

2008-2009

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Health Legislation Amendment
(Midwives and Nurse Practitioners) Bill
2009**

No. , 2009

(Health and Ageing)

**A Bill for an Act to amend the law relating to
health and to make amendments consequential on
the enactment of the *Midwife Professional
Indemnity (Commonwealth Contribution) Scheme
Act 2009*, and for related purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **health and to make amendments consequential on**
3 **the enactment of the *Midwife Professional***
4 ***Indemnity (Commonwealth Contribution) Scheme***
5 ***Act 2009, and for related purposes***

6 The Parliament of Australia enacts:

7 **1 Short title**

8 This Act may be cited as the *Health Legislation Amendment*
9 *(Midwives and Nurse Practitioners) Act 2009*.

10 **2 Commencement**

11 (1) Each provision of this Act specified in column 1 of the table
12 commences, or is taken to have commenced, in accordance with

1 column 2 of the table. Any other statement in column 2 has effect
2 according to its terms.

3

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	The day after this Act receives the Royal Assent.	
3. Schedule 2	At the same time as the <i>Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2009</i> commences.	

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

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

10 **3 Schedule(s)**

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12 repealed as set out in the applicable items in the Schedule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

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Schedule 1—Amendments relating to medicare benefits and pharmaceutical benefits

6

Health Insurance Act 1973

7

1 Subsection 3(1)

8

Insert:

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eligible midwife has the meaning given by section 21.

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2 Subsection 3(1)

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Insert:

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eligible nurse practitioner means a person who:

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(a) is a nurse practitioner; and

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(b) meets the requirements (if any) specified in the regulations
for the purposes of this paragraph.

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3 Subsection 3(1) (definition of *medical entrepreneur*)

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Repeal the definition, substitute:

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medical entrepreneur has the meaning given by section 3B.

19

4 Subsection 3(1)

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Insert:

21

midwife means a person who is registered as a midwife, or
authorised (however described) to practise midwifery, by or under
a law of a State or an internal Territory that provides for the
registration of midwives, or the authorisation of persons to practise
midwifery.

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5 Subsection 3(1)

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Insert:

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nurse practitioner means a person who is registered, or authorised
(however described) to practise, as a nurse practitioner by or under

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1 a law of a State or an internal Territory that provides for the
2 registration of nurse practitioners, or the authorisation of persons to
3 practise as nurse practitioners.

4 **6 Subsection 3(1)**

5 Insert:

6 *participating midwife* means:

- 7 (a) if the Minister has approved a common form of undertaking
8 under section 21A—an eligible midwife in respect of whom
9 there is in force an undertaking given by him or her and
10 accepted by the Minister under section 21B; or
11 (b) otherwise—an eligible midwife.

12 **7 Subsection 3(1)**

13 Insert:

14 *participating nurse practitioner* means:

- 15 (a) if the Minister has approved a common form of undertaking
16 under section 22—an eligible nurse practitioner in respect of
17 whom there is in force an undertaking given by him or her
18 and accepted by the Minister under section 22A; or
19 (b) otherwise—an eligible nurse practitioner.

20 **8 Subsection 3(5)**

21 Omit “or a participating optometrist”, substitute “, a participating
22 optometrist, a participating midwife or a participating nurse
23 practitioner”.

24 **9 After section 3AA**

25 Insert:

26 **3B Meaning of *medical entrepreneur***

27 For the purposes of this Act, a person is a *medical entrepreneur* if
28 the person:

- 29 (a) employs a person mentioned in an item in the following table
30 to render a service mentioned in the item; or

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- (b) is in a position to exercise control over a person mentioned in an item in the table rendering a service mentioned in the item; or
- (c) leases, or otherwise makes available, to another person mentioned in an item in the table premises at which the other person renders a service mentioned in the item; or
- (d) receives or obtains any property, benefit or advantage from the rendering of a service mentioned in an item in the table by a person mentioned in the item.

Item	Column 1 Person	Column 2 Service
1	practitioner	medical service
2	participating midwife	midwifery service
3	participating nurse practitioner	nurse practitioner service

11

10 After paragraph 16A(1)(a)

12

Insert:

13

- (aa) the service (whether a pathologist-determinable service or not) was:
 - (i) determined to be necessary by a participating midwife (in this section also referred to as the ***treating practitioner***), acting in his or her capacity as a participating midwife, whose patient the person was; and
 - (ii) a service of a kind specified in regulations made for the purposes of this subparagraph; or
- (ab) the service (whether a pathologist-determinable service or not) was:
 - (i) determined to be necessary by a participating nurse practitioner (in this section also referred to as the ***treating practitioner***), acting in his or her capacity as a participating nurse practitioner, whose patient the person was; and
 - (ii) a service of a kind specified in regulations made for the purposes of this subparagraph; or

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11 Application

1 The amendment made by item 10 applies in relation to a pathology
2 service requested on or after 1 November 2010.

3 **12 Subsection 16A(2)**

4 After “(7)”, insert “or (7A)”.

5 **13 Subsection 16A(7)**

6 Omit “prescribed service”, substitute “prescribed pathology service”.

7 **14 After subsection 16A(7)**

8 Insert:

9 (7A) This subsection applies to a pathology service if:

- 10 (a) the service is a prescribed pathology service that is rendered
11 by a participating midwife or a participating nurse
12 practitioner; and
13 (b) the participating midwife or participating nurse practitioner
14 by whom the service is rendered is the treating practitioner;
15 and
16 (c) the service is specified in the determination made under
17 section 4BB as a service to which this subsection applies if
18 rendered by a participating midwife or participating nurse
19 practitioner (as the case requires); and
20 (d) if that determination specifies circumstances in which the
21 service must be rendered to be a pathology service to which
22 this subsection applies—the service is rendered in those
23 circumstances.

24 **15 Application**

25 Subsection 16A(7A) of the *Health Insurance Act 1973* applies in
26 relation to a pathology service rendered on or after 1 November 2010.

27 **16 After subparagraph 16B(1)(b)(vi)**

28 Insert:

- 29 or (vii) subject to subsection (3D), a participating midwife; or
30 (viii) subject to subsection (3E), a participating nurse
31 practitioner;

32 **17 After subsection 16B(3C)**

33 Insert:

1 *Participating midwives may only request certain services*

2 (3D) A request made by a participating midwife, acting in his or her
3 capacity as a participating midwife, for an R-type diagnostic
4 imaging service to be rendered is not effective for the purposes of
5 subsection (1) unless it is a request for a service of a kind specified
6 in regulations made for the purposes of this subsection.

7 *Participating nurse practitioners may only request certain services*

8 (3E) A request made by a participating nurse practitioner, acting in his
9 or her capacity as a participating nurse practitioner, for an R-type
10 diagnostic imaging service to be rendered is not effective for the
11 purposes of subsection (1) unless it is a request for a service of a
12 kind specified in regulations made for the purposes of this
13 subsection.

