

National Health Act 1953

Act No. 95 of 1953 as amended

This compilation was prepared on 1 February 2011  
taking into account amendments up to Act No. 126 of 2010

[**Note:** Subsections 90(3A), (3AA), (3AB), (3AC), (3AD), (3AE), (3AF) and (3B) cease to have effect on 30 June 2015, *see* section 90(3C)

Division 4B of Part VII ceases to have effect on 30 June 2015, *see* section 99Y]

The text of any of those amendments not in force   
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be   
affected by application provisions that are set out in the Notes section

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An Act relating to the provision of pharmaceutical, sickness and hospital benefits, and of medical and dental services

Part I—Preliminary

1 Short title [*see* Note 1]

This Act may be cited as the *National Health Act 1953*.

2 Commencement [*see* Note 1]

(1) Parts I and II shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

4 Interpretation

(1) In this Act, unless the contrary intention appears:

***adjusted fee government nursing home*** has the meaning given by section 4AAAA.

***approved***, in relation to a nursing home, has the meaning given in subsection (1AAA) of this section, and ***approval*** has a corresponding meaning.

***approved nursing home patient*** means a person who is an approved nursing home patient for the purposes of Part VA by virtue of section 46A.

***classified patient*** means an approved nursing home patient or Repatriation nursing home patient in respect of whom a classification under section 40AFA is in force.

***Committee of Inquiry*** means a Committee of Inquiry established under Part VIII.

***complying health insurance policy*** has the meaning given by section 63‑10 of the *Private Health Insurance Act 2007*.

***de facto partner*** of a person means:

(a) another person (whether of the same sex or a different sex) with whom the person has a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; or

(b) another person (whether of the same sex or a different sex) who is living with the person on a genuine domestic basis although not legally married to the person.

***designated vaccine*** has the meaning given by subsection 9B(2).

***Director*** means:

(a) in relation to a State or the Northern Territory—the Officer for the time being holding the office, or performing the duties, of Director of Health for that State or Territory under the *Public Service Act 1999*; and

(b) in relation to the Australian Capital Territory—the Secretary.

***friendly society*** means:

(a) a body that is a friendly society for the purposes of the *Life Insurance Act 1995*; or

(b) a body that is registered or incorporated as a friendly society under a law of a State or Territory; or

(c) a body that is permitted, by a law of a State or Territory, to assume or use the expression ***friendly society***; or

(d) a body that, immediately before the date that is the transfer date for the purposes of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*,was registered or incorporated as a friendly society under a law of a State or Territory.

***Government nursing home*** means a nursing home specified by the Minister by notice in writing.

***hospital*** has the meaning given by subsection 121‑5(5) of the *Private Health Insurance Act 2007*.

***hospital‑substitute treatment*** has the same meaning as in the *Private Health Insurance Act 2007*.

***hospital treatment*** has the meaning given by section 121‑5 of the *Private Health Insurance Act 2007*.

***Medicare Australia CEO*** means the Chief Executive Officer of Medicare Australia.

***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.

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

***nursing home*** means premises:

(a) that are fitted, furnished and staffed for the purpose of providing accommodation and nursing care for patients who, by reason of infirmity or illness, disease, incapacity or disability, have a continuing need for nursing care; and

(b) in which patients of that kind are received and lodged exclusively for the purpose of providing them with accommodation and nursing care;

but does not include:

(c) a hospital;

(d) an institution carried on exclusively or principally for the care and treatment of mentally ill or mentally defective persons, being an institution conducted by, or in receipt of a grant for maintenance from, a State.

***nursing home adviser*** means a person included in a class of persons that the Secretary determines by instrument in writing to be advisers for the purposes of this definition.

***nursing home care*** means accommodation and nursing care of a kind provided in a nursing home, and includes any prescribed service of a kind provided in a nursing home.

***nursing home for disabled people*** means:

(a) a nursing home approved on or after 1 July 1987 where the certificate of approval under section 41 states that the home is approved as a nursing home for disabled people; or

(b) any other approved nursing home declared by the Minister, by written notice, to be a nursing home for disabled people.

***official appointee***, in relation to the proprietor of a nursing home (other than a Government nursing home), means:

(a) if the proprietor is a body corporate:

(i) a liquidator of the proprietor; or

(ii) a receiver, or receiver and manager, of the whole of the proprietor’s property, or a part of the proprietor’s property that includes the nursing home or the business or undertaking carried on at the nursing home; or

(b) if the proprietor is a natural person—a person appointed as the trustee in bankruptcy of the proprietor; or

(c) a person appointed under a law of a State or Territory to conduct the nursing home; or

(d) a person appointed, under an instrument under which the nursing home is or may become security for a debt owed by the proprietor or any other person, to manage the affairs of the nursing home on behalf of the person to whom the debt is owed; or

(e) a person included in a class of persons that the Secretary determines by instrument in writing to be official appointees for the purposes of this paragraph.

***pharmacist*** means a person registered as a pharmacist or pharmaceutical chemist under a law of a State or Territory providing for the registration of pharmacists or pharmaceutical chemists, and includes a friendly society or other body of persons (whether corporate or unincorporate) carrying on business as a pharmacist.

***premises*** includes a part of premises.

***private health insurer*** has the same meaning as in the *Private Health Insurance Act 2007*.

***proprietor*** means:

(a) in relation to a Government nursing home—the authority or body of persons conducting the nursing home; or

(b) in relation to any other nursing home—the owner of the business or undertaking carried on at the nursing home.

***public hospital*** means a hospital in respect of which there is in force a statement under subsection 121‑5(8) of the *Private Health Insurance Act 2007* that the hospital is a public hospital.

***public hospital authority*** means the governing body of a public hospital.

***qualified nursing home patient*** means a person who occupies a bed in an approved nursing home for the purpose of nursing home care, but does not include:

(aa) a short‑term respite care patient;

(a) a member of the staff of the nursing home receiving nursing home care in the member’s own quarters;

(b) subject to subsection (1C), a newly born child whose mother also occupies a bed in the nursing home; or

(c) a Repatriation nursing home patient.

***Repatriation nursing home patient*** means a patient who is receiving nursing home care in an approved nursing home in accordance with arrangements entered into:

(a) under paragraph 89(1)(b) or (c) of the *Veterans’ Entitlements Act 1986*; or

(b) under section 285of the *Military Rehabilitation and Compensation Act 2004*; or

(c) under section 15 of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*.

***rules***, in relation to a private health insurer, has the same meaning as in the *Private Health Insurance Act 2007*.

***Secretary***:

(a) where the expression is used in a provision that is administered solely by the Minister for Health—means the Secretary to the Department of Health;

(b) where the expression is used in a provision that is administered solely by the Minister for Community Services—means the Secretary to the Department of Community Services; and

(c) where the expression is used in a provision that is administered in part by the Minister for Health and in part by the Minister for Community Services, then:

(i) in the application of the provision in so far as it is administered by the Minister for Health—means the Secretary to the Department of Health; and

(ii) in the application of the provision in so far as it is administered by the Minister for Community Services—means the Secretary to the Department of Community Services.

***short‑term respite care patient*** means a person:

(a) whose admission to an approved nursing home has been approved by the Minister under section 40AB; and

(b) who occupies a bed in an approved nursing home temporarily vacated by a qualified nursing home patient, or a Repatriation nursing home patient, of the nursing home on a day on which the patient is absent from the nursing home pursuant to an agreement made under subsection 4AA(2);

but does not include a Repatriation nursing home patient.

***spouse*** includes a de facto partner.

***temporary operator***, in relation to a nursing home, means a person who:

(a) is an official appointee in relation to the proprietor of the nursing home; and

(b) in relation to whom an approval under section 39BA is in force.

***Territory*** means an internal Territory.

***transferred home*** means:

(a) a nursing home approved on or after 1 July 1987 where:

(i) an application for a certificate under subsection 3A(2) of the *Nursing Homes Assistance Act 1974* was made before 1 July 1987;

(ii) the object of the proposal to which the application for a certificate related was to transfer to the nursing home an approval under the *Nursing Homes Assistance Act 1974* in respect of another nursing home conducted by the same proprietor on the same or a different site;

(iii) a certificate under subsection 39A(2) is granted on or after 1 July 1987; and

(iv) the proprietor, in the application for approval of the nursing home, requests that the nursing home be treated as a transferred home for the purposes of this Act;

(b) a nursing home, other than a nursing home to which paragraph (a) applies, approved on or after 1 July 1987 but before 1 July 1991 where:

(i) a certificate under subsection 3A(2) of the *Nursing Homes Assistance Act 1974* was in force on 30 June 1987; and

(ii) the proprietor, in the application for approval of the nursing home, requests that the nursing home be treated as a transferred home for the purposes of this Act; and

(c) a nursing home, other than a nursing home to which paragraph (a) or (b) applies, that:

(i) on 30 June 1987 was an approved nursing home within the meaning of the *Nursing Homes Assistance Act 1974*; and

(ii) is not specified in a notice published under subsection 41(1) of the *Nursing Homes and Hostels Legislation Amendment Act 1987*.

***vaccine*** means a vaccine for the purpose of immunising persons.

(1A) In this Act, unless the contrary intention appears, a word or phrase defined for the purposes of the *Health Insurance Act 1973* has the meaning that it would have if used in that Act.

(1AAA) A reference in this Act to a nursing home being approved is a reference to an approval having been in force, or having been deemed to be in force, under Part V, in respect of the nursing home, immediately before the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act).

(1C) For the purposes of the definition of ***qualified nursing home patient*** in subsection (1), where a mother and 2 or more newly born children of that mother occupy beds in an approved nursing home, one of those children, or each of those children in excess of one, shall be deemed to be a qualified nursing home patient.

(2) A reference in this Act to a prescription for the supply of a pharmaceutical benefit is a reference to a prescription written in accordance with subsection 88(1), (1A), (1C), (1D) or (1E).

(3) A reference in this Act to the supply of pharmaceutical benefits at premises is a reference to the supply of pharmaceutical benefits to people who are at the premises when the supply is made.

(5) A reference in this Act to the conditions applicable to a nursing home shall be read as a reference to the conditions to which the approval of a nursing home is subject by virtue of subsections 40AA(5A) and (6).

4AA Recognised days of absence of qualified nursing home patients etc.

(1) For the purposes of this Act, a day is a recognized day of absence of a qualified nursing home patient from an approved nursing home if:

(a) the patient is absent from the nursing home on the day pursuant to an agreement made under subsection (2); and

(b) the day is, for the purposes of this section, an eligible day in relation to the patient.

(2) For the purposes of this Act, a qualified nursing home patient, or a Repatriation nursing home patient, of an approved nursing home, or a person acting on behalf of such a patient, and the proprietor of the nursing home may enter into an agreement, in accordance with the appropriate common form of agreement authorized under subsection (3), with respect to the absence of the patient from the nursing home.

(3) The relevant Minister may, by writing, authorize a common form of agreement with respect to the absence of a qualified nursing home patient or a Repatriation nursing home patient, as the case requires, from an approved nursing home.

(4) A common form of agreement shall make provision for and in relation to such matters as the relevant Minister considers appropriate.

(5) Without limiting the generality of subsection (4), a common form of agreement authorized under subsection (3) with respect to the absence of a qualified nursing home patient or a Repatriation nursing home patient from an approved nursing home may make provision for and in relation to:

(a) notices to be given by, or on behalf of, the patient to the proprietor of the nursing home in relation to the absence of the patient;

(b) requiring the proprietor of the nursing home, upon the return of the patient in circumstances of a kind specified in the agreement, to allow the patient to occupy the same bed that the patient occupied immediately before the absence of the patient;

(c) deeming the patient, for the purposes of this Act, to have been discharged from the nursing home in circumstances of a kind specified in the agreement;

(d) except in the case of a Government nursing home, the fees or extra charges (in this section referred to as the ***bed retention fees***) that may be charged in respect of the absence, or retention of the bed, of the patient;

(e) the deduction of Commonwealth benefit within the meaning of Part VA and other amounts from the bed retention fees; and

(f) in the case of a transferred home that does not contain exempt beds, limiting bed retention fees to an amount not exceeding the amount applicable for the purpose of subparagraph 47(2)(b)(iii).

(5A) For the purposes of this section:

(a) a qualified nursing home patient shall be taken to be absent from an approved nursing home on the day on which the patient leaves the nursing home to commence an absence from the nursing home pursuant to an agreement made under subsection (2); and

(b) a qualified nursing home patient shall not be taken to be absent from an approved nursing home on the day on which the patient returns to the nursing home after an absence from the nursing home pursuant to an agreement made under subsection (2) or, if the patient dies while he or she is absent from the nursing home pursuant to such an agreement, on the day on which he or she dies.

