical practitioner under a State
31 or Territory law that provides for the registration or licensing
32 of medical practitioners; and

1 **21 Subsection 26A(6)**

2 Repeal the subsection.

3 **22 Paragraph 26D(2)(b)**

4 Omit “within 28 days after providing the medical indemnity cover”,
5 substitute “within the notification period”.

6 **23 After subsection 26D(2)**

7 Insert:

8 (2A) The notification period for the purposes of paragraph (2)(b) is a
9 period, starting on the day after the day on which the insurer
10 provides the medical indemnity cover in question, of:

11 (a) 61 days; or

12 (b) such greater number of days as the Minister administering the
13 *Medical Indemnity Act 2002* determines by legislative
14 instrument.

1
2 **Schedule 2—Technical amendments relating**
3 **to legislative instruments**
4

5 *Medical Indemnity Act 2002*

6 **1 Subsection 12(1)**

7 After “The Minister may”, insert “, by legislative instrument,”.

8 **2 Subsection 12(5)**

9 Repeal the subsection.

10 **3 Paragraph 22(1)(b)**

11 Omit “in writing”, substitute “, by legislative instrument,”.

12 **4 Subsection 22(6)**

13 Repeal the subsection.

14 **5 Subsection 27A(1)**

15 Omit “writing”, substitute “legislative instrument”.

16 **6 Subsection 27A(5)**

17 Repeal the subsection.

18 **7 Subsection 34X(1)**

19 Omit “writing”, substitute “legislative instrument”.

20 **8 Subsection 34X(5)**

21 Repeal the subsection.

22 **9 Subsection 34ZN(1)**

23 Omit “writing”, substitute “legislative instrument”.

24 **10 Subsection 34ZN(5)**

25 Repeal the subsection.

26 **11 Paragraph 34ZP(2)(a)**

1 Omit “determines in writing”, substitute “, by legislative instrument,
2 determines”.

3 **12 Subsection 34ZP(3)**

4 Repeal the subsection.

5 **13 Subsection 43(1)**

6 Omit “writing”, substitute “legislative instrument”.

7 **14 Subsection 43(4)**

8 Repeal the subsection.

9 ***Medical Indemnity (Prudential Supervision and Product***
10 ***Standards) Act 2003***

11 **15 Subsection 13(9)**

12 After “APRA may”, insert “, by legislative instrument,”.

13 **16 Subsection 13(11)**

14 Repeal the subsection.

15 **17 Paragraph 26A(4)(d)**

16 Omit “in writing”, substitute “, by legislative instrument,”.

17 **18 Subsection 26A(5)**

18 Repeal the subsection.

19 **19 Subparagraph 26D(2)(b)(iii)**

20 Omit “in writing”, substitute “, by legislative instrument,”.

21 **20 Subsection 26D(3)**

22 Repeal the subsection.