14 **18 Paragraphs 16B(9)(a) and (b)**

15 Omit “or osteopath”, substitute “, osteopath, participating midwife or
16 participating nurse practitioner”.

17 **19 At the end of subsection 16B(9)**

18 Add:

19 ; and (h) if the requesting practitioner is a participating midwife who
20 made the request in his or her capacity as a participating
21 midwife—the request is not rendered ineffective by the
22 operation of subsection (3D); and
23 (i) if the requesting practitioner is a participating nurse
24 practitioner who made the request in his or her capacity as a
25 participating nurse practitioner—the request is not rendered
26 ineffective by the operation of subsection (3E).

27 **20 Paragraph 16B(10A)(d)**

28 Omit “practitioner” (second and third occurring), substitute “person”.

29 **21 Application**

30 Section 16B of the *Health Insurance Act 1973*, as in force after the
31 commencement of this item, applies in relation to an R-type diagnostic
32 imaging service requested on or after 1 November 2010.

33 **22 Paragraph 19DB(c)**

1 After “practitioner”, insert “, participating midwife or participating
2 nurse practitioner”.

3 **23 Paragraph 20BA(1)(a)**

4 Omit “practitioner”, substitute “person”.

5 **24 Application**

6 Subsection 20BA(1) of the *Health Insurance Act 1973*, as in force after
7 the commencement of this item, applies in relation to the referral of a
8 patient on or after 1 November 2010.

9 **25 After section 20BA**

10 Insert:

11 **21 Meaning of *eligible midwife***

12 (1) For the purposes of this Act, a person is an *eligible midwife* if the
13 person:

14 (a) is a midwife; and

15 (b) meets the requirements specified in the regulations for the
16 purposes of this paragraph.

17 (2) However, if there are no regulations in force for the purposes of
18 paragraph (1)(b), a person cannot be an *eligible midwife* for the
19 purposes of this Act.

20 (3) Without limiting the requirements that may be specified in
21 regulations made for the purposes of paragraph (1)(b), those
22 requirements may include one or more of the following:

23 (a) a requirement to hold particular qualifications in midwifery;

24 (b) a requirement to have particular experience in midwifery;

25 (c) a requirement to be credentialled by a particular body.

26 **21A Common form of undertaking by eligible midwife**

27 (1) The Minister may approve a common form of undertaking to be
28 given by an eligible midwife who wishes to become a participating
29 midwife under this Act.

30 (2) The common form of undertaking is to make provision for any
31 matters that the Minister thinks appropriate.

- 1 (3) Without limiting the generality of subsection (2), the common form
2 of undertaking may make provision for any of the following
3 matters:
4 (a) the kinds of service to which the undertaking relates;
5 (b) a specification of the premises at which the eligible midwife
6 provides services of a kind to which the undertaking relates;
7 (c) an assurance by the eligible midwife that the fee to be
8 charged by him or her for a service that is covered by an item
9 that is expressed to relate to a service provided by a
10 participating midwife will not, except in the circumstances
11 specified in the undertaking in accordance with
12 paragraph (d), exceed the appropriate fee stated in the item;
13 (d) increases of specified amounts in the maximum fee that may
14 be charged under paragraph (c) in respect of services
15 provided in circumstances specified in the undertaking.
- 16 (4) A common form of undertaking approved under subsection (1) is a
17 legislative instrument.
- 18 (5) The Minister may, by legislative instrument, vary a common form
19 of undertaking under subsection (1).

20 **21B Undertaking by eligible midwife**

21 *Minister must accept or refuse undertaking*

- 22 (1) If an eligible midwife gives to the Minister, in writing, an
23 undertaking in accordance with the common form of undertaking,
24 the Minister must, unless subsection (2) applies, accept the
25 undertaking.
- 26 (2) If the Minister is satisfied that:
27 (a) if the undertaking were accepted, the eligible midwife would
28 be likely to carry on the whole or a part of the practice or
29 business of a relevant midwife (see subsection (3)); and
30 (b) the acceptance of the undertaking would be likely to have the
31 effect of allowing the eligible midwife to avoid, in whole or
32 in part, the financial consequences of the making of a
33 determination under paragraph 124F(2)(d) or (e) in relation
34 to the person;
35 the Minister must refuse to accept the undertaking unless he or she
36 is satisfied that it is not in the public interest to do so.
-

1 Note: See section 21C for review of a decision to refuse to accept the
2 undertaking, and when such a decision takes effect.

3 *Meaning of relevant midwife*

4 (3) For the purposes of subsection (2), a *relevant midwife* is an eligible
5 midwife:

- 6 (a) in relation to whom a determination under paragraph
7 124F(2)(d) or (e) is in effect; or
8 (b) who the Minister has reasonable grounds to believe may have
9 committed a relevant offence (within the meaning of
10 section 124B) in relation to which a determination has not
11 been made under subsection 124F(2).

12 *Minister to give notice of decision*

13 (4) The Minister must give the eligible midwife written notice of his or
14 her decision to accept or refuse to accept the undertaking.

15 *When undertaking comes into force*

16 (5) The undertaking comes into force when accepted by the Minister.

17 *Date of acceptance where decision reviewed etc.*

18 (6) If a decision by the Minister to refuse to accept the undertaking
19 does not take effect because it was set aside on review or in
20 accordance with a judgment or order on appeal, the Minister is
21 taken to have accepted the undertaking:

- 22 (a) on the date on which it was originally received by the
23 Minister; or
24 (b) on an earlier date (not being a date earlier than the date on
25 which it was signed) fixed by the Minister.

26 *Termination of undertaking by participating midwife*

27 (7) A participating midwife may, at any time, terminate an undertaking
28 by giving the Minister a notice in the approved form.

29 (8) The notice must specify a date of termination that is not earlier
30 than 30 days after the day on which it is given to the Minister.

1 *When undertaking ceases to be in force*

- 2 (9) The undertaking ceases to be in force:
- 3 (a) on the date of termination specified in the notice given under
- 4 subsection (8); or
- 5 (b) when either of the following take effect:
- 6 (i) an agreement under subsection 92(1) that specifies that
- 7 the Minister's acceptance of the undertaking is taken to
- 8 be revoked;
- 9 (ii) a final determination under section 106TA that contains
- 10 a direction under paragraph 106U(1)(ea) that the
- 11 Minister's acceptance of the undertaking is taken to be
- 12 revoked.

13 *Effect of varying common form of undertaking*

- 14 (10) If the common form of undertaking is varied under subsection
- 15 21A(5), an undertaking given under this section is taken to have
- 16 been varied to accord with the common form of undertaking as so
- 17 varied.

18 **21C Review and effect of refusal by Minister to accept undertaking**

19 **by eligible midwife**

- 20 (1) This section applies if the Minister decides under subsection
- 21 21B(2) to refuse to accept an undertaking given by an eligible
- 22 midwife.
- 23 (2) An application may be made to the Administrative Appeals
- 24 Tribunal for review of the decision.
- 25 (3) The decision takes effect at the end of the 28 day period beginning
- 26 on the day on which the Minister gave notice under subsection
- 27 21B(4) of the decision.
- 28 (4) Subsection (3) operates subject to any order by the Administrative
- 29 Appeals Tribunal or by a court in relation to the decision.

30 **22 Common form of undertaking by eligible nurse practitioner**

- 31 (1) The Minister may approve a common form of undertaking to be
- 32 given by an eligible nurse practitioner who wishes to become a
- 33 participating nurse practitioner under this Act.