(6) For the purposes of this section, a day in a relevant period is an eligible day in relation to a qualified nursing home patient of an approved nursing home if, on that day, the patient is absent from the nursing home and:

(a) that absence is due to the fact that the patient has to be, is, or has been, in attendance at a hospital for the purpose of receiving hospital treatment; or

(b) where paragraph (a) does not apply:

(i) if the relevant period is the year commencing on 1 July 1989—the number of recognised days of absence of the patient from the approved nursing home or another approved nursing home before that day during the relevant period is less than 28; or

(ii) in any subsequent relevant period—the number of recognised days of absence of the patient from the approved nursing home or another approved nursing home before that day during the relevant period (excluding any day that is a recognised day because paragraph (a) applies) is less than 28.

(6A) For the purposes of the application of paragraph (6)(b) in relation to a day of absence during a relevant period, any days to which section 46AB has applied in relation to the patient in question during the relevant period are to be treated as recognised days of absence of the patient (whether or not the patient was, during any of those days, in attendance at a hospital for the purpose of receiving hospital treatment).

(7) In this section, ***relevant period***, in relation to a qualified nursing home patient, means the year commencing on 1 July 1985 and each subsequent year.

(9) For the purposes of sections 46A, 47, 48, 48A, 49, 59 and 60A:

(a) a qualified nursing home patient shall be deemed to be receiving nursing home care in an approved nursing home and to be an approved nursing home patient in the nursing home on each recognized day of absence of the patient from the nursing home; and

(b) a reference (other than a reference in subsection 47(2)) to the fees charged in respect of nursing home care of the patient on such a day is a reference to the bed retention fees charged in respect of the patient for that day.

(10) Where a qualified nursing home patient or a Repatriation nursing home patient dies while absent from an approved nursing home pursuant to an agreement under subsection (2):

(a) the definition of ***short‑term respite care patient*** in subsection 4(1), this section and subsections 40AA(6) and 40AB(5A) have effect as if the patient:

(i) had been absent on each day (if any) after the death of the patient and before the day next following the day on which the proprietor was informed of the death of the patient; and

(ii) had died at the end of the last of the days first referred to in subparagraph (i); and

(b) if the proprietor of the nursing home is not informed of the death within the period of 48 hours after the death, the proprietor shall be taken, for the purposes of paragraph (a), to have been so informed at the end of the period of 48 hours after the death of the patient.

(11) A reference in subsection (3) or (4) to the relevant Minister is a reference to:

(a) in a case where the subsection applies in relation to a common form of agreement with respect to the absence of a qualified nursing home patient from an approved nursing home—the Minister administering this Act; or

(b) in a case where the subsection applies in relation to a common form of agreement with respect to the absence of a Repatriation nursing home patient from an approved nursing home—the Minister administering the *Veterans’ Entitlements Act 1986*.

6 Delegation

(1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to a person (including the Secretary) all or any of the Minister’s powers under this Act, the regulations or another legislative instrument under this Act, other than:

(a) this power of delegation; or

(ab) the Minister’s powers under sections 90A and 90B; or

(b) the Minister’s powers under section 95.

(2) A power so delegated under subsection (1), when exercised by the delegate, shall, for the purposes of this Act, the regulations or another legislative instrument under this Act, be deemed to have been exercised by the Minister.

(3) A delegate under subsection (1) is, in the exercise of a power so delegated, subject to the directions (if any) of the Minister.

(4) A delegation under subsection (1) does not prevent the exercise of a power by the Minister.

(5) The Secretary may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Secretary, delegate to a person all or any of the Secretary’s powers under this Act, the regulations or another legislative instrument under this Act other than:

(a) this power of delegation; or

(b) the Secretary’s powers under section 95.

(6) A power so delegated under subsection (5), when exercised by the delegate, shall, for the purposes of this Act, the regulations or another legislative instrument under this Act, be deemed to have been exercised by the Secretary.

(7) A delegate under subsection (5) is, in the exercise of a power so delegated, subject to the directions (if any) of the Secretary.

(8) A delegation under subsection (5) does not prevent the exercise of a power by the Secretary.

6A External Territories

This Act extends to the Territory of Cocos (Keeling) Islands and to the Territory of Christmas Island.

7A Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part II—National health services

8 Interpretation

In this Part, ***Territory*** includes an external Territory to which this Act extends.

9 Provision of certain medical and dental services

(1) The Governor‑General may provide, or arrange for the provision of:

(a) aerial medical and dental services;

(b) diagnostic and therapeutic services for medical practitioners and hospitals, and for patients of medical practitioners or hospitals;

(c) teaching, research and advisory services in relation to maternal and child health;

(d) teaching, research and advisory services for or in relation to the improvement of health or the prevention of disease; and

(e) anything incidental to a service referred to in paragraph (a), (b), (c) or (d).

(2) The Minister may disseminate information relating to health or the prevention of disease.

9A Provision of medical and surgical aids and appliances etc. by the Commonwealth

(1) The Minister may, on behalf of the Commonwealth, arrange for:

(a) the supply by the Commonwealth of such medical or surgical aids, equipment or appliances as are prescribed to persons who require them;

(b) the making of any modifications to a building, vehicle or equipment that are necessary for the treatment or rehabilitation of a sick or disabled person.

(2) Subject to the provisions of an arrangement made under subsection 9C(1), a hearing aid, or any other medical or surgical aid, equipment or appliance of a kind prescribed for the purposes of this subsection, that is supplied under this section remains the property of the Commonwealth notwithstanding any purported disposition or pledging of the aid, equipment or appliance by any person.

(3) The Minister may impose such conditions as the Minister thinks fit on the use or possession of aids, equipment or appliances supplied, or to be supplied, under subsection (1).

(4) The regulations may make provision with respect to the supply of aids, equipment or appliances, or the making of modifications, under subsection (1), including provision for offences with respect to the use or possession of aids, equipment or appliances so supplied.

9B Provision of vaccines

(1) The Minister may provide, or arrange for the provision of:

(a) designated vaccines; and

(b) goods or services that are associated with, or incidental to, the provision or administration of designated vaccines.

Designated vaccines

(2) The Minister may, by legislative instrument, determine that a specified vaccine is a ***designated vaccine*** for the purposes of this Act.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(3) A vaccine may be specified by reference to any or all of the following:

(a) brand;

(b) formulation;

(c) active ingredient;

(d) strength;

(e) number and timing of doses in a course of immunisation.

(4) Subsection (3) does not limit the ways in which a vaccine may be specified.

(5) In addition to specifying a vaccine, a determination under subsection (2) may specify the circumstances in which the vaccine may be provided.

(6) If any such circumstances are specified, subsection (1) only authorises the provision of the vaccine in those circumstances.

(7) A vaccine must not be specified in a determination under subsection (2) unless:

(a) the Pharmaceutical Benefits Advisory Committee has recommended to the Minister that the vaccine be a designated vaccine; or

(b) at any time during the 60‑day period ending immediately before the commencement of this subsection, the vaccine was provided under repealed section 9B of this Act.

(8) Before:

(a) revoking a determination under subsection (2); or

(b) varying a determination under subsection (2) in such a way that a vaccine ceases to be a designated vaccine;

the Minister must obtain the written advice of the Pharmaceutical Benefits Advisory Committee in relation to the proposed revocation or variation.

(9) An advice under subsection (8) is to be tabled in each House of the Parliament with the revocation or variation to which the advice relates.

(10) This section does not limit the vaccine‑related powers conferred on the Minister by the *Quarantine Act 1908*.

9BA The National HPV Vaccination Program Register

Establishment

(1) The Commonwealth must establish and keep a register known as the National HPV Vaccination Program Register.

Contents of the Register

(2) The Register may contain the following kinds of personal information:

(a) the name, address, date of birth and Medicare card number of any person to whom HPV vaccine has been administered;

(b) the indigenous status of such a person;

(c) the names and addresses of parents or guardians of such a person (if the person is a child or is incapable of managing the person’s affairs);

(d) information about when and where HPV vaccine was administered to such a person;

(e) information about who administered HPV vaccine to such a person;

(f) information about HPV vaccine that was administered to such a person.

Purposes of the Register

(3) The purposes of the Register are to ensure the successful implementation of the National Human Papillomavirus (HPV) Vaccination Program, and in doing so facilitate:

(a) establishment and maintenance of an electronic database of records for monitoring vaccination of participants in the HPV Program; and

(b) monitoring of the effectiveness of HPV vaccine in preventing certain cervical cancers by allowing for future cross referencing of data against Pap Smear and other cervical cytology or cervical cancer registers maintained by States and Territories; and

(c) establishment of mechanisms to advise eligible persons, or the parents or guardians of children, if doses of HPV vaccine have been missed or if booster doses are required in the future; and

(d) maintenance of a record of the HPV vaccination status of eligible persons for the purposes of certifying the completion of the course of vaccination; and

(e) promotion of the health and well being of persons by providing information on new developments associated with the Program to vaccination providers, eligible persons and parents or guardians of children; and

(f) payment of general practitioners for entering information in the Register.

Opting out of the Register

(4) A person may, in writing, request the Commonwealth to remove from the Register personal information relating to:

(a) the person; or

(b) a child of whom the person is a parent or guardian.

The Commonwealth must comply with any such request as soon as practicable.

Effect of the Privacy Act 1988

(5) The use by the Commonwealth of personal information for the purposes of the Register is taken to be authorised by law for the purposes of paragraph (1)(c) of Information Privacy Principle 10 in section 14 of the *Privacy Act 1988*.

(6) The disclosure by the Commonwealth of personal information for the purposes of the Register is taken to be authorised by law for the purposes of paragraph (1)(d) of Information Privacy Principle 11 in section 14 of the *Privacy Act 1988* if:

(a) the disclosure is made to a body that is:

(i) prescribed by the regulations; or

(ii) included in a class of bodies prescribed by the regulations; or

(iii) a prescribed body within the meaning of Part IVA of the *Health Insurance Act 1973*; or

(b) the disclosure is made to a vaccination provider for the purpose of administering HPV vaccine.

Definitions

(7) In this section:

***eligible person*** means a person who is eligible to receive vaccination under the National Human Papillomavirus (HPV) Vaccination Program.

***HPV vaccine*** means Human Papillomavirus vaccine that the Minister has determined under section 9B to be a designated vaccine.

***parent***: without limiting who is a parent of a child for the purposes of this section, someone is the ***parent*** of a child if:

(a) the child is the person’s adoptive child or stepchild; or

(b) the child would be the person’s stepchild except that the person is not legally married to the person’s de facto partner; or

(c) the child is a child of the person within the meaning of the *Family Law Act 1975*.

***personal information*** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

***vaccination provider*** means:

(a) a general practitioner; or

(b) a nursewho is authorised by a State or Territory, or by an authority of a State or Territory, to administer HPV vaccine.

9C Arrangements with States for provision of surgical aids and appliances etc.

(1) The Minister may, on behalf of the Commonwealth, enter into an arrangement with a State, a Territory or a body corporate established for a public purpose under a law of a State or Territory for and in relation to:

(a) the supply of medical or surgical aids, equipment or appliances prescribed for the purposes of paragraph 9A(1)(a) to persons who require them; and

(b) the making of any modifications to a building, vehicle or equipment that are necessary for the treatment or rehabilitation of a sick or disabled person.

(2) Without limiting the generality of subsection (1), an arrangement entered into under that subsection with a State, a Territory or a body corporate may provide for:

(a) the payment by the Commonwealth of amounts to the State, Territory or body corporate, as the case may be, in connection with the carrying out of the arrangement; and

(b) the transfer to the State, Territory or body corporate, as the case may be, of medical or surgical aids, equipment or appliances owned by the Commonwealth.

(4) An arrangement entered into under subsection (1) may be expressed to have taken effect from a day earlier than the day on which the arrangement was entered into.

10 Arrangements with other Ministers

The Minister may make an arrangement with any other Minister for the performance by that other Minister of a service in connexion with a service, matter or thing for which provision is made by or under this Part.

11 Arrangements with States

(1) The Governor‑General may enter into an arrangement with the Governor of a State or the Administrator of a Territory for the performance by that State or Territory of a service in connexion with a service, matter or thing for which provision is made by or under this Part.

(2) An arrangement entered into under this section may provide for payments by the Commonwealth to the State or Territory in respect of capital expenditure or maintenance expenditure incurred by the State or Territory at the request of the Commonwealth in connexion with the service performed by the State or Territory.

(3) Any arrangement entered into under this section which provides for payments by the Commonwealth to a State or Territory in respect of expenditure referred to in subsection (2) shall provide for information to be supplied to the Minister by such persons, at such times and in such manner and form as the Minister requires.