- 1 (2) The common form of undertaking is to make provision for any
2 matters that the Minister thinks appropriate.
- 3 (3) Without limiting the generality of subsection (2), the common form
4 of undertaking may make provision for any of the following
5 matters:
- 6 (a) the kinds of service to which the undertaking relates;
7 (b) a specification of the premises at which the eligible nurse
8 practitioner provides services of a kind to which the
9 undertaking relates;
- 10 (c) an assurance by the eligible nurse practitioner that the fee to
11 be charged by him or her for a service that is covered by an
12 item that is expressed to relate to a service provided by a
13 participating nurse practitioner will not, except in the
14 circumstances specified in the undertaking in accordance
15 with paragraph (d), exceed the appropriate fee stated in the
16 item;
- 17 (d) increases of specified amounts in the maximum fee that may
18 be charged under paragraph (c) in respect of services
19 provided in circumstances specified in the undertaking.
- 20 (4) A common form of undertaking approved under subsection (1) is a
21 legislative instrument.
- 22 (5) The Minister may, by legislative instrument, vary a common form
23 of undertaking under subsection (1).

24 **22A Undertaking by eligible nurse practitioner**

25 *Minister must accept or refuse undertaking*

- 26 (1) If an eligible nurse practitioner gives to the Minister, in writing, an
27 undertaking in accordance with the common form of undertaking,
28 the Minister must, unless subsection (2) applies, accept the
29 undertaking.
- 30 (2) If the Minister is satisfied that:
- 31 (a) if the undertaking were accepted, the eligible nurse
32 practitioner would be likely to carry on the whole or a part of
33 the practice or business of a relevant nurse practitioner (see
34 subsection (3)); and

1 (b) the acceptance of the undertaking would be likely to have the
2 effect of allowing the eligible nurse practitioner to avoid, in
3 whole or in part, the financial consequences of the making of
4 a determination under paragraph 124F(2)(d) or (e) in relation
5 to the person;

6 the Minister must refuse to accept the undertaking unless he or she
7 is satisfied that it is not in the public interest to do so.

8 Note: See section 22B for review of a decision to refuse to accept the
9 undertaking, and when such a decision takes effect.

10 *Meaning of relevant nurse practitioner*

11 (3) For the purposes of subsection (2), a *relevant nurse practitioner* is
12 an eligible nurse practitioner:

13 (a) in relation to whom a determination under paragraph
14 124F(2)(d) or (e) is in effect; or

15 (b) who the Minister has reasonable grounds to believe may have
16 committed a relevant offence (within the meaning of
17 section 124B) in relation to which a determination has not
18 been made under subsection 124F(2).

19 *Minister to give notice of decision*

20 (4) The Minister must give the eligible nurse practitioner written
21 notice of his or her decision to accept or refuse to accept the
22 undertaking.

23 *When undertaking comes into force*

24 (5) The undertaking comes into force when accepted by the Minister.

25 *Date of acceptance where decision reviewed etc.*

26 (6) If a decision by the Minister to refuse to accept the undertaking
27 does not take effect because it was set aside on review or in
28 accordance with a judgment or order on appeal, the Minister is
29 taken to have accepted the undertaking:

30 (a) on the date on which it was originally received by the
31 Minister; or

32 (b) on an earlier date (not being a date earlier than the date on
33 which it was signed) fixed by the Minister.

1 *Termination of undertaking by participating nurse practitioner*

2 (7) A participating nurse practitioner may, at any time, terminate an
3 undertaking by giving the Minister a notice in the approved form.

4 (8) The notice must specify a date of termination that is not earlier
5 than 30 days after the day on which it is given to the Minister.

6 *When undertaking ceases to be in force*

7 (9) The undertaking ceases to be in force:

8 (a) on the date of termination specified in the notice given under
9 subsection (8); or

10 (b) when either of the following take effect:

11 (i) an agreement under subsection 92(1) that specifies that
12 the Minister's acceptance of the undertaking is taken to
13 be revoked;

14 (ii) a final determination under section 106TA that contains
15 a direction under paragraph 106U(1)(eb) that the
16 Minister's acceptance of the undertaking is taken to be
17 revoked.

18 *Effect of varying common form of undertaking*

19 (10) If the common form of undertaking is varied under subsection
20 22(5), an undertaking given under this section is taken to have been
21 varied to accord with the common form of undertaking as so
22 varied.

23 **22B Review and effect of refusal by Minister to accept undertaking**
24 **by eligible nurse practitioner**

25 (1) This section applies if the Minister decides under subsection
26 22A(2) to refuse to accept an undertaking given by an eligible
27 nurse practitioner.

28 (2) An application may be made to the Administrative Appeals
29 Tribunal for review of the decision.

30 (3) The decision takes effect at the end of the 28 day period beginning
31 on the day on which the Minister gave notice under subsection
32 22A(4) of the decision.

1 (4) Subsection (3) operates subject to any order by the Administrative
2 Appeals Tribunal or by a court in relation to the decision.

3 Note 1: The heading to section 23A is altered by adding the words “**by optometrist**” at the end.

4 Note 2: The heading to section 23D is replaced by the heading “**Date of effect of refusal by**
5 **Minister to accept undertaking by optometrist**”.

6 Note 3: The heading to section 23DAA is altered by omitting “**of undertaking**” and substituting
7 “**by Minister to accept undertaking by optometrist**”.

8 **26 Paragraph 23DK(2)(a)**

9 After “practitioner” (second occurring), insert “, participating midwife
10 or participating nurse practitioner”.

11 **27 Paragraph 23DK(5)(a)**

12 After “practitioner” (first occurring), insert “, a participating midwife or
13 a participating nurse practitioner”.

14 **28 Subsection 23DK(5)**

15 After “the practitioner”, insert “, participating midwife or participating
16 nurse practitioner”.

17 **29 Subsection 23DP(2)**

18 After “practitioner”, insert “, participating midwife or participating
19 nurse practitioner”.

20 **30 Subsection 23DP(3)**

21 After “practitioner” (second occurring), insert “, a participating midwife
22 or a participating nurse practitioner”.

23 **31 Subsection 23DP(3A)**

24 After “practitioner”, insert “, participating midwife, participating nurse
25 practitioner”.

26 **32 Paragraph 23DP(4)(a)**

27 Omit “practitioner;”, substitute “practitioner; and”.

28 **33 At the end of subsection 23DP(4)**

29 Add:

30 ; and (d) a reference to a participating midwife includes a reference to
31 a person who has been a participating midwife; and

1 (e) a reference to a participating nurse practitioner includes a
2 reference to a person who has been a participating nurse
3 practitioner.

4 **34 Subsection 23DP(5)**

5 After “practitioner”, insert “, a participating midwife or a participating
6 nurse practitioner”.

7 **35 Subsection 23DQ(4) (at the end of the definition of**
8 **practitioner)**

9 Add:
10 ; or (g) a participating midwife; or
11 (h) a participating nurse practitioner.

12 **36 Paragraph 23DZZIE(1)(a)**

13 After “practitioner”, insert “, a participating midwife or a participating
14 nurse practitioner”.

15 **37 Paragraph 23DZZIE(1)(b)**

16 Omit “practitioner”, substitute “person specified in paragraph (a)”.

17 **38 Paragraph 23DZZIE(1)(c)**

18 Omit “practitioner” (first occurring), substitute “person specified in
19 paragraph (a)”.

20 **39 Paragraph 23DZZIE(1)(c)**

21 Omit “a practitioner” (second occurring), substitute “such a person”.

22 **40 After paragraph 23DZZIE(2)(f)**

23 Insert:
24 (fa) if the service is of a kind specified in regulations made for
25 the purposes of subsection 16B(3D)—a participating
26 midwife;
27 (fb) if the service is of a kind specified in regulations made for
28 the purposes of subsection 16B(3E)—a participating nurse
29 practitioner;

30 **41 Subparagraphs 23DZZIE(2)(g)(i) and (ii)**

31 Omit “(f)”, substitute “(fb)”.

1 **42 Subsection 81(1) (after paragraph (d) of the definition of**
2 ***practitioner*)**

3 Insert:

4 (da) a midwife; or

5 (db) a nurse practitioner; or

6 **43 Subsection 81(1) (after paragraph (c) of the definition of**
7 ***profession*)**

8 Insert:

9 (ca) midwifery;

10 (cb) the practice of a nurse practitioner;

11 **44 Subsection 81(1) (paragraph (b) of the definition of**
12 ***service*)**

13 Omit “or an optometrist”, substitute “, an optometrist, a midwife or a
14 nurse practitioner”.

15 **45 After paragraph 92(2)(d)**

16 Insert:

17 (da) if the person is a midwife and there is in force in respect of
18 the person an undertaking under section 21B—that the
19 Minister’s acceptance of the undertaking is to be taken to be
20 revoked;

21 (db) if the person is a nurse practitioner and there is in force in
22 respect of the person an undertaking under section 22A—that
23 the Minister’s acceptance of the undertaking is to be taken to
24 be revoked;

25 **46 Subsection 92(7) (after paragraph (ba) of the definition of**
26 ***Part VII authority*)**

27 Insert:

28 (bb) the approval of an eligible midwife as an authorised midwife
29 under section 84AAF of that Act;

30 (bc) the approval of an eligible nurse practitioner as an authorised
31 nurse practitioner under section 84AAJ of that Act;

32 **47 After paragraph 106U(1)(e)**

33 Insert:

- 1 (ea) if the person under review is a midwife and there is in force
2 in respect of the person an undertaking under section 21B—
3 that the Minister’s acceptance of the undertaking is to be
4 taken to be revoked;
- 5 (eb) if the person under review is a nurse practitioner and there is
6 in force in respect of the person an undertaking under
7 section 22A—that the Minister’s acceptance of the
8 undertaking is to be taken to be revoked;

9 **48 Subsection 106U(5) (after paragraph (ba) of the definition**
10 **of Part VII authority)**

11 Insert:

- 12 (bb) the approval of an eligible midwife as an authorised midwife
13 under section 84AAF of that Act;
- 14 (bc) the approval of an eligible nurse practitioner as an authorised
15 nurse practitioner under section 84AAJ of that Act;

16 **49 Paragraph 106ZPA(1)(c)**

17 Omit “8”, substitute “10”.

18 **50 After subparagraph 106ZPA(1)(c)(iv)**

19 Insert:

- 20 (iva) one is to be a midwife; and
21 (ivb) one is to be a nurse practitioner; and

22 **51 Subsection 124B(1) (after paragraph (d) of the definition of**
23 **practitioner)**

24 Insert:

- 25 (da) a midwife; or
26 (db) a nurse practitioner; or

27 **52 After paragraph 124EB(2)(b)**

28 Insert:

- 29 (ba) if the Committee is convened in relation to a midwife—a
30 midwife; or
31 (bb) if the Committee is convened in relation to a nurse
32 practitioner—a nurse practitioner; or

33 **53 Subsection 124FAA(2)**

1 Omit “medical practitioner”, substitute “practitioner”.

2 **54 Section 128C**

3 Before “A medical”, insert “(1)”.

4 **55 Section 128C**

5 Omit “medical practitioner, or a person acting on behalf of a medical
6 practitioner.”, substitute “person mentioned in subsection (2)”.

7 **56 Section 128C**

8 Omit “practitioner or person acting on behalf of the practitioner”,
9 substitute “person”.

10 **57 At the end of section 128C (after the note)**

11 Add:

12 (2) The persons are as follows:

13 (a) a medical practitioner;

14 (b) a participating midwife;

15 (c) a participating nurse practitioner;

16 (d) a person acting on behalf of a person mentioned in
17 paragraph (a), (b) or (c).

18 **58 Subsection 129AA(1A)**

19 Omit “or medical entrepreneur”, substitute “, a participating midwife, a
20 participating nurse practitioner or a medical entrepreneur”.

21 **59 Subsection 129AA(1B)**

22 After “a practitioner”, insert “, a participating midwife or a participating
23 nurse practitioner”.

24 **60 Subsection 129AA(1B)**

25 After “the practitioner”, insert “, participating midwife, participating
26 nurse practitioner”.

27 **61 Subsection 129AA(5)**

28 After “practitioners”, insert “, midwives or nurse practitioners (as the
29 case requires)”.

1 **62 Subsection 129AAC(1)**

2 Omit “or an optometrist”, substitute “, an optometrist, a midwife or a
3 nurse practitioner”.

4 **63 After paragraph 130(6)(e)**

5 Insert:

6 (ea) a person or persons who, under a law of a State or Territory
7 that provides for the registration of midwives, or the
8 authorisation (however described) of persons to practise
9 midwifery, are empowered to:

- 10 (i) take disciplinary action with respect to midwives; or
11 (ii) investigate midwives in connection with the taking of
12 such disciplinary action; or

13 (eb) a person or persons who, under a law of a State or Territory
14 that provides for the registration of nurse practitioners, or the
15 authorisation (however described) of persons to practise as
16 nurse practitioners, are empowered to:

- 17 (i) take disciplinary action with respect to nurse
18 practitioners; or
19 (ii) investigate nurse practitioners in connection with the
20 taking of such disciplinary action; or

21 **64 After paragraph 130(7)(c)**

22 Insert:

23 (ca) the administration of a specified law of a State or Territory,
24 being a law that provides for the registration of midwives, or
25 the authorisation (however described) of persons to practise
26 midwifery; or

27 (cb) the administration of a specified law of a State or Territory,
28 being a law that provides for the registration of nurse
29 practitioners, or the authorisation (however described) of
30 persons to practise as nurse practitioners; or

31 **65 After paragraph 130(7)(g)**

32 Insert:

33 (ga) if the certificate specifies a purpose in relation to a specified
34 law of the kind referred to in paragraph (ca)—to the person
35 or persons who are empowered to:

- 36 (i) take disciplinary action with respect to midwives; or
-

- 1 (ii) investigate midwives in connection with the taking of
2 such disciplinary action; or
3 (gb) if the certificate specifies a purpose in relation to a specified
4 law of the kind referred to in paragraph (cb)—to the person
5 or persons who are empowered to:
6 (i) take disciplinary action with respect to nurse
7 practitioners; or
8 (ii) investigate nurse practitioners in connection with the
9 taking of such disciplinary action; or

10 **66 Paragraph 130(9)(c)**

11 Omit “or (7)(g)”, substitute “(ea) or (eb), or (7)(g), (ga) or (gb)”.

12 ***National Health Act 1953***

13 **67 Subsection 4(1)**

14 Insert:

15 *midwife* means a person who is registered as a midwife, or
16 authorised (however described) to practise midwifery, by or under
17 a law of a State or an internal Territory that provides for the
18 registration of midwives, or the authorisation of persons to practise
19 midwifery.