(4) An arrangement entered into under this section shall provide:

(a) that property the cost of which, or part of the cost of which, has been paid by the Commonwealth to the State or Territory under the arrangement shall not, except with the approval of the Minister, be used otherwise than for the purpose for which the property was acquired; and

(b) for the indemnification of the Commonwealth:

(i) in the event of the acquisition by the Commonwealth of property the cost of which has been paid by the Commonwealth to the State or Territory under the arrangement—against payment by way of compensation for the acquisition of that property; and

(ii) in the event of the acquisition by the Commonwealth of property the cost of which was paid in part by the Commonwealth to the State or Territory under the arrangement—against payment by way of compensation proportionate to the cost so paid.

Part III—Continence Aids Payment Scheme

12 Continence Aids Payment Scheme

(1) The Minister may, by legislative instrument, formulate a Continence Aids Payment Scheme, under which the Commonwealth makes payments as a contribution towards the cost of buying products that help manage incontinence.

(2) A person who satisfies the eligibility criteria that are stated in the legislative instrument is eligible to participate in the scheme.

(3) Without limiting subsection (1), the legislative instrument may provide for:

(a) applications by persons who want to participate in the scheme; and

(b) the conditions that must be complied with in order for a person to participate in the scheme; and

(c) the amount of the contribution that is payable in each financial year in relation to a person who is participating in the scheme; and

(d) investigations to be conducted in order to ensure that persons who are participating in the scheme are eligible to do so; and

(e) the functions and powers of the Medicare Australia CEO in relation to the scheme.

13 Secretary or Medicare Australia CEO may request information

(1) This section applies if the Secretary or Medicare Australia CEO (the ***official***) believes, on reasonable grounds, that a person is capable of giving information that is relevant to deciding:

(a) whether a contribution is payable to a person under the Continence Aids Payment Scheme; or

(b) the amount of a contribution that is payable to a person under the Continence Aids Payment Scheme.

(2) The official may request the person to give the information to the official.

(3) The request:

(a) must be made in writing; and

(b) must state what information must be given to the official; and

(c) may require the information to be verified by statutory declaration; and

(d) must specify a day on or before which the information must be given, which day must be at least 28 days after the day on which the request is made; and

(e) must contain a statement to the effect that a failure to comply with the request is an offence.

(4) The person commits an offence if the person fails to comply with the request.

Penalty: 30 penalty units.

(5) However, an individual is excused from complying with the request if the giving of the information might tend to:

(a) incriminate the individual; or

(b) expose the individual to a penalty.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3) of the *Criminal Code*.

(6) An offence against subsection (4) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

14 Reviewing decision whether applicant is eligible for the scheme

(1) This section applies if the Medicare Australia CEO decides that a person who has applied to participate in the scheme is not eligible to participate in the scheme.

(2) The Medicare Australia CEO must give the person 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 may apply to the Medicare Australia CEO for a review of the decision; and

(e) how the person may apply for the review.

(3) A person who is aggrieved by the Medicare Australia CEO’s decision may apply for a review of the decision in the way stated in the legislative instrument that sets out the scheme.

(4) If an application is made under subsection (3), the Medicare Australia CEO must review the decision and give the person a signed notice that states:

(a) the decision; and

(b) the day when the decision has effect; and

(c) if the decision is that the person is not eligible to participate in the scheme:

(i) the reasons for the decision; and

(ii) that, within 28 days after receiving the notice, the person may apply to the Administrative Appeals Tribunal for a review of the Medicare Australia CEO’s decision.

(5) An application may be made to the Administrative Appeals Tribunal for the review of the Medicare Australia CEO’s decision mentioned in subsection (4).

15 Reviewing decision whether participant is eligible for the scheme

(1) This section applies if the Medicare Australia CEO decides that a person who is participating in the scheme is not eligible to participate in the scheme.

(2) The Medicare Australia CEO must give the person 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 may apply to the Medicare Australia CEO for a review of the decision; and

(e) how the person may apply for the review.

(3) A person who is aggrieved by the Medicare Australia CEO’s decision may apply for a review of the decision in the way stated in the legislative instrument that sets out the scheme.

(4) If an application is made under subsection (3), the Medicare Australia CEO must review the decision and give the person a signed notice that states:

(a) the decision; and

(b) the day when the decision has effect; and

(c) if the decision is that the person is not eligible to participate in the scheme:

(i) the reasons for the decision; and

(ii) that, within 28 days after receiving the notice, the person may apply to the Administrative Appeals Tribunal for a review of the Medicare Australia CEO’s decision.

(5) An application may be made to the Administrative Appeals Tribunal for the review of the Medicare Australia CEO’s decision mentioned in subsection (4).

Part V—Approved nursing homes

39 Interpretation

In this Part, unless the contrary intention appears:

***additional exempt bed fee***, in relation to each exempt bed in a nursing home means:

(a) unless paragraph (b) applies—the amount that was, under paragraph 39AB(3)(a), included in the information accompanying the application for exempt bed status for each of those beds as the amount that the proprietor proposed to charge in respect of nursing home patients occupying any such bed, if those beds were granted exempt status, in addition to the reference fee that would be applicable to that patient in that bed; and

(b) if that amount has been redetermined by the proprietor of that nursing home under subsection 40AD(1BB)—the amount as so redetermined or as last so redetermined.

***approved operator*** means a person in relation to whom an approval under section 39BA was, immediately before the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act), in force.

***assessed annual infrastructure cost***, in relation to an approved nursing home, means the annual infrastructure cost of that nursing home determined in accordance with principles formulated under subsection 40AA(7).

***authorised*** means authorised, in writing, by the Minister.

***Class 1 nursing home*** means an approved nursing home that:

(a) was approved under this Act before 1 July 1987;

(b) became a transferred home on 1 July 1987 by virtue of section 4 of the *Nursing Homes and Hostels Legislation Amendment Act 1987*;

(c) was approved under this Act on or after 1 July 1987 following the issue, before 1 April 1987, of a certificate under subsection 39A(2) of this Act or subsection 3A(2) of the *Nursing Homes Assistance Act 1974*; or

(d) was approved under this Act on or after 1 July 1987 where:

(i) an application for a certificate under subsection 39A(2) of this Act or subsection 3A(2) of the *Nursing Homes Assistance Act 1974* was made before 1 July 1987;

(ii) the object of the proposal to which the application related was to transfer to the nursing home an approval under the *Nursing Homes Assistance Act 1974* or this Act in respect of another nursing home conducted by the same proprietor on the same or a different site; and

(iii) a certificate under subsection 39A(2) or (2A) was issued on or after 1 July 1987.

***Class 2 nursing home*** means an approved nursing home, other than a Class 1 nursing home.

***Commonwealth benefit*** means an amount payable by the Commonwealth by way of benefit in accordance with Part VA.

***estimated daily average bed number***, in relation to an approved nursing home for a financial year, means the estimated daily average number of beds in the nursing home to be occupied during the financial year determined in accordance with principles formulated under subsection 40AA(7).

***exempt bed*** means a bed that has been granted status as an exempt bed under section 39AB or 39AD.

***hospital leave***, in relation to a patient in an approved nursing home, means any period of absence when the patient is required to be absent from the nursing home because the patient has to be, is, or has been, in attendance at a hospital for the purpose of receiving hospital treatment.

***lowest classification***, in relation to a patient in an approved nursing home, means the classification that represents the lowest degree of need of nursing and personal care.

***maximum bed number***, in relation to a State or Territory in relation to a relevant period, means the number specified in a notice in force under subsection 39AA(1) as the maximum bed number for that State or Territory for that period.

***maximum ordinary bed number***, in relation to a region within a State or Territory in relation to a relevant period, means the number specified in a notice in force under subsection 39AA(2) as the maximum ordinary bed number for that region for that period.

***maximum special bed number***, in relation to a State or Territory in relation to a relevant period, means the number specified in a notice in force under subsection 39AA(3) as the maximum special bed number for that State or Territory for that period.

***notional fee***, in relation to the provision of nursing home care (other than care of a kind in respect of which benefit is paid under section 48B, 48C, 48D, 48E or 49) to an approved nursing home patient in an approved nursing home (other than a Government nursing home or a nursing home for disabled people) on a particular day, means the fee applicable in respect of the provision of nursing home care to the patient on that day in accordance with the scale of fees determined by the Secretary under section 46D.

***reference fee***, in relation to a nursing home patient in an exempt bed in a nursing home, means:

(a) unless paragraph (b) applies:

(i) where that patient is a patient in a Class 2 nursing home—the notional fee that would apply to that patient and that nursing home if the beds in that nursing home were not exempt beds; and

(ii) where the patient is a patient of a Class 1 nursing home—the fee determined by the Minister, having regard to the amount that would be the notional fee applying to that patient and that nursing home if that nursing home were a Class 2 nursing home and if the beds in that nursing home were not exempt beds; and

(b) if that fee or amount has been redetermined under subsection 40AD(1BH)—the fee or amount as so redetermined or as last so redetermined.

***relevant period*** means:

(a) the period commencing on 1 December 1986 and ending on 30 June 1987;

(b) the year commencing on 1 July 1987; or

(c) a succeeding year.

***special needs group*** means a class of persons determined by the Minister, in writing, to be a special needs group for the purposes of this definition.

40AA Government nursing homes

(1) On and after the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act), this section applies only to an approved nursing home that is a Government nursing home.

(5A) The approval of premises as an approved nursing home is subject to the condition that, where a Commonwealth benefit is payable, or has been paid, to the proprietor of the nursing home in respect of a patient for a period, the proprietor shall deduct the amount of that benefit from the fees charged in respect of nursing home care for that patient during that period.

(5B) For the purposes of the operation of the condition set out in subsection (5A), any Commonwealth benefit that would be payable to the proprietor of the nursing home but for the suspension of the approval of the nursing home shall be deemed to be payable to that proprietor.

(6) The approval of premises as an approved nursing home is subject to the following conditions:

(a) a condition that the number of beds available in the nursing home for qualified nursing home patients or Repatriation nursing home patients will not at any time exceed such number of beds as is determined from time to time by the Minister as the approved number of beds in relation to the nursing home;

(aa) a condition that, where the Minister determines, in writing, that the admission of persons to the nursing home as qualified nursing home patients is to be in accordance with a special purpose of the nursing home specified in the determination, the operations of the nursing home are to be carried out in a manner consistent with that determination;

(b) a condition that a person will not be admitted to the nursing home as a qualified nursing home patient unless an approval under subsection 40AB(3) in relation to the person is in force or the circumstances are such that it is not practicable for such an approval to be obtained before the admission of the person;

(ba) a condition that, where an agreement is entered into under subsection 4AA(2) between the proprietor and a qualified nursing home patient, or a Repatriation nursing home patient, of the nursing home, or a person acting on behalf of such a patient, with respect to the absence of the patient, the proprietor shall comply with the agreement;

(bb) a condition that, where a qualified nursing home patient, or a Repatriation nursing home patient, of the nursing home (in this paragraph referred to as the ***permanent patient***) is absent from the nursing home pursuant to an agreement of the kind referred to in paragraph (ba), the proprietor shall not:

(i) allow the bed that the permanent patient occupied before the absence of the permanent patient (in this paragraph referred to as the ***permanent patient’s bed***) to be occupied during the absence of the permanent patient by a person other than a person who is a leave respite care patient or who is a Repatriation nursing home patient;

(ii) in a case where the nursing home is not a Government nursing home or transferred home, charge a short‑term respite care patient who occupies the permanent patient’s bed during the absence of the permanent patient a fee in respect of nursing home care that exceeds the difference between:

(A) the maximum fee that, had the permanent patient been receiving nursing home care in the nursing home as a qualified nursing home patient (other than a qualified nursing home patient in respect of whom an approval under section 40AF is in force) on that day, the permanent patient could have been charged for the nursing home care without contravening the condition set out in subparagraph (c)(i); and

(B) the amount of the Commonwealth benefit that, had the permanent patient been receiving nursing home care in the nursing home as a qualified nursing home patient (other than a qualified nursing home patient in respect of whom an approval under section 40AF is in force) on that day, would have been payable under section 47; or

(iii) where the nursing home is a transferred home, charge a short‑term respite care patient who occupies the permanent patient’s bed during the absence of the permanent patient a fee in respect of nursing home care that exceeds the amount applicable for the purpose of subparagraph 47(2)(b)(iii);

(cb) a condition that, where the proprietor of the nursing home:

(i) enters into an agreement under subsection 4AA(2) or is given a notice under such an agreement; or

(ii) enters into an agreement referred to in paragraph (bc);

the proprietor, subject to any request made under paragraph (cc), is to file the agreement or notice, and keep the agreement or notice filed, with the records of the nursing home kept in compliance with section 61;

(cc) a condition that, where the Minister, by notice in writing served on the proprietor of the nursing home, requests the proprietor to produce to an officer of the Department specified in the request, in accordance with the request, such documents, being:

(i) agreements entered into by the proprietor under subsection 4AA(2) or notices given to the proprietor under such agreements; or

(ii) agreements referred to in paragraph (bc) entered into by the proprietor;

as are specified in the request, the proprietor is to comply with the request to the extent that the proprietor is capable of doing so;

(cd) a condition that, except in accordance with the conditions referred to in subparagraph (6)(bb)(ii) or (iii) or paragraph (c), the proprietor of the nursing home shall not, in respect of the admission to the home of a person who, on admission, would become a qualified nursing home patient, charge any fee or solicit any contribution or financial assistance to the nursing home or any other body or organisation, whether from that person or otherwise;

(cda) a condition that the proprietor of the nursing home must not, in respect of a proposed admission to the home of a person as a short‑term respite care patient, request, solicit or accept from that person or any other person, a payment that exceeds, or together with another payment exceeds, the amount of the fee that, under the regulations, the proprietor of the nursing home may request the person to pay in respect of the proposed admission;

(cdb) a condition that, where:

(i) an amount has been paid to the proprietor of the nursing home in respect of the proposed admission to the home of a person as a short‑term respite care patient; and

(ii) that person is not subsequently so admitted to the home;

the proprietor of the nursing home must, except in circumstances where the regulations otherwise provide, refund that amount to the payee in accordance with the regulations;

(ce) a condition that the proprietor of the nursing home will:

(i) at such times, and in respect of such periods, as are determined by the Secretary; and

(ii) in a form approved by the Secretary;

submit to the Secretary, in a manner approved by the Secretary, such information relating to the employment of nursing staff and personal care staff in connection with the nursing home as is required by the Secretary by written instrument;

(cf) a condition that the proprietor of the nursing home is to allow a person authorised for the purposes of this paragraph to enter the nursing home at any reasonable time for the purpose of ascertaining whether the nursing home care provided in the nursing home satisfies the standards determined under section 45D and is to provide the authorised person with all reasonable facilities and assistance, including access to patients, staff and documents, in achieving that purpose;

(cg) a condition that the proprietor of the nursing home must:

(i) allow a person who is designated by the Minister to be a community visitor in relation to the nursing home to enter the nursing home at any reasonable time for the purpose of meeting with patients; and

(ii) provide the person with all reasonable facilities and assistance in achieving that purpose;

(cj) a condition that the proprietor of the nursing home is to allow a person (not being an officer of the Department) engaged in the provision of advocacy services on behalf of patients of nursing homes, being a person who is, or who is employed by a person or group of persons who are, approved by the Minister to provide such advocacy services, to enter the nursing home at any reasonable time for the purpose of meeting with patients and is to provide the person with all reasonable facilities and assistance in achieving that purpose;

(ck) a condition that the nursing home care provided in the nursing home satisfies the standards determined under section 45D;

(d) any other conditions determined by the Minister for the purpose of:

(i) ensuring that the needs of qualified nursing home patients, short‑term respite care patients or Repatriation nursing home patients in the nursing home are satisfactorily provided for; or

(ii) otherwise protecting the welfare and interests of qualified nursing home patients, short‑term respite care patients or Repatriation nursing home patients in the nursing home.

(6AAA) Where, immediately before the date on which application was made for approval of premises as an approved nursing home, the proprietor of the nursing home was the holder of a certificate in force under subsection 39A(2) or 39B(5) in relation to the nursing home, the Minister shall not exercise the powers under paragraph (6)(aa) to determine a special purpose in relation to the nursing home in a manner inconsistent with that certificate.

(6AAB) Where the Minister, under paragraph (6)(a), determines, or has at any time determined, the approved number of beds in relation to a nursing home, the Minister may determine, in writing, that such number of those beds as is specified in the second determination are approved in relation to a particular special needs group or particular special needs groups.

(6AAC) The Minister may, on application in writing made by the proprietor of a nursing home or otherwise, revoke or vary a determination made under subsection (6AAB) in relation to the nursing home.

(6AA) Where, immediately before the date on which application was made for approval of premises as an approved nursing home, the proprietor of the nursing home was the holder of a certificate in force under subsection 39A(2) or 39B(5) in relation to the nursing home, the Minister shall not exercise the powers under paragraph (6)(a) to determine a number of beds in relation to the nursing home in a manner inconsistent with that certificate.

(6B) Without limiting the generality of subparagraph (6)(d)(ii), conditions determined under paragraph (6)(d) by virtue of that subparagraph may include conditions relating to the liability of the proprietor of a nursing home and other persons for any loss, injury or damage incurred or suffered by qualified nursing home patients, short‑term respite care patients or Repatriation nursing home patients in the nursing home.

(6BA) A person who is a community visitor referred to in paragraph (6)(cg) may inform an officer of the Department or the proprietor of the relevant nursing home of any matter relating to the provision of nursing home care in the nursing home that comes to the notice of the person, including matters brought to the person’s notice by a patient.

(6BB) Despite the provisions of any State law, a person, including the proprietor of a nursing home, may do anything reasonably required to enable compliance with a condition specified in subsection (6).

(7) The Minister may, by written instrument, formulate principles for the determination of:

(b) any matter required by this Act to be determined in accordance with principles formulated under this subsection.

(7B) In formulating principles under subsection (7), the Minister shall have regard to:

(a) the need to ensure that nursing homes are efficiently and economically operated;

(b) the need to ensure that the cost to nursing home patients of nursing home care is not excessive or unreasonable; and

(c) any other matters the Minister considers to be relevant.

(8) Where:

(a) a person is admitted to an approved nursing home as a qualified nursing home patient without prior approval under section 40AB being obtained to the admission; and

(b) the Minister is satisfied:

(i) that the circumstances of the admission were such that it was not practicable for prior approval to be obtained; and

(ii) that, if an application had been made under section 40AB at the time of the admission, the application would have been approved;

the Minister shall approve the admission but, if not so satisfied, shall refuse to approve the admission and, in either case, shall notify the person, in writing, accordingly.

(9) An approval under subsection (8) of an admission has effect for the purposes of this Act as if:

(a) it had been given under subsection 40AB(3) before the admission; and

(b) it were expressed to have effect for a period that includes the day of the admission.

(12) For the purposes of calculating the amount referred to in sub‑subparagraph (6)(bb)(ii)(B), the effect (if any) of section 59 shall be disregarded.

(13) Where a person is admitted to an approved nursing home as a qualified nursing home patient or as a short‑term respite care patient without approval having been obtained under section 40AB, the proprietor of the nursing home shall, as soon as practicable and, in any case, within 3 days after the day of admission, notify the Secretary of the admission of the person.

(14) An application for approval under subsection (8) shall be in accordance with the authorised form and shall be sent, by prepaid post, to the Secretary.

(15) Subject to subsection (16), approval under subsection (8) of the admission of a person to a nursing home shall not be given unless:

(a) notification has been given in accordance with subsection (13); and

(b) the application for approval is made within 3 days after the day of admission.

(16) Notwithstanding subsection (15), approval under subsection (8) may be given where:

(a) an application is made in accordance with subsection (14) by the proprietor of a nursing home;

(b) because of special circumstances, it was not practicable for the application to be made within the period specified in subsection (15);

(c) notification was given in accordance with subsection (13); and

(d) the application was made as soon as was practicable.

(17) The period of 3 days referred to in subsection (15) shall be ascertained exclusive of Saturday, Sunday and any day that is a public holiday in the place in which the nursing home is situated.

(18) Where a person is admitted to an approved nursing home as a qualified nursing home patient without approval under section 40AB, the proprietor of the nursing home shall, while the person remains a patient in the home without approval under subsection (8) or section 40AB, make the deduction required by subsection (5A) in the amount that would have been required if the person were an approved nursing home patient.

40AB Approval of admission to approved nursing home

(1) A person may, on the person’s own behalf or on behalf of another person, apply to the Minister, in accordance with the authorized form, for approval for the admission of the person or of the other person, as the case may be, to a Government nursing home.

(2) An application under subsection (1) may include a certificate, in accordance with the authorized form, by a medical practitioner that the person in respect of whose admission approval is sought, by reason of infirmity or illness, disease, incapacity or disability, has a continuing need for nursing care.

(2A) A certificate given under subsection (2) is to be taken into account by the Minister in considering an application.

(3) Subject to this section, where the Minister is satisfied, with respect to an application under subsection (1), that, by reason of infirmity or illness, disease, incapacity or disability, the patient requires such nursing care as would warrant admission to a Government nursing home, the Minister shall, by written instrument, approve the application.

(3A) An approval under subsection (3) remains in force for the period specified in the instrument of approval.

(3B) An approval under subsection (3) may be expressed to relate only to the admission of the person named in the approval to a particular Government nursing home, a class of Government nursing homes or a class of Government nursing homes situated in a particular region.

(4) For the purposes of subsection (3), a patient shall be deemed not to require such nursing care as would warrant admission to an approved nursing home if the Minister is satisfied that, having regard to the medical condition of the patient and to any other relevant circumstances, the needs of the patient would be adequately, and more suitably, provided for in accommodation in an institution other than an approved nursing home and that such accommodation is available to the patient.

(4AA) Where a determination by the Minister for the purposes of paragraph 40AA(6)(aa) of a special purpose in relation to a Government nursing home is in force or, immediately before the date on which application was made for approval of premises as an approved nursing home or for an alteration of the conditions applicable to the nursing home of the kind referred to in paragraph 39A(3)(b) or 39B, a certificate was in force under section 39A specifying a special purpose in relation to the nursing home, the Minister may refuse to approve an application for the admission of a person to the nursing home if the Minister is satisfied that the admission of the person would be inconsistent with that special purpose.

(4A) The Minister may refuse to approve an application for the admission of a person to a Government nursing home if the admission is to take place during a period of suspension of the approval of the nursing home.

(5) Where the Minister makes a decision under this section refusing to approve an application for the admission of a person to a Government nursing home, the Minister shall cause to be served on the applicant for that admission, a notice in writing setting out that decision.

(5A) Where a person ceases to be a short‑term respite care patient upon the death or discharge from a Government nursing home of the qualified nursing home patient or Repatriation nursing home patient whose bed in the nursing home the person was occupying, the person shall:

(a) immediately after the end of the day on which the person ceases to be a short‑term respite care patient, be taken to have been admitted to the nursing home as a qualified nursing home patient with the approval of the Minister under this section; and

(b) be taken to be, or to have been, a qualified nursing home patient for such period after that day as the Minister, by writing, determines.

(5B) Where the Minister makes a decision under paragraph (5A)(b) in relation to a person who, immediately before the period referred to in that paragraph, was a short‑term respite care patient, the Minister shall cause to be served on the person or the person who applied under section 40ABA on behalf of the first‑mentioned person for the admission of the first‑mentioned person to the nursing home, as the case requires, and on the proprietor of the nursing home, notice in writing setting out that decision.

(6) Without limiting the generality of directions that may be given under section 6 to a delegate of a power under this section or subsection 40AA(8), such a direction may make provision:

(a) requiring the delegate to exercise the delegated powers in accordance with the views of a group of persons;

(b) for the manner in which that group is to be constituted; and

(c) for the procedures to be followed in ascertaining the views of that group.

40AC Declaration that patient not in need of nursing home care

(1) The Minister may, by written notice served on a person who is an approved nursing home patient and on the proprietor of the Government nursing home in which the person is a patient, declare that the person is no longer an approved nursing home patient if the Minister is satisfied:

(a) that the person is no longer a person who, because of infirmity, illness, disease, incapacity or disability, requires such nursing care as warrants the person continuing as a patient in a nursing home; and

(b) that, having regard to the medical condition of the person and to any other relevant circumstances, the needs of the person would be adequately, and more suitably, provided for in accommodation in a place other than an approved nursing home and that such accommodation is available to the person.

(2) Subject to subsection (3), a declaration under subsection (1) takes effect at the end of the period, or further period, allowed under subsection 105AAB(2) for the making of a request under that subsection.

(3) Where:

(a) a request is made under subsection 105AAB(2) for the reconsideration of a declaration under subsection (1); and

(b) the Minister affirms or varies the declaration;

the declaration, or the declaration as varied, as the case may be, takes effect on the day following the day on which notice of the decision of the Minister on the reconsideration is served for the purpose of subsection 105AAB(6).

(4) Without limiting the generality of the directions that may be given under section 6 to a delegate of the power under subsection (1), such a direction may make provision:

(a) requiring the delegate to exercise the power in accordance with the views of a group of persons;

(b) for the manner in which that group is to be constituted; and

(c) for the procedures to be followed in ascertaining the views of that group.