20 **68 Subsection 4(1)**

21 Insert:

22 *nurse practitioner* means a person who is registered, or authorised
23 (however described) to practise, as a nurse practitioner by or under
24 a law of a State or an internal Territory that provides for the
25 registration of nurse practitioners, or the authorisation of persons to
26 practise as nurse practitioners.

27 **69 Subsection 4(2)**

28 Omit “or (1C)”, substitute “, (1C), (1D) or (1E)”.

29 **70 Subsection 84(1)**

30 Insert:

1 *authorised midwife* means an eligible midwife in relation to whom
2 an approval is in force under section 84AAF.

3 **71 Subsection 84(1)**

4 Insert:

5 *authorised nurse practitioner* means an eligible nurse practitioner
6 in relation to whom an approval is in force under section 84AAJ.

7 **72 Subsection 84(1)**

8 Insert:

9 *eligible midwife* has the meaning given by section 84AAE.

10 **73 Subsection 84(1)**

11 Insert:

12 *eligible nurse practitioner* has the meaning given by
13 section 84AAI.

14 **74 Subsection 84(1)**

15 Insert:

16 *nurse practitioner treatment*, in relation to a nurse practitioner,
17 means treatment that the nurse practitioner is authorised (however
18 described) to provide under a law of a State or an internal
19 Territory.

20 **75 Subsection 84(1) (at the end of the definition of *PBS***
21 ***prescriber*)**

22 Add:

23 ; or (d) an authorised midwife; or
24 (e) an authorised nurse practitioner.

25 **76 Subsection 84AAB(4) (note)**

26 Omit “105AC”, substitute “27A of the *Administrative Appeals Tribunal*
27 *Act 1975*”.

28 **77 Subsection 84AAC(4) (note)**

29 Omit “105AC”, substitute “27A of the *Administrative Appeals Tribunal*
30 *Act 1975*”.

1 Note: The heading to section 84AAC is altered by adding “**of authorised optometrist**” at the
2 end.

3 **78 Subsection 84AAD(4) (note)**

4 Omit “section 105AC requires”, substitute “sections 105AC of this Act
5 and 27A of the *Administrative Appeals Tribunal Act 1975* require”.

6 Note: The heading to section 84AAD is altered by adding “**relating to authorised**
7 **optometrists**” at the end.

8 **79 After section 84AAD**

9 Insert:

10 **84AAE Meaning of *eligible midwife***

11 (1) For the purposes of this Part, a person is an *eligible midwife* if the
12 person:

13 (a) is a midwife; and

14 (b) meets the requirements set out in a determination made under
15 subsection (3).

16 (2) However, if there is no determination in force under subsection (3),
17 a person cannot be an *eligible midwife* for the purposes of this Part.

18 (3) The Minister may, by legislative instrument, determine one or
19 more requirements that a specified person must meet in order to be
20 an *eligible midwife* for the purposes of this Part.

21 (4) The requirements that may be determined under subsection (3),
22 include (but are not limited to) one or more of the following:

23 (a) a requirement to hold particular qualifications in midwifery;

24 (b) a requirement to have particular experience in midwifery;

25 (c) a requirement to be credentialled by a particular body.

26 **84AAF Authorised midwives**

27 (1) An eligible midwife may apply to the Secretary, in writing, to be
28 an authorised midwife for the purposes of this Part.

29 (2) The Secretary may approve the application if satisfied that the
30 eligible midwife meets the criteria determined under
31 paragraph (3)(a). The approval is subject to any conditions
32 determined under paragraph (3)(b).

- 1 (3) The Minister may, by legislative instrument, determine either or
2 both of the following:
3 (a) criteria by which applications are to be considered under this
4 section;
5 (b) conditions to which approvals under this section are subject.
- 6 (4) The Secretary must, as soon as is practicable, approve or reject an
7 application under subsection (1) and notify the applicant in writing
8 of the decision.
- 9 Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires
10 the person to be notified of the person's review rights.

11 **84AAG Secretary may suspend or revoke approval of authorised**
12 **midwife**

- 13 (1) The Secretary may suspend or revoke an approval under
14 section 84AAF if satisfied that the person to whom the approval
15 relates:
16 (a) is not, at the time of the suspension or revocation, an eligible
17 midwife; or
18 (b) does not, at the time of the suspension or revocation, meet the
19 criteria that would apply if the person were to apply under
20 subsection 84AAF(1) to be an authorised midwife at that
21 time; or
22 (c) has breached a condition to which the approval is subject
23 under paragraph 84AAF(3)(b); or
24 (d) has breached a condition to which an approval would be
25 subject under paragraph 84AAF(3)(b) if the person were to
26 apply under subsection 84AAF(1) to be an authorised
27 midwife at that time.
- 28 (2) Before deciding to suspend or revoke the approval, the Secretary
29 must notify the person that suspension or revocation is being
30 considered. The notice must:
31 (a) be in writing; and
32 (b) include the Secretary's reasons for considering the
33 suspension or revocation; and
34 (c) invite the person to make written submissions to the
35 Secretary within the period of 28 days (the *submission*
36 *period*) after being given the notice.

- 1 (3) In deciding whether to suspend or revoke the approval, the
2 Secretary must consider any written submissions made by the
3 person during the submission period.
- 4 (4) The Secretary must give to the person written notice of the
5 decision. If the decision is to suspend an approval, the notice must
6 specify the period for which the approval is suspended.
- 7 Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires
8 the person to be notified of the person's review rights.
- 9 (5) If the Secretary does not give the person written notice of the
10 decision within the period of 60 days after the end of the
11 submission period, the Secretary is taken to have decided not to
12 suspend or revoke the approval.
- 13 (6) If the Secretary suspends the approval, the Secretary may, by
14 written notice at any time, further suspend or revoke the approval
15 under subsection (1) or remove the suspension.

16 **84AAH Review of decisions relating to authorised midwives**

- 17 (1) If the Secretary:
18 (a) decides not to approve an eligible midwife under
19 section 84AAF; or
20 (b) suspends or revokes an approval under section 84AAG;
21 the person to whom the approval relates may apply, in writing, to
22 the Secretary for reconsideration by the Secretary of the decision.
- 23 (2) On receiving an application under subsection (1) relating to a
24 decision not to approve an eligible midwife under section 84AAF,
25 the Secretary must reconsider the decision and:
26 (a) affirm the decision; or
27 (b) approve the eligible midwife.
28 An approval under paragraph (b) is taken, for the purposes of this
29 Act, to be an approval under section 84AAF.
- 30 (3) On receiving an application under subsection (1) relating to a
31 suspension or revocation of an approval under section 84AAG, the
32 Secretary must reconsider the decision and:
33 (a) affirm the suspension or revocation; or
34 (b) reinstate the approval.