40AE Request for review of decisions

(1) If, after the commencement of this subsection, the Secretary, under section 51A, makes a decision:

(a) authorising the payment to the proprietor of a nursing home of an advance or advances in respect of a Commonwealth benefit that is or may become payable to the proprietor; or

(b) refusing to authorise such a payment;

the proprietor of the nursing home may request the Minister to review the Secretary’s decision.

(1A) If the Secretary makes a determination under subsection 46E(1) relating to an approved nursing home, the proprietor of the nursing home may request the Minister to review the Secretary’s decision.

(2) Where, on or after a day fixed by the Minister by notice published in the *Gazette*, the Secretary:

(a) redetermines, under subsection 40AD(1BH), the respective reference fees applying in relation to each classification of approved nursing home patient occupying an exempt bed in a nursing home, without an application by the proprietor of the nursing home under that subsection;

(b) on application, under subsection 40AD(1BH), by the proprietor of a nursing home containing exempt beds:

(i) redetermines the respective reference fees applying in relation to each classification of approved nursing home patient occupying an exempt bed in the nursing home; or

(ii) refuses that application; or

(c) refuses, under subsection 40AD(1BD), a request under subsection 40AD(1BC) by the proprietor of a nursing home containing exempt beds to approve a proposed redetermination of an additional exempt bed fee in respect of each of those beds;

the proprietor of the nursing home may request the Minister to review the decision of the Secretary.

(3) A request to the Minister for a review:

(a) shall be made only on the appropriate authorised form;

(b) shall be made within 42 days after the day on which notice of the Secretary’s decision is served on the proprietor; and

(c) shall be made only by the person who is the proprietor of the nursing home at the time the request is made.

(4) If the proprietor has not, in the request, authorised the deduction of:

(a) the lodgment fee of $500 or, if the Minister has, by notice, fixed another amount, that other amount; and

(b) the Committee processing fee, being the fee referred to in subsection 40AED(2);

from any payment or payments of benefits under Part VA payable to the proprietor, the request shall be taken not to have been made.

(5) Where a proprietor has, in a request, authorised the deduction of the lodgment fee payable by the proprietor from any payment or payments of benefits under Part VA payable to the proprietor, the amount of the lodgment fee may be deducted from any payment or payments of those benefits.

(6) A notice under paragraph (4)(a) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(7) Without prejudice to the effect of the repeal of section 40AD on a decision of the Secretary of a kind referred to in subsection (2) of this section, that repeal does not affect the conduct of a review of that decision under this section.

40AEA Request for review may be withdrawn

Where a proprietor of a nursing home has, under subsection 40AE(1), (1A) or (2), requested the Minister to review a decision, the request may, at any time before the Minister has confirmed or varied the decision, be withdrawn by the person who is the proprietor of the nursing home at the time of such withdrawal by notice in writing signed by that proprietor and lodged with the Secretary.

40AEB Refund of lodgment fee

(1) Where:

(a) a proprietor has, under subsection 40AE(1), (1A) or (2), requested the Minister to review a decision; and

(b) the lodgment fee has been deducted under subsection 40AE(5) from any payment or payments of benefits payable to the proprietor;

the lodgment fee shall be refunded to the proprietor if:

(c) the request is withdrawn under section 40AEA before the end of the period of 42 days commencing on the expiration of the last day on which such a request could have been made; or

(d) the decision is varied by the Minister in a manner wholly or substantially favourable to the proprietor.

(2) If, before the lodgment fee has been deducted under subsection 40AE(5):

(a) the request is withdrawn under section 40AEA within the period referred to in paragraph (1)(c); or

(b) the decision is varied by the Minister in a manner that is wholly or substantially favourable to the proprietor;

the lodgment fee shall not be so deducted.

40AEC Referral of request to Nursing Homes Fees Review Committee of Inquiry

(1) Subject to section 40AEH, where a request under subsection 40AE(1), (1A) or (2) by the proprietor of a nursing home has not been withdrawn under section 40AEA, the Minister shall, not earlier than the end of the period of 42 days commencing on the expiration of the last day on which such a request could have been made, refer the matter to a Nursing Homes Fees Review Committee of Inquiry established for that State under Division 3A of Part VIII (in this section and in sections 40AED, 40AEE, 40AEF and 40AEH called ***the Committee***) for examination and report to the Minister, and shall not take any further action in the matter until the Minister has received the report of the Committee.

(2) The Minister shall not refer the matter to the Committee unless the proprietor has provided the Minister with:

(a) a statement which sets out fully and in detail the reasons for the request;

(b) a copy of such accounts, books, documents and records that are relevant to the review of the decision by the Minister; and

(c) such information or documents as the Minister specifies under subsection (3).

(3) The Minister may, by notice published in the *Gazette*, specify information or documents that are to be provided to the Minister for the purposes of a review.

(4) The Minister may, by notice in writing given to the proprietor, require the proprietor to furnish to the Minister such further information or documents as the Minister considers necessary for the purpose of deciding the request and the Minister may refuse to refer the matter to the Committee until that information or those documents, as the case requires, are furnished to the Minister.

40AED Examination of matter by Committee

(1) Where the Minister has referred a matter to the Committee under subsection 40AEC(1), the Committee shall examine the matter and report, in writing, to the Minister.

(2) Without limiting the generality of the matters that may be included in the Committee’s report, such a report shall contain a record of the days, and the hours in those days, during which the Committee met to examine the matter that is the subject of the report and shall specify the fee (in this section and in sections 40AEE, 40AEG and 40AEH called the ***Committee processing fee***) payable by the proprietor of the nursing home to which the report relates, being the fee calculated under section 40AEE.

40AEE Committee Processing Fee

(1) The amount of the Committee processing fee shall be:

(a) if the relevant period does not exceed 4 hours—the prescribed amount; or

(b) if the relevant period exceeds 4 hours:

(i) in respect of each period of 4 hours included in the relevant period—the prescribed amount; and

(ii) if the relevant period includes an additional period of less than 4 hours—the prescribed amount in respect of that additional period.

(2) The amount of the Committee processing fee shall not exceed $1,000 per day or, if the Minister has, by notice, fixed another amount, that other amount.

(3) Where a proprietor has, in a request for review, authorised the deduction of the Committee processing fee payable by the proprietor from any payment or payments of benefits under Part VA payable to the proprietor, the amount of the Committee processing fee may be deducted from any payment or payments of those benefits.

(4) The Committee processing fee may be recovered by the Commonwealth in a court of competent jurisdiction as a debt due and payable to the Commonwealth.

(5) A notice referred to in subsection (2) and in the definition of ***prescribed amount*** in subsection (6) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(6) In this section:

***prescribed amount*** means $500 or, if the Minister has, by notice, fixed another amount, that other amount.

***relevant period*** means the period, or the aggregate of the periods, during which the Committee met to examine the matter that is the subject of the Committee’s report.

40AEF Ministerial review of decisions

(1) The Minister shall, after such investigation of the matter as the Minister considers necessary, either confirm or vary the decision of the Secretary, and advise the proprietor accordingly.

(2) The Minister shall, in undertaking, in accordance with subsection (1), such investigation of the matter as the Minister considers necessary, apply any relevant principle that was in force under subsection 40AA(7) or 40AD(1BE), as the case requires, at the time the decision was made.

(3) The Minister shall not, in undertaking, in accordance with subsection (1), such investigation of the matter as the Minister considers necessary, confirm or vary the decision of the Secretary before the Minister has received the report of the Committee.

(4) Where the Minister varies the decision of the Secretary, the Secretary shall, for the purposes of subsection 40AD(2), be taken to have altered the conditions applicable to the nursing home in accordance with the decision so varied.

40AEG Refund of Committee processing fee etc.

Where:

(a) a proprietor has, under subsection 40AE(1), (1A) or (2), requested the Minister to review a decision; and

(b) the decision is varied in a manner that is wholly or substantially favourable to the proprietor;

then:

(c) if the Committee processing fee has been deducted under subsection 40AEE(3)—the fee shall be refunded to the proprietor; and

(d) if the Committee processing fee has not been so deducted—the fee shall not be deducted.

40AEH Effect of change of proprietor on request for review

(1) Where the Minister has, under section 40AE, been requested to review a decision of the Secretary, the Minister may, in writing, at any time before the Committee has commenced consideration of the matter, require the proprietor of the nursing home to which the request relates to notify the Minister whether there has been a change in proprietorship of the nursing home since the request was made and the proprietor of the nursing home shall, by notice in writing, notify the Minister accordingly not later than 28 days after being required to so notify the Minister.

(2) Where the Minister is not notified in accordance with subsection (1) the request shall be taken to have been withdrawn.

(3) Where:

(a) a proprietor has, under subsection 40AE(1), (1A) or (2), requested the Minister to review a decision; and

(b) after making the request but before the Committee has commenced consideration of the matter the proprietor ceases to be the proprietor of the nursing home and another person becomes the proprietor (in this section called the ***new proprietor***) of the nursing home;

the Minister shall, as soon as practicable after the Minister becomes aware of the change of proprietor, by notice in writing:

(c) provide details of the request to the new proprietor; and

(d) inform the new proprietor that unless the new proprietor, not later than 28 days, or such longer period as the Minister specifies in writing given to the proprietor, after receipt of the Minister’s notice, authorises the Minister to proceed, or to continue to proceed, with the request, the request shall be taken to have been withdrawn;

and the Minister shall take no further action in relation to the request before the Minister receives that authorisation, or before the end of that period of 28 days or that longer period, as the case may be, whichever first occurs.

(4) Where the new proprietor authorises the Minister to proceed, or to continue to proceed, with the request as required by paragraph (3)(d), the new proprietor shall be taken to have authorised the deduction of the Committee processing fee from any payment or payments of benefits under Part VA payable to the new proprietor.

(5) Where the new proprietor does not authorise the Minister to proceed, or to continue to proceed, with the request as required by paragraph (3)(d), the request shall be taken to have been withdrawn.

(6) Where a request is taken to have been withdrawn under subsection (2) or (5):

(a) if the lodgment fee has been deducted in accordance with subsection 40AE(5)—the fee shall not be refunded; and

(b) if the lodgment fee has not been so deducted—the fee shall be so deducted.

40AF Patients requiring extensive care

(1) The proprietor of an approved nursing home may apply, in the authorized form, to the Secretary for approval of a person as a person requiring extensive care.

(1A) On and after 1 July 1988, ***approved nursing home***, in subsection (1), means:

(a) a Government nursing home; or

(b) a nursing home for disabled people.

(2) An application under subsection (1) in respect of a person shall be accompanied by a certificate of a medical practitioner, in the authorized form, as to the need of the person for extensive care.

(3) Where the Secretary is satisfied that:

(a) the person in respect of whom the application is made requires extensive care; and

(b) the approved nursing home is adequately fitted, furnished and staffed for the purpose of providing persons with extensive care;

he or she may, for such period as he or she thinks proper, approve the person, in relation to that nursing home, as a person requiring extensive care.

(4) An approval under this section ceases to be in force at the expiration of the period specified in the approval but the Secretary may, at any time before the expiration of that period, review the approval and, if he or she considers that the person to whom the approval relates no longer requires or is not receiving extensive care, he or she may revoke the approval.

(4A) Where the Secretary makes a decision under this section refusing to approve a person as a person requiring extensive care or revoking such an approval, he or she shall cause to be served on the proprietor of the approved nursing home concerned, a notice in writing setting out that decision.

(4B) Without limiting the generality of directions that may be given under section 6 to a delegate of a power under this section, such a direction may make provision:

(a) requiring the delegate to exercise the delegated powers in accordance with the views of a group of persons;

(b) for the manner in which that group is to be constituted; and

(c) for the procedures to be followed in ascertaining the views of that group.

(5) In this section, ***extensive care*** means nursing home care required by a person:

(a) who, by reason of infirmity, or any illness, disease, incapacity or disability, is bedridden or virtually bedridden and is wholly or substantially dependent on nursing care; or

(b) who is undergoing treatment for any illness, disease, incapacity or disability and, for the purposes of that treatment, is wholly or substantially dependent on nursing care.

40AFK Proprietor to be given notice of classification of classified patient admitted to nursing home

Where a person in respect of whom a classification under section 40AFA is in force is admitted to an approved nursing home, the Secretary shall, on request, give to the proprietor of the nursing home written notice of the classification and of the day on which the classification expires.

40AG Standard fee for non‑classified patients

(1) In this section:

***approved nursing home*** does not include a Government nursing home or a nursing home for disabled people.

(2) The Secretary shall, by written instrument, determine the standard fee for non‑classified patients in each approved nursing home in relation to a financial year.

(3) The Secretary:

(a) shall make a determination under subsection (2) in relation to each approved nursing home to take effect at the beginning of each financial year or, where a nursing home is approved after the beginning of a financial year, shall make a determination under that subsection for that financial year as soon as practicable after the grant of approval; and

(b) may make a further determination if there has been a change of circumstances sufficient to warrant the making of a further determination.

(4) In the determination of a scale of fees in relation to non‑classified patients in an approved nursing home for the purposes of subparagraph 40AA(6)(c)(i), the standard fee for the nursing home determined under subsection (2) shall be taken into account, in accordance with principles formulated under subsection 40AA(7), together with such other matters (if any) as the principles require.

(5) The standard fee for a Class 1 nursing home is the amount calculated in accordance with the formula:



(6) The standard fee for a Class 2 nursing home is the amount calculated in accordance with the formula:



(7) In this section:

(a) ***AIA*** is the annual infrastructure allowance in respect of the nursing home for the financial year to which the determination relates;

(aa) in relation to the financial year commencing on 1 July 1988,



(ab) in relation to a financial year commencing on or after 1 July 1989, ***N*** is the amount determined by the Minister to be the daily nursing and personal care cost in relation to non‑classified patients in the nursing home for that financial year;

(b) ***NPC*** is the annual nursing and personal care cost of the nursing home for that financial year determined in accordance with principles formulated under subsection 40AA(7) and on the assumption that all patients in the home are non‑classified patients;

(d) in the case of a nursing home that was approved before 1 July 1988 or became a transferred home on 1 July 1987, ***ABD*** is the number obtained by multiplying the estimated daily average bed number for the nursing home for the financial year commencing on 1 July 1987 by 366;

(e) in the case of a nursing home approved on or after 1 July 1988, ***ABD*** is the number obtained by multiplying the estimated daily average bed number for the nursing home for the financial year in which the home was approved by the number of days in that financial year;

(f) ***ABE*** is the number obtained by multiplying the number of days in the financial year to which the determination relates by the estimated daily average bed number for the nursing home for all patients, whether classified or non‑classified, for that financial year; and

(g) ***SAM*** is the standard infrastructure allowance per occupied bed per day.

(8) For the purposes of subsection (7), the annual infrastructure allowance in respect of a nursing home for a financial year is the amount calculated in accordance with the formula:



***SAM*** has the same meaning as in subsection (7);

***A*** is:

(a) in respect of a financial year commencing on or before 1 July 1990, the factor declared by the Minister, by written notice, to be the component A for the purposes of this subsection in respect of that year;

(b) in respect of a financial year commencing on or after 1 July 1991, the factor 1;

***ABD*** has the same meaning as in subsection (7);

***AAC*** is the assessed annual infrastructure cost of the nursing home; and

***B*** is:

(a) in respect of a financial year commencing on or before 1 July 1990, the factor declared by the Minister, by written notice, to be the component B for the purposes of this subsection in respect of that year;

(b) in respect of a financial year commencing on or after 1 July 1991, the factor 0.

(9) A determination by the Minister for the purpose of paragraph (7)(ab) shall be made in accordance with any principles declared in writing by the Minister for the purpose of that paragraph.

(10) The Secretary must not make a determination under subsection (2) in relation to a financial year that commences on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

40AGA Standard fee for classified patients

(1) In this section:

***approved nursing home*** does not include a Government nursing home or a nursing home for disabled people.

(2) The Secretary shall, by written instrument, determine, in accordance with this section, the standard fee for patients included in each classification determined under subsection 40AFA(2) in each approved nursing home for a financial year.

(3) The Secretary:

(a) shall make a determination under subsection (2) in relation to each approved nursing home to take effect at the beginning of each financial year or, where a nursing home is approved after the beginning of a financial year, shall make a determination under that subsection for that financial year as soon as practicable after the grant of approval; and

(b) may make a further determination if there has been a change of circumstances sufficient to warrant the making of a further determination.

(4) In the determination of scales of fees in relation to classified patients in an approved nursing home for the purposes of subparagraph 40AA(6)(c)(i), the standard fees for classified patients in that nursing home shall be taken into account, in accordance with principles formulated under subsection 40AA(7), together with such other matters (if any) as the principles require.

(5) The standard fee for a classification of patients in an approved nursing home that is a Class 1 nursing home other than an adjusted fee government nursing home is the amount calculated in accordance with the formula:



where:

***AIA*** and ***ABD*** have the same respective meanings as in subsection 40AG(7).

***N*** is the product of:

(a) the number of staff hours per day of nursing and personal care determined by the Minister to be the number of staff hours of such care to be taken into account for the purposes of this section in relation to patients having that classification; and

(b) the amount determined by the Minister to be, for that financial year, the amount to be taken into account for the purposes of this section in relation to the cost per staff hour of providing nursing and personal care in the State or Territory in which the nursing home is situated.

(6) The standard fee for a classification of patients in an approved nursing home that is a Class 2 nursing home is the amount calculated in accordance with the formula:



where:

***SAM*** is the standard infrastructure allowance per occupied bed per day; and

***N*** has the same meaning as in subsection (5).

(6A) The standard fee for a classification of patients in an approved nursing home that is an adjusted fee government nursing home is the amount calculated by using the formula:



where:

***SAMS*** means the special infrastructure allowance per occupied bed per day applicable to the approved nursing home; and

***N*** has the same meaning as in subsection (5).

(7) A determination by the Minister for the purpose of subsection (5) shall be by notice published in the *Gazette*.

(8) The Secretary must not make a determination under subsection (2) in relation to a financial year that commences on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

40AH Standard infrastructure allowance and special infrastructure allowance

(1) The standard infrastructure allowance per occupied bed per day is:

(a) $27.65; or

(b) such higher amount as is specified in, or ascertained in accordance with, a determination by the Minister by written notice.

(2) The special infrastructure allowance per occupied bed per day applicable to an approved nursing home is:

(a) $26.07; or

(b) such higher amount as is applicable to that nursing home under a determination made in writing by the Minister for the purposes of this subsection.

(3) A determination for the purposes of subsection (2) that provides for an amount applicable to a nursing home specified in Schedule 1 may be expressed to have had effect on and from a day not earlier than 1 January 1991.

(4) The Minister must not make a determination under subsection (1) or (2) that relates to a day that occurs on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

40AI Additional patient contribution

(1) The additional patient contribution applicable to an approved nursing home patient is the amount for the time being determined by the Minister by notice published in the *Gazette*.

(2) A determination under subsection (1) may be made in respect of a class of approved nursing home patients receiving care in a particular nursing home.

(3) This section does not apply to a patient in a transferred home.

41 Certificate of approval

(1) Upon the approval of premises as an approved nursing home, the Minister shall cause to be issued to the proprietor of the nursing home a certificate of approval that:

(a) is in the authorised form;

(b) specifies the conditions applicable to the nursing home; and

(c) if the nursing home is approved as a nursing home for disabled people—includes a statement to that effect.

(2) A certificate of approval may specify that the approval is to cease to have effect on a date specified in the certificate.

(3) The proprietor of an approved nursing home shall cause the certificate of approval to be displayed in a prominent position in the nursing home.

Penalty: $2,000.

(4) The proprietor of an approved nursing home who applies to the Minister for revocation of the approval of the nursing home shall forward the certificate of approval of the nursing home with the application or notice.

(5) Where the approval of an approved nursing home is revoked or expires, the proprietor of the nursing home shall forward the certificate of approval to the Minister.

Penalty: $2,000.

42 Inspection of, and of records of, approved nursing homes

(1) A person authorized to act under this section may:

(a) at any time, enter and inspect premises occupied by an approved nursing home; and

(b) at any reasonable time:

(i) enter and inspect premises in respect of which an application for approval as an approved nursing home has been made; or

(ii) inspect, make copies of, or take extracts from, any books, documents or records on premises occupied by an approved nursing home that relate to the operation of those premises as a nursing home, including, but without limiting the generality of the foregoing, any books, documents or records kept by the proprietor of the nursing home in accordance with paragraph 40AA(6)(ca) or (cb), with a condition determined under paragraph 40AA(6)(d), with subsection 61(1) or (1A) or with a notice under subsection 61(2).

(2) The occupier of premises referred to in subsection (1) shall provide the authorized person with all reasonable facilities and assistance for the effective exercise of the authorized person’s powers under this section.

Penalty: Imprisonment for 12 months.

43 Certain person to give notice on death of proprietor

(2) If the proprietor of an approved nursing home dies, the proprietor’s legal personal representative shall, by notice in writing, notify the Minister accordingly within 1 month after the death.

Penalty: $2,000.

43A Furnishing of audited accounts by proprietors of certain approved nursing homes

(1) The Minister may, by notice in writing served on the proprietor of an approved nursing home (other than a Government nursing home), request the proprietor of the nursing home to prepare, from the books, documents and other records kept by the proprietor in accordance with paragraph 40AA(6)(ca) or (cb), with a condition determined under paragraph 40AA(6)(d), with subsection 61(1) or (1A) or with a notice under subsection 61(2), such accounts with respect to the nursing home as are specified in the notice and to furnish a copy of the accounts so prepared, together with the report referred to in subsection (3), to the Minister.

(2) A notice under subsection (1) shall specify the manner in which, and the period in respect of which, the accounts to which the notice relates are to be prepared.

(3) Before furnishing under subsection (1) a copy of accounts prepared with respect to a nursing home, the proprietor of the nursing home shall cause a person who is a registered company auditor under a law of a State or Territory to audit those accounts and to report whether, in the person’s opinion, the accounts were properly drawn up so as to give a true and fair view of:

(a) the financial affairs of the nursing home as at the end of the period to which the accounts relate; and

(b) the income and expenditure of the nursing home for the period to which the accounts relate.

(4) Where, at the expiration of a period of 3 months, or of such longer period as the Minister allows, after the service on the proprietor of a nursing home of a notice under subsection (1), the proprietor of the nursing home has not complied with the notice, the Minister may, by notice in writing served on the proprietor of the nursing home:

(a) suspend the approval of the nursing home for such period as is specified in the notice (not being a period that commences before the date of service of the notice); or

(b) revoke the approval of the nursing home.

(5) In this section, ***accounts*** includes a balance sheet and such other statements as are prescribed.

44 Variation or revocation of approval

(1) The Minister may, at any time, review the approval of a nursing home under this Part.

(2) If the Minister considers that:

(a) the nature of an approved nursing home has changed since the approval under review was given or deemed to have been given; or

(b) a condition applicable to the approved nursing home has not been complied with;

the Minister may vary the nature of the approval or revoke or suspend the approval as the Minister considers justified in the circumstances of the case.

(2A) The Minister may give the proprietor of the approved nursing home written notice of his or her intention to vary the nature of the approval or revoke or suspend the approval as the case may be.

(3) Upon receipt of:

(a) an application in writing by the proprietor of an approved nursing home for revocation of the approval of the nursing home; or

(b) a notice in writing given in accordance with section 43 or subsection 40AEH(1) in respect of an approved nursing home;

the Minister, may revoke the approval of the nursing home.

(4) A variation of the nature of, or a revocation or suspension of, an approval of a nursing home under this section shall be effected by notice in writing served on the proprietor of the nursing home, and, in the case of a notice suspending an approval, the notice shall set out the period of the suspension (not being a period that commences before the date of service of the notice).

45 Automatic revocation of approval as nursing home for disabled people

(1) This section applies in spite of any other provision of this Act.

(2) In this section:

***Commonwealth/State Disability Agreement*** means the Commonwealth/State Disability Agreement made on 30 July 1991 between the Commonwealth on the one part and the States and Territories on the other part.

***scheduled nursing home*** means a nursing home whose name and address is specified in column 2 of an item in Schedule 4, being the nursing home to which the certificate of approval issued by the Minister under subsection 40AA(2) and bearing the approval number specified in column 4 of that item relates.

(3) The approval of a scheduled nursing home as a nursing home for disabled people (unless sooner revoked) is, by force of this subsection, revoked immediately before the day on which the provisions (other than subclauses 1(1) and (2)) of the Commonwealth/State Disability Agreement come into force in respect of the State in which the scheduled nursing home is situated.

45A Revocation or extension of suspension

(1) Where, at any time during a period of suspension of the approval of a nursing home, the Minister is satisfied that, by reason of action taken by the proprietor, or other change of circumstance, with respect to the nursing home, the suspension should be terminated, the Minister shall, by notice in writing served on the proprietor of the nursing home, terminate the suspension accordingly.

(2) Subject to subsection (1), the Minister, at any time during the period of suspension of the approval of a nursing home, may, by notice in writing served on the proprietor of the nursing home, revoke the approval or extend the period of suspension of the approval to a date specified in the notice.

45B Effect of suspension of approval of nursing home

Notwithstanding the suspension of the approval of a nursing home under this Act, that approval, subject to the operation of the following provisions, remains in force for all purposes:

(a) subsection 40AA(5B);

(b) subsection 40AB(4A);

(ba) subsection 40ABA(6);

(c) section 49A.