1 A reinstatement under paragraph (b) has effect as if the approval
2 had never been revoked.

3 (4) The Secretary must give to the applicant written notice of the
4 Secretary's decision under subsection (2) or (3).

5 Note: Sections 105AC of this Act and 27A of the *Administrative Appeals*
6 *Tribunal Act 1975* require the person to be notified of the person's
7 review rights.

8 (5) In this section:

9 *decision* has the same meaning as in the *Administrative Appeals*
10 *Tribunal Act 1975*.

11 **84AAI Meaning of *eligible nurse practitioner***

12 (1) For the purposes of this Part, a person is an *eligible nurse*
13 *practitioner* if the person:

14 (a) is a nurse practitioner; and

15 (b) meets the requirements (if any) set out in a determination
16 made under subsection (2).

17 (2) The Minister may, by legislative instrument, determine one or
18 more requirements that a specified person must meet in order to be
19 an *eligible nurse practitioner* for the purposes of this Part.

20 **84AAJ Authorised nurse practitioners**

21 (1) An eligible nurse practitioner may apply to the Secretary, in
22 writing, to be an authorised nurse practitioner for the purposes of
23 this Part.

24 (2) The Secretary may approve the application if satisfied that the
25 eligible nurse practitioner meets the criteria determined under
26 paragraph (3)(a). The approval is subject to any conditions
27 determined under paragraph (3)(b).

28 (3) The Minister may, by legislative instrument, determine either or
29 both of the following:

30 (a) criteria by which applications are to be considered under this
31 section;

32 (b) conditions to which approvals under this section are subject.

- 1 (4) The Secretary must, as soon as is practicable, approve or reject an
2 application under subsection (1) and notify the applicant in writing
3 of the decision.

4 Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires
5 the person to be notified of the person's review rights.

6 **84AAK Secretary may suspend or revoke approval of authorised**
7 **nurse practitioner**

- 8 (1) The Secretary may suspend or revoke an approval under
9 section 84AAJ if satisfied that the person to whom the approval
10 relates:
11 (a) is not, at the time of the suspension or revocation, an eligible
12 nurse practitioner; or
13 (b) does not, at the time of the suspension or revocation, meet the
14 criteria that would apply if the person were to apply under
15 subsection 84AAJ(1) to be an authorised nurse practitioner at
16 that time; or
17 (c) has breached a condition to which the approval is subject
18 under paragraph 84AAJ(3)(b); or
19 (d) has breached a condition to which an approval would be
20 subject under paragraph 84AAJ(3)(b) if the person were to
21 apply under subsection 84AAJ(1) to be an authorised nurse
22 practitioner at that time.
- 23 (2) Before deciding to suspend or revoke the approval, the Secretary
24 must notify the person that suspension or revocation is being
25 considered. The notice must:
26 (a) be in writing; and
27 (b) include the Secretary's reasons for considering the
28 suspension or revocation; and
29 (c) invite the person to make written submissions to the
30 Secretary within the period of 28 days (the ***submission***
31 ***period***) after being given the notice.
- 32 (3) In deciding whether to suspend or revoke the approval, the
33 Secretary must consider any written submissions made by the
34 person during the submission period.
- 35 (4) The Secretary must give to the person written notice of the
36 decision. If the decision is to suspend an approval, the notice must
37 specify the period for which the approval is suspended.
-

1 Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires
2 the person to be notified of the person's review rights.

- 3 (5) If the Secretary does not give the person written notice of the
4 decision within the period of 60 days after the end of the
5 submission period, the Secretary is taken to have decided not to
6 suspend or revoke the approval.
- 7 (6) If the Secretary suspends the approval, the Secretary may, by
8 written notice at any time, further suspend or revoke the approval
9 under subsection (1) or remove the suspension.

10 **84AAL Review of decisions relating to authorised nurse**
11 **practitioners**

- 12 (1) If the Secretary:
13 (a) decides not to approve an eligible nurse practitioner under
14 section 84AAJ; or
15 (b) suspends or revokes an approval under section 84AAK;
16 the person to whom the approval relates may apply, in writing, to
17 the Secretary for reconsideration by the Secretary of the decision.
- 18 (2) On receiving an application under subsection (1) relating to a
19 decision not to approve an eligible nurse practitioner under
20 section 84AAJ, the Secretary must reconsider the decision and:
21 (a) affirm the decision; or
22 (b) approve the eligible nurse practitioner.
23 An approval under paragraph (b) is taken, for the purposes of this
24 Act, to be an approval under section 84AAJ.
- 25 (3) On receiving an application under subsection (1) relating to a
26 suspension or revocation of an approval under section 84AAK, the
27 Secretary must reconsider the decision and:
28 (a) affirm the suspension or revocation; or
29 (b) reinstate the approval.
30 A reinstatement under paragraph (b) has effect as if the approval
31 had never been revoked.
- 32 (4) The Secretary must give to the applicant written notice of the
33 Secretary's decision under subsection (2) or (3).

1 Note: Sections 105AC of this Act and 27A of the *Administrative Appeals*
2 *Tribunal Act 1975* require the person to be notified of the person's
3 review rights.

4 (5) In this section:

5 *decision* has the same meaning as in the *Administrative Appeals*
6 *Tribunal Act 1975*.

7 **80 At the end of paragraph 86(1)(b)**

8 Add:

9 ; or (iv) midwifery treatment by an authorised midwife; or
10 (v) nurse practitioner treatment by an authorised nurse
11 practitioner;

12 **81 Subsection 87(3)**

13 After "88(6)", insert "or (6A)".

14 **82 Subsection 87(3)**

15 After "medical practitioner" (second occurring), insert ", authorised
16 midwife or authorised nurse practitioner".

17 **83 Subsections 88(1AA) and (1B)**

18 Repeal the subsections.

19 **84 Subsection 88(1D)**

20 Repeal the subsection, substitute:

21 (1D) Subject to this Part, an authorised midwife is authorised to write a
22 prescription on or after 1 November 2010 for the supply of any
23 pharmaceutical benefit determined from time to time by the
24 Minister for the purposes of this subsection, by legislative
25 instrument.

26 (1E) Subject to this Part, an authorised nurse practitioner is authorised
27 to write a prescription on or after 1 November 2010 for the supply
28 of any pharmaceutical benefit determined from time to time by the
29 Minister for the purposes of this subsection, by legislative
30 instrument.

31 (1F) When writing a prescription under subsection (1), (1A), (1C), (1D)
32 or (1E) for the supply of a pharmaceutical benefit that has a

1 pharmaceutical item, the PBS prescriber, in identifying the
2 pharmaceutical benefit that he or she is directing to be supplied,
3 need not specify:

- 4 (a) a listed brand of the pharmaceutical item in the
5 pharmaceutical benefit; or
6 (b) the manner of administration of the pharmaceutical item in
7 the pharmaceutical benefit.

8 **85 At the end of subsection 88(3)**

9 Add:

- 10 ; or (d) by an authorised midwife otherwise than in relation to the
11 midwifery treatment of a person requiring that
12 pharmaceutical benefit; or
13 (e) by an authorised nurse practitioner otherwise than in relation
14 to the nurse practitioner treatment by the authorised nurse
15 practitioner of a person requiring that pharmaceutical benefit.