45D Standards for nursing home care

The Minister may, by written notice, determine standards to be observed in the provision of nursing home care in approved nursing homes.

45DA Statements may be published about satisfaction of standards for nursing home care

(1) The Minister may, from time to time, prepare and publish a statement containing all or any of the relevant information in relation to:

(a) an approved nursing home; or

(b) premises that were an approved nursing home at any time during the period of 5 years before the publication of the statement.

(2) The following is relevant information for the purposes of subsection (1):

(a) information relating to whether the standards referred to in section 45D have been satisfied in the provision of nursing home care in the nursing home;

(aa) if those standards have not been satisfied—information relating to the action that will be taken by the proprietor of the nursing home to ensure that those standards will be satisfied;

(b) the level of nursing home care provided in the nursing home by reference to those standards.

(3) Without limiting the means by which a statement is able to be published, a copy of a statement is to be made available for public inspection at each office of the Department.

(4) The information contained in a statement must not be such as to enable the identification of an individual patient of a nursing home.

(5) Before publishing a statement under this section, the Minister must allow the proprietor of the nursing home not less than 30 days to consider so much of the statement as does not consist of information covered by paragraph (2)(aa) and to make submissions to the Minister in relation to the content of so much of the statement as does not consist of information covered by paragraph (2)(aa).

(6) Where it appears to the Minister in the light of any submission made by the proprietor that the content of the statement should be altered, the Minister is to alter the statement accordingly before it is published.

(7) The Minister must not publish a statement that contains information that relates to a day on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

45DB General information about approved nursing homes may be made available to the public

(1) The Secretary may make available to the public, in any way that the Secretary thinks fit, any or all of the relevant information in relation to:

(a) an approved nursing home; or

(b) premises that were an approved nursing home at any time during the period of 5 years before the information is made available to the public.

(2) The following is relevant information for the purposes of subsection (1):

(a) the name and address of the nursing home;

(b) the number of beds in the nursing home and the physical size of the nursing home;

(c) the location of the nursing home and its proximity to community facilities, for example, public transport, shops, libraries and community centres;

(d) services provided in the nursing home;

(e) fees imposed, and charges made, in the nursing home;

(f) activities at the nursing home in which the patients may participate;

(g) the name of the proprietor of the nursing home;

(h) the number of vacancies (if any) in the nursing home;

(i) the length of the waiting list (if any) for admission to the nursing home.

(3) The information made available must not be such as to enable the identification of an individual patient of a nursing home.

45DC Information about Ministerial action and other information about approved nursing homes may be made available to the public

(1) The Secretary may make available to the public, in any way that the Secretary thinks fit, any or all of the relevant information in relation to:

(a) an approved nursing home; or

(b) premises that were an approved nursing home at any time during the period of 5 years before the information is made available to the public.

(2) The following is relevant information for the purposes of subsection (1):

(a) details of action taken by the Minister, whether before or after the commencement of this section, in relation to the nursing home under section 40AA, 40AD, 43A, 44, 44A, 45A, 45E or 45EA;

(b) details of any action the Minister intends to take in relation to the nursing home under section 40AA, 40AD, 43A, 44, 44A, 45A, 45E or 45EA;

(c) such other information (if any) as is specified in the regulations.

(3) A reference in paragraph (2)(a) to action taken by the Minister under a particular provision includes a reference to:

(a) action taken by the Minister under section 105AAB in relation to a decision of the Minister made under the provision concerned; and

(b) action taken by the Administrative Appeals Tribunal under the *Administrative Appeals Tribunal Act 1975* in relation to a review of:

(i) a decision of the Minister made under the provision concerned (including a decision that has been varied under section 105AAB); and

(ii) a decision under section 105AAB to revoke a decision covered by subparagraph (i) of this paragraph.

(4) A reference in paragraph (2)(b) to action the Minister intends to take under a particular provision includes a reference to action that the Minister intends to take under section 105AAB in relation to a decision of the Minister made under the provision concerned.

(5) The information made available must not be such as to enable the identification of an individual patient of a nursing home.

(6) Before making the information available, the Secretary must allow the proprietor of the nursing home not less than 30 days to consider the information and to make submissions to the Secretary about the information.

(7) If it appears to the Secretary in the light of any submission made by the proprietor that the information should be altered, the Secretary is to alter the information accordingly before it is made available.

(8) Subsections (6) and (7) do not apply if the Secretary considers that there is an urgent need to make the information available in order to protect the welfare or interests of persons who are, or may become, patients of the nursing home.

(9) The Minister must not publish a statement that contains information that relates to a day on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

Part VA—Commonwealth benefits in respect of nursing home care

Division 1—Preliminary

46 Interpretation

(1) In this Part, unless the contrary intention appears:

***accounting period***, in relation to an approved nursing home other than a Government nursing home or a nursing home for disabled people, means:

(a) the period determined by the Secretary under subsection 46C(2); or

(b) if that period has been varied under subsection 46C(5) or (6)—that period as so varied.

***authorized*** means authorized in writing, by the Secretary.

***Commonwealth benefit*** means an amount payable by the Commonwealth by way of benefit in accordance with this Part.

***extensive care benefit*** means a benefit payable under section 49.

***general care benefit*** means an amount that the proprietor of an approved nursing home is entitled to receive by way of benefit under section 47A or section 48A.

***investigation to be carried out***, in respect of an approved nursing home, has the meaning given by subsection 65(5).

***notified day for completion of sale***, has the meaning given by subsection 65(1).

***notional fee***, in relation to the provision of nursing home care (other than care of a kind in respect of which benefit is paid under section 48B, 48C, 48D, 48E or 49) to an approved nursing home patient in an approved nursing home (other than a Government nursing home or a nursing home for disabled people) on a particular day, means the fee applicable in respect of the provision of nursing home care to the patient on that day in accordance with the scale of fees determined by the Secretary under section 46D.

***notional scale of fees***, in relation to the provision of nursing home care (other than care of a kind in respect of which benefit is paid under section 48B, 48C, 48D, 48E or 49) to approved nursing home patients in an approved nursing home (other than a Government nursing home or a nursing home for disabled people) in an accounting period, means the scale of fees determined by the Secretary under section 46D.

***overpayment*** has the meaning given by section 46B.

(2) For the purposes of this Part, the day of admission and the day of discharge or death of a qualified nursing home patient shall be counted together as one day.

46A Approved nursing home patients

Subject to section 46AB, for the purposes of this Part, a person is an approved nursing home patient on a day if:

(a) the person is a qualified nursing home patient on that day; and

(b) the person was admitted to a nursing home:

(i) pursuant to an approval under this Act; or

(ii) before 1 July 1987 pursuant to an approval under the *Nursing Homes Assistance Act 1974*; and

(c) a determination under section 40AC in relation to the person has not been made or, if such a determination has been made, has not taken effect.

46AB Benefit payable for up to 2 days prior to admission

For the purposes of this Part, if an approved nursing home patient was admitted to the nursing home concerned on a day after the day on which the person was notified that there was a vacancy in the nursing home, the patient is taken to have been an approved nursing home patient receiving nursing home care:

(a) if the person was so notified on the day before being so admitted—on the day immediately preceding admission; or

(b) if the person was so notified on a day prior to the day before being so admitted—on the 2 days immediately preceding admission.

46B Meaning of overpayment

(1) ***Overpayment***, in relation to Commonwealth benefit has the meaning given by subsection (2), (3) or (4).

(2) If the proprietor of an approved nursing home has received, by way of advance on account of Commonwealth benefit that may become payable in respect of an approved nursing home patient in the nursing home on a day, an amount that exceeds the amount payable to the proprietor in respect of the nursing home patient on that day, the amount of that excess is an overpayment.

(3) If:

(a) the proprietor of an approved nursing home has received an amount by way of advance on account of Commonwealth benefit that may become payable in respect of an approved nursing home patient in the nursing home on a day; and

(b) that benefit does not become payable;

the amount so received by the proprietor is an overpayment.

(4) If:

(a) an amount purporting to be Commonwealth benefit is paid to the proprietor of an approved nursing home in respect of an approved nursing home patient in the home; and

(b) Commonwealth benefit is not payable to the proprietor;

that amount is an overpayment.

46C Secretary to determine accounting period in respect of certain approved nursing homes

(1) This section does not apply to a Government nursing home or a nursing home for disabled people.

(2) The Secretary must, in relation to an approved nursing home, determine a period to be the accounting period in respect of that nursing home.

(3) An accounting period in respect of an approved nursing home must not begin before the commencement of the *National Health Amendment Act 1992*.

(4) The determination must:

(a) be in writing; and

(b) set out the accounting period in respect of the nursing home.

(5) The Secretary must provide a copy of the determination to the proprietor of the nursing home within 14 days after making it.

(6) Subject to subsection (10), the Secretary may vary the accounting period in respect of the nursing home at any time.

(7) If, before the day on which the sale of an approved nursing home is completed:

(a) the Secretary receives notice of the sale; or

(b) is otherwise informed of the sale;

the Secretary must, within 14 days of receiving notice, or becoming informed, of the sale of the nursing home, vary the accounting period in respect of the home.

(8) If:

(a) an approved nursing home has been sold and the Secretary did not receive notice of the sale under section 65A or 65B, or was not otherwise informed of the sale, before the day of completion of the sale; or

(b) if the proprietor of an approved nursing home sells the nursing home before the notified day for completion of sale;

the Secretary must, within 14 days after first becoming aware of the sale, vary the accounting period in respect of the home.

(9) The accounting period, as varied under subsection (7) or (8), must end on the day before the day of completion of the sale.

(10) The Secretary must not vary the accounting period so that it begins on a day earlier than the last day of the previous accounting period.

(11) If the Secretary varies the accounting period, he or she must notify the proprietor within 7 days of that variation.

(12) A notice under subsection (11) must be in writing and set out the new accounting period in respect of the nursing home.

(13) The Secretary must not:

(a) determine an accounting period that would end on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences; or

(b) vary an accounting period so that it would end on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

46D Setting of notional fees

(1) The Secretary must, within 3 years after the end of an accounting period in respect of an approved nursing home, determine a notional scale of fees in respect of the nursing home.

(2) A notional scale of fees, in respect of the nursing home is determined:

(a) in relation to the accounting period in respect of the home; and

(b) in respect of the provision of nursing home care (other than care of a kind in respect of which benefit is paid under section 48B, 48C, 48D, 48E or 49) to approved nursing home patients in the nursing home during the accounting period.

(3) In determining the notional scale of fees, the Secretary:

(a) must take into account the actual expenditure incurred by the proprietor in respect of the provision of that nursing home care to approved nursing home patients in the nursing home during the accounting period; and

(b) may take into account such other things as the Secretary considers relevant.

(4) The Secretary must, for the purposes of determining the notional scale of fees, order an investigation to be carried out in respect of an approved nursing home to find out the actual expenditure so incurred by the proprietor.

(5) In determining the notional scale of fees, the Secretary must comply with the relevant principles formulated under subsection 40AA(7).

(6) The proprietor affected by a decision of the Secretary under subsection (1) may apply, in writing, to the Minister for a reconsideration of that decision by the Minister.

(7) The application must be made within 28 days after the proprietor receives notice of the decision.

(8) If the proprietor applies for reconsideration of the decision, the Minister may affirm or revoke the decision or vary it as he or she thinks fit.

(9) For the purposes of determining the notional scale of fees for the first accounting period in respect of a nursing home after the commencement of this Act, the accounting period is taken to have commenced on a day determined by the Secretary.

(10) The day determined by the Secretary may be a day before the day this Act commences.

46E Secretary may pay or recover advances of general care benefit before notional scale of fees is set

(1) If:

(a) during an accounting period in respect of an approved nursing home; or

(b) after the end of an accounting period in respect of an approved nursing home and before the Secretary has determined a notional scale of fees in respect of the accounting period;

the Secretary reasonably believes that the proprietor of the nursing home will be found (on general care benefit becoming payable) to have, in respect of the accounting period:

(c) received an overpayment of general care benefit; or

(d) been underpaid general care benefit;

the Secretary may determine, in writing, the amount that the Secretary believes to be the amount of the likely overpayment or underpayment.

(2) If the Secretary determines an amount, the Secretary may, on the Commonwealth’s behalf, recover the amount from, or pay the amount to, the proprietor of the nursing home (as the case requires) in the manner specified in the principles formulated under subsection 40AA(7).

(3) If the Secretary decides to recover the amount from, or pay the amount to, the proprietor of the nursing home under subsection (2), the Secretary must notify the proprietor, in writing, accordingly.