16 **86 After subsection 88(6)**

17 Insert:

- 18 (6A) If a person who is an authorised midwife or authorised nurse
19 practitioner may, in accordance with this Part, direct a repeated
20 supply of a pharmaceutical benefit, the person may, instead of
21 directing a repeated supply, direct in the prescription the supply on
22 one occasion of a quantity or number of units of the
23 pharmaceutical benefit not exceeding the total quantity or number
24 of units of:
25 (a) if the pharmaceutical benefit has a pharmaceutical item—the
26 pharmaceutical item; or
27 (b) in any other case—the pharmaceutical benefit;
28 not exceeding the total quantity or number of units that could be
29 prescribed if the person directed a repeated supply.
- 30 (6B) However, the person may only make a direction under
31 subsection (6A) if:
32 (a) the regulations prescribe either or both of the following:
33 (i) circumstances in which the person may make such a
34 direction;
35 (ii) conditions on the making of such a direction; and

1 (b) the direction is made in those circumstances and in
2 accordance with those conditions.

3 **87 Paragraph 89(b)**

4 After “section 93,”, insert “section 93AA,”.

5 **88 After section 93**

6 Insert:

7 **93AA Supply of certain pharmaceutical benefits by authorised**
8 **midwives and authorised nurse practitioners**

- 9 (1) Except as prescribed by the regulations, an authorised midwife or
10 an authorised nurse practitioner is authorised to supply such
11 pharmaceutical benefits as the Minister, by legislative instrument,
12 determines to persons who are entitled under this Part to receive
13 those pharmaceutical benefits.
- 14 (2) For the purposes of this section, the Minister may, by legislative
15 instrument, determine the maximum quantity or number of units of
16 a pharmaceutical benefit which may be obtained by an authorised
17 midwife or an authorised nurse practitioner during a specified
18 period.
- 19 (3) The regulations may make provision for or in relation to the
20 obtaining of pharmaceutical benefits by an authorised midwife or
21 an authorised nurse practitioner for the purposes of this section.
- 22 (4) The regulations may make provision for or in relation to payments
23 by the Commonwealth in respect of the supply of pharmaceutical
24 benefits under this section.

25 **89 After paragraph 98(1)(c)**

26 Insert:

27 ; or (d) an authorised midwife requests that his or her approval as an
28 authorised midwife under section 84AAF be cancelled; or

29 (e) an authorised nurse practitioner requests that his or her
30 approval as an authorised nurse practitioner under
31 section 84AAJ be cancelled;

32 **90 Paragraphs 99(2A)(b), (2AB)(c) and (2B)(c)**

1 After “88(6)”, insert “or (6A)”.

2 **91 After paragraph 99ZJ(4)(aa)**

3 Insert:

4 (ab) a letter from an authorised midwife or an authorised nurse
5 practitioner signed on or after 1 November 2010 to that
6 effect; or

7 **92 Subparagraph 99ZJ(4)(b)(ii)**

8 Repeal the subparagraph, substitute:

9 (ii) setting out the name and address of the medical or
10 dental practitioner, or the optometrist, authorised
11 midwife or authorised nurse practitioner, who
12 prescribed the substances; and

13 **93 After subsection 99ZJ(4)**

14 Insert:

15 (4A) For the purposes of subparagraph (4)(b)(ii), the substances must
16 have been prescribed:

17 (a) for substances prescribed by an optometrist—on or after
18 1 January 2008; or

19 (b) for substances prescribed by an authorised midwife or an
20 authorised nurse practitioner—on or after 1 November 2010.

21 **94 Subsection 99ZJ(5)**

22 Omit “(4)(a) or (b)”, substitute “(4)(a), (aa), (ab) or (b)”.

23 **95 After subparagraph 99ZK(3)(c)(iii)**

24 Insert:

25 (iiia) a letter from an authorised midwife or an authorised
26 nurse practitioner signed on or after 1 November 2010;
27 or

28 **96 Paragraph 103(4AA)(a)**

29 Omit “or optometrical treatment”, substitute “, optometrical or
30 midwifery treatment, or the nurse practitioner treatment by an
31 authorised nurse practitioner,”.

32 **97 After subsection 105AB(2)**

1 Insert:

2 (3) An application may be made to the Tribunal for review of a
3 decision of the Secretary under paragraph 84AAH(2)(a) or (3)(a)
4 or 84AAL(2)(a) or (3)(a).

5 **98 After paragraph 133(1)(ba)**

6 Insert:

7 (bb) in the case of a defendant who is an authorised midwife—
8 suspend:
9 (i) the approval of that person under section 84AAF; or
10 (ii) the authority to supply prescribed pharmaceutical
11 benefits conferred upon that person by section 93AA; or
12 (bc) in the case of a defendant who is an authorised nurse
13 practitioner—suspend:
14 (i) the approval of that person under section 84AAJ; or
15 (ii) the authority to supply prescribed pharmaceutical
16 benefits conferred upon that person by section 93AA; or

17 **99 Subsections 133(2) and (5)**

18 Omit “medical practitioner, dental practitioner, optometrist or
19 pharmacist” (wherever occurring), substitute “person”.

20 **100 Subsection 133(6)**

21 After “optometrist”, insert “, a midwife, a nurse practitioner”.

22 **101 Subsection 133(7)**

23 Insert:

24 *authorised midwife* has the same meaning as in Part VII.

25 **102 Subsection 133(7)**

26 Insert:

27 *authorised nurse practitioner* has the same meaning as in Part VII.

28 **103 After paragraph 134(1)(c)**

29 Insert:

30 ; or (d) the approval of a person as an authorised midwife under
31 section 84AAF is suspended or revoked; or

1 (da) the approval of a person as an authorised nurse practitioner
2 under section 84AAJ is suspended or revoked;

3 **104 Subsection 134(1)**

4 Omit “that medical practitioner, dental practitioner or optometrist”
5 (wherever occurring), substitute “the person to whom the authority or
6 approval relates”.

7 **105 Subsection 134(3)**

8 Omit “authority conferred upon a medical practitioner by section 88 or
9 section 93, the medical practitioner shall”, substitute “authority or
10 approval referred to in subsection (4), the person to whom the authority or
11 approval relates must”.

12 **106 Subsection 134(3)**

13 Omit “that medical practitioner’s”, substitute “the first-mentioned
14 person’s”.

15 **107 After subsection 134(3) (before the penalty)**

16 Insert:

- 17 (4) The authorities and approvals are as follows:
- 18 (a) an authority conferred upon a medical practitioner by
19 section 88 or 93;
 - 20 (b) an approval of a person as an authorised midwife under
21 section 84AAF;
 - 22 (c) an approval of a person as an authorised nurse practitioner
23 under section 84AAJ;
 - 24 (d) an authority conferred upon an authorised midwife or an
25 authorised nurse practitioner by section 93AA.

26 **108 After paragraph 135A(6)(g)**

27 Insert:

- 28 (ga) a person or persons who, under a law of a State or Territory
29 that provides for the registration of midwives, or the
30 authorisation (however described) of persons to practise
31 midwifery, are empowered to:
- 32 (i) take disciplinary action with respect to midwives; or
 - 33 (ii) investigate midwives in connection with the taking of
34 such disciplinary action; or
-

1 (gb) a person or persons who, under a law of a State or Territory
2 that provides for the registration of nurse practitioners, or the
3 authorisation (however described) of persons to practise as
4 nurse practitioners, are empowered to:

- 5 (i) take disciplinary action with respect to nurse
6 practitioners; or
7 (ii) investigate nurse practitioners in connection with the
8 taking of such disciplinary action; or

9 **109 After paragraph 135A(7)(d)**

10 Insert:

11 (da) the administration of a specified law of a State or Territory,
12 being a law that provides for the registration of midwives, or
13 the authorisation (however described) of persons to practise
14 midwifery; or

15 (db) the administration of a specified law of a State or Territory,
16 being a law that provides for the registration of nurse
17 practitioners, or the authorisation (however described) of
18 persons to practise as nurse practitioners; or

19 **110 After paragraph 135A(7)(k)**

20 Insert:

21 (l) if the certificate specifies a purpose in relation to a specified
22 law of the kind referred to in paragraph (da)—to the person
23 or persons who are empowered to:

- 24 (i) take disciplinary action with respect to midwives; or
25 (ii) investigate midwives in connection with the taking of
26 such disciplinary action; or

27 (la) if the certificate specifies a purpose in relation to a specified
28 law of the kind referred to in paragraph (db)—to the person
29 or persons who are empowered to:

- 30 (i) take disciplinary action with respect to nurse
31 practitioners; or
32 (ii) investigate nurse practitioners in connection with the
33 taking of such disciplinary action; or

34 **111 Paragraph 135A(9)(c)**

35 Omit “or (h) or (7)(j) or (k)”, substitute “, (ga), (gb) or (h), or (7)(j), (k)
36 (l) or (la)”.

1 **112 After paragraph 139A(1)(db)**

2 Insert:

3 (dc) a person was or was not an authorised midwife under
4 section 84AAF;

5 (dd) a person was or was not an authorised nurse practitioner
6 under section 84AAJ;

7 (de) a person was or was not authorised under section 93AA to
8 supply pharmaceutical benefits specified in the certificate;

1
2 **Schedule 2—Amendments consequential on**
3 **the enactment of the Midwife**
4 **Professional Indemnity**
5 **(Commonwealth Contribution) Scheme**
6 **Act 2009**
7

8 *Health Insurance Act 1973*

9 **1 Subsection 130(1)**

10 Omit “medical indemnity legislation”, substitute “indemnity
11 legislation”.

12 **2 Subsection 130(25)**

13 Insert:

14 *indemnity legislation* means:

- 15 (a) the *Medical Indemnity Act 2002*; and
16 (b) the *Medical Indemnity (Competitive Advantage Payment) Act*
17 *2005*; and
18 (c) the *Medical Indemnity (Run-off Cover Support Payment) Act*
19 *2004*; and
20 (d) the *Medical Indemnity (UMP Support Payment) Act 2002*;
21 and
22 (e) the *Midwife Professional Indemnity (Commonwealth*
23 *Contribution) Scheme Act 2009*; and
24 (f) the *Midwife Professional Indemnity (Run-off Cover Support*
25 *Payment) Act 2009*.

26 **3 Subsection 130(25) (definition of *medical indemnity***
27 ***legislation*)**

28 Repeal the definition.

29 *Medical Indemnity Act 2002*

30 **4 Subsection 4(1)**

1 Insert:

2 *eligible midwife* has the same meaning as in the *Midwife*
3 *Professional Indemnity (Commonwealth Contribution) Scheme Act*
4 2009.

5 **5 Subsection 28(1)**

6 After “profession”, insert “, other than practice as an eligible midwife”.

7 **6 Paragraph 30(1)(b)**

8 After “profession”, insert “, other than practice as an eligible midwife”.

9 **7 Paragraph 34A(1)(a)**

10 After “profession”, insert “(other than practice as an eligible midwife)”.

11 **8 Paragraph 34E(1)(b)**

12 After “profession”, insert “, other than practice as an eligible midwife”.

13 ***Medicare Australia Act 1973***

14 **9 After paragraph 3A(1)(bc)**

15 Insert:

16 (bd) an offence against the *Midwife Professional Indemnity*
17 (*Commonwealth Contribution) Scheme Act 2009*; or

18 **10 Paragraph 3A(1)(c)**

19 Omit “or (bc)”, substitute “, (bc) or (bd)”.

20 **11 After paragraph 3A(2)(bb)**

21 Insert:

22 (bc) an offence against the *Midwife Professional Indemnity*
23 (*Commonwealth Contribution) Scheme Act 2009*; or

24 **12 Paragraph 3A(2)(c)**

25 Omit “section 6, 7 or 7A or paragraph 86(1)(a) of the *Crimes Act 1914*”,
26 substitute “section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or
27 11.5 of the *Criminal Code*”.

28 **13 Paragraph 3A(2)(c)**

1 Omit “or (bb)”, substitute “, (bb) or (bc)”.

2 **14 At the end of paragraph 3A(2)(d)**

3 Add:

4 ; or (iii) a Commonwealth contribution (within the meaning of
5 the *Midwife Professional Indemnity (Commonwealth*
6 *Contribution) Scheme Act 2009*).

7 **15 After paragraph 3A(2A)(cb)**

8 Insert:

9 (cc) an offence against the *Midwife Professional Indemnity*
10 *(Commonwealth Contribution) Scheme Act 2009*; or

11 **16 Paragraph 3A(2A)(d)**

12 Omit “or (cb)”, substitute “, (cb) or (cc)”.

13 **17 At the end of paragraph 3A(2A)(e)**

14 Add:

15 ; or (iii) a Commonwealth contribution (within the meaning of
16 the *Midwife Professional Indemnity (Commonwealth*
17 *Contribution) Scheme Act 2009*).

18 **18 At the end of subsection 42(2)**

19 Add:

20 (d) the *Midwife Professional Indemnity (Commonwealth*
21 *Contribution) Scheme Act 2009*;
22 (e) the *Midwife Professional Indemnity (Run-off Cover Support*
23 *Payment) Act 2009*.

24 ***National Health Act 1953***

25 **19 Subsection 135A(1)**

26 Omit “medical indemnity legislation”, substitute “indemnity
27 legislation”.

28 **20 Subsection 135A(24)**

29 Insert:

30 ***indemnity legislation*** means:

Schedule 2 Amendments consequential on the enactment of the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2009

- 1 (a) the *Medical Indemnity Act 2002*; and
2 (b) the *Medical Indemnity (Competitive Advantage Payment) Act*
3 *2005*; and
4 (c) the *Medical Indemnity (Run-off Cover Support Payment) Act*
5 *2004*; and
6 (d) the *Medical Indemnity (UMP Support Payment) Act 2002*;
7 and
8 (e) the *Midwife Professional Indemnity (Commonwealth*
9 *Contribution) Scheme Act 2009*; and
10 (f) the *Midwife Professional Indemnity (Run-off Cover Support*
11 *Payment) Act 2009*.

12 **21 Subsection 135A(24) (definition of *medical indemnity***
13 ***legislation*)**

14 Repeal the definition.