(4) If steps have been taken to recover (by the manner specified in the principles) an amount determined under subsection (1) to be a likely overpayment then, for the purpose of establishing whether or not the proprietor of the nursing home has received an overpayment in respect of the accounting period, that amount is to be deducted from the total amount of advances in respect of general care benefit paid in relation to the nursing home during the accounting period.

(5) If steps have been taken to pay (by the manner specified in the principles) an amount determined under subsection (1) to be a likely underpayment then, for the purpose of establishing whether or not the proprietor of the nursing home has been underpaid in respect of the accounting period, the amount is to be added to the total amount of advances in respect of general care benefit paid in relation to the nursing home during the accounting period.

(6) For the purpose of this section, the proprietor of an approved nursing home is underpaid general care benefit if the proprietor has received, by way of advance on account of general care benefit that may become payable in respect of an approved nursing home patient in the nursing home on a day in the accounting period, an amount that is less than the amount payable to the proprietor in respect of the nursing home patient on that day.

Division 2—Types of benefit payable

47 Basic benefit for Government nursing homes and nursing homes for disabled people

(1) Subject to this Part and to Part VC, there is payable to the proprietor of a Government nursing home or a nursing home for disabled people in respect of each approved nursing home patient, for each day (not being a day before the commencement of this section) on which the patient receives nursing home care in that nursing home a Commonwealth benefit of:

(a) where the nursing home is situated in the State of New South Wales—$13.65 or such higher amount as is determined by the Minister;

(b) where the nursing home is situated in the State of Victoria—$19.65 or such higher amount as is determined by the Minister;

(c) where the nursing home is situated in the State of Queensland—$11.80 or such higher amount as is determined by the Minister;

(d) where the nursing home is situated in the State of South Australia—$17.40 or such higher amount as is determined by the Minister;

(e) where the nursing home is situated in the State of Western Australia—$11.75 or such higher amount as is determined by the Minister;

(f) where the nursing home is situated in the State of Tasmania—$14.85 or such higher amount as is determined by the Minister;

(g) where the nursing home is situated in the Australian Capital Territory—$13.65 or such higher amount as is determined by the Minister; or

(h) where the nursing home is situated in the Northern Territory—$17.40 or such higher amount as is determined by the Minister.

(2) Where:

(a) an approved nursing home patient referred to in subsection (1) is receiving nursing home care in a nursing home that is not a Government nursing home; and

(b) the sum of:

(i) the amount of Commonwealth benefit that would, but for this subsection, be payable in pursuance of subsection (1) in respect of that patient for a day;

(ii) the amount (if any) of Commonwealth extensive care benefit in respect of that patient for that day; and

(iii) $6.70, or if a higher amount is determined by the Minister for the purposes of this subparagraph, the amount so determined;

exceeds the fees charged in respect of the nursing home care of that patient for that day;

the amount of Commonwealth benefit payable in pursuance of subsection (1) shall be reduced by the amount of the excess.

(2A) Subsection (2) does not apply to reduce an amount of Commonwealth benefit payable in respect of fees that are bed retention fees for the purposes of section 4AA.

(2B) A determination by the Minister under subsection (1) or (2) shall be made by notice in writing.

47A Benefits for patients in other approved nursing homes

(1A) This section applies to an approved nursing home other than a Government nursing home, an adjusted fee government nursing home, a transferred home or a nursing home for disabled people.

(1) Subject to this Part, Part VC and Part VD, the proprietor of an approved nursing home in respect of which this section applies is entitled to receive benefit in respect of each approved nursing home patient in the home for each day on which the patient receives nursing home care in the home.

(2) The benefit that the proprietor of the nursing home is entitled to receive under subsection (1) in respect of an approved nursing home patient occupying a bed other than an exempt bed is equal to the difference between:

(a) the notional fee; and

(b) the sum of:

(i) the amount for the time being applicable for the purpose of subparagraph 47(2)(b)(iii); and

(ii) the additional patient contribution (if any) applicable to the patient.

(3) The benefit that the proprietor is entitled to receive under subsection (1) in respect of each approved nursing home patient occupying an exempt bed in a nursing home is equal to the difference between:

(a) the reference fee, within the meaning of section 39, in relation to that patient; and

(b) the sum of:

(i) the amount for the time being applicable for the purposes of subparagraph 47(2)(b)(iii); and

(ii) an amount equal to the proportion of the additional exempt bed fee, within the meaning of section 39, that the proprietor agreed, in the proprietor’s application for exempt bed status in respect of beds in that home, should be taken into account in reducing the Commonwealth benefit payable from time to time in respect of each of those beds if the application were granted.

(4) This section does not apply in respect of a day on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

48A Benefit for nursing home care in transferred homes and adjusted fee government nursing homes

(1) Subject to this Part, Part VC and Part VD the proprietor of a transferred home or of an adjusted fee government nursing home is entitled to receive benefit in respect of each approved nursing home patient or Repatriation nursing home patient for each day on which the patient receives nursing home care in the home.

(2) Subject to subsections (2A), (3) and (4), the benefit that the proprietor of the nursing home is entitled to receive under subsection (1), in respect of each approved nursing home patient and each Repatriation nursing home patient occupying a bed other than an exempt bed, is equal to the difference between:

(a) the notional fee; and

(b) the amount for the time being applicable for the purpose of subparagraph 47(2)(b)(iii).

(2A) The benefit payable under subsection (1) in respect of each approved nursing home patient and each Repatriation nursing home patient occupying an exempt bed in a nursing home is equal to the difference between:

(a) the reference fee, within the meaning of section 39, in relation to that patient; and

(b) the sum of:

(i) the amount for the time being applicable for the purposes of subparagraph 47(2)(b)(iii); and

(ii) an amount equal to the proportion of the additional exempt bed fee, within the meaning of section 39, that the proprietor agreed, in the proprietor’s application for exempt bed status in respect of beds in that home, should be taken into account in reducing the Commonwealth benefit payable from time to time in respect of each of those beds if the application were granted.

(3) In relation to a patient who is entitled to be provided with medical treatment under the *Veterans’ Entitlements Act 1986* in respect of war‑caused injury or disease, subsection (2) has effect as if the amount being taken into account for the purpose of paragraph (2)(b) were the amount per day that the patient is liable to pay for nursing home care provided under that Act.

(4) If the Secretary is satisfied that, because of special circumstances related to the capacity of a patient in a transferred home to pay fees for nursing home care, the benefit that the proprietor is entitled to receive in respect of the patient should be increased, the Secretary may, by written instrument, determine that the amount to be taken into account under paragraph (2)(b) shall be decreased to the amount specified in the determination, and subsection (2) shall have effect accordingly.

(5) This section does not apply in respect of a day on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

48AB When general care benefit becomes payable

(1) The general care benefit to which the proprietor of an approved nursing home is entitled in respect of an approved nursing home patient in the nursing home who receives nursing home care on a day in an accounting period becomes payable on the 30th day after a notional scale of fees has been determined under section 46D in relation to the accounting period.

(2) This section does not apply in respect of a day on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

48B Top‑up benefit

(1) The Minister may, by writing, formulate principles relating to the payment of Commonwealth benefits to proprietors of approved nursing homes for the purpose of providing financial assistance in relation to either or both of the following:

(a) in the case of a nursing home that, under the principles, is eligible for special nursing staff assistance—assisting the proprietor to staff the nursing home so that, at all times, there is at least one registered nurse on duty in the nursing home;

(b) in the case of a nursing home that, under the principles, is eligible for special viability assistance—helping to maintain the financial viability of the nursing home.

(2) If, under the principles, the proprietor of an approved nursing home is eligible for a Commonwealth benefit in respect of a day, there is payable to the proprietor, in respect of that day, a Commonwealth benefit ascertained in accordance with the principles.

(3) For the purposes of this Act, the Commonwealth benefit payable under subsection (2) is not taken to be payable in respect of any particular patient.

(4) This section does not apply in respect of a day on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

(5) In this section:

***registered nurse*** includes:

(a) a person who is registered under a law of a State or Territory as:

(i) a psychiatric nurse; or

(ii) a mental nurse; or

(iii) a geriatric nurse; and

(b) in respect of the Territory of Cocos (Keeling) Islands or the Territory of Christmas Island, a nurse who has such qualifications (if any) as are determined by the Minister by notice in writing published in the *Gazette*.

48C Isolated nursing home benefit

(1) The Minister may formulate in writing:

(a) principles for determining whether an approved nursing home is an isolated nursing home for the purposes of this section; and

(b) principles determining whether all, or specified classes of, isolated nursing homes are eligible for the payment of Commonwealth benefits under this section; and

(c) principles for the payment of a Commonwealth benefit of an amount determined by, or in accordance with, the principles to the proprietor of an eligible nursing home in respect of each approved nursing home patient or Repatriation nursing home patient in the home for each day on which the patient receives nursing home care in the home.

(2) Principles for the purposes of paragraph (1)(c) may provide for different amounts per patient per day to be payable as Commonwealth benefit in respect of different nursing homes in accordance with criteria set out in the principles.

(3) If, under the principles, the proprietor of an approved nursing home is eligible for a Commonwealth benefit in respect of a patient receiving nursing home care in the home, the Commonwealth benefit is payable to the proprietor in accordance with the principles.

(4) This section does not apply in respect of a day on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

48D Benefit in respect of patients receiving nasogastric feeding

(1) The Minister may formulate in writing:

(a) principles determining whether the proprietor of an approved nursing home is eligible for the payment of Commonwealth benefits under this section; and

(b) principles for the payment of a Commonwealth benefit to the proprietor of an approved nursing home in respect of each approved nursing home patient or Repatriation nursing home patient in the home who is in need of, and is receiving, nasogastric feeding.

(2) Principles for the purposes of paragraph (1)(b) may provide for different amounts to be payable as Commonwealth benefit in respect of different patients in a nursing home in accordance with criteria set out in the principles.

(3) If, under the principles, the proprietor of an approved nursing home is eligible for a Commonwealth benefit in respect of a person who is in need of, and is receiving, nasogastric feeding, the Commonwealth benefit is payable to the proprietor in accordance with the principles.

(4) This section does not apply in respect of a day on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

48E Benefit in respect of patients receiving oxygen

(1) The Minister may formulate in writing:

(a) principles for determining the circumstances under which the administration of oxygen to a patient is to be considered an eligible oxygen treatment for the purposes of this section; and

(b) principles determining whether the proprietor of an approved nursing home is eligible for the payment of Commonwealth benefits under this section; and

(c) principles for the payment of a Commonwealth benefit to the proprietor of an approved nursing home in respect of each approved nursing home patient or Repatriation nursing home patient in the home who is in need of, and is receiving, eligible oxygen treatment.

(2) Principles for the purposes of paragraph (1)(c) may provide for different amounts to be payable as Commonwealth benefit in respect of different patients in a nursing home in accordance with criteria set out in the principles.

(3) If, under the principles, the proprietor of an approved nursing home is eligible for a Commonwealth benefit in respect of a person who is in need of, and is receiving, eligible oxygen treatment, the Commonwealth benefit is payable to the proprietor in accordance with the principles.

(4) This section does not apply in respect of a day on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

49 Extensive care benefit

(1) Subject to this Part and to Part VC, if on any day an approval under section 40AF is in force in respect of:

(a) an approved nursing home patient in relation to an approved nursing home; or

(b) a Repatriation nursing home patient in relation to a transferred home;

there is payable for that day (in addition to any other Commonwealth benefit payable under this Part) to the proprietor of the approved nursing home or transferred home, as the case may be, in respect of the patient in respect of whom the approval is given, a Commonwealth benefit of $6 or such higher amount as is determined by the Minister by notice in writing.

(2) On 1 July 1988, subsection (1) ceases to apply to:

(a) approved nursing home patients; and

(b) Repatriation nursing home patients;

in nursing homes other than Government nursing homes and nursing homes for disabled people.

49AA Respite Care

(1) The Governor‑General may make regulations providing for the formulation, implementation and regulation of a scheme providing for respite care in approved nursing homes.

(2) Regulations made for the purpose of subsection (1) may provide that a specified provision of this Act does not apply, or applies with prescribed modifications, in relation to a scheme referred to in subsection (1).

(3) The power conferred by subsection (2) to make modifications by regulation includes the power to omit any matter or add any new matter.

(4) The power to make regulations conferred by subsection (1) shall not be taken not to include the power to make provision in relation to a matter by reason only of the fact that a provision is made by this Act in relation to that matter or another matter.

(5) Where regulations made for the purposes of subsection (1) are inconsistent with a provision of this Act that relates to the subject‑matter of the regulations, the regulations shall prevail and that provision shall, to the extent of the inconsistency, be of no effect.

(6) Regulations made for the purposes of subsection (1) must not be made in respect of the provision of respite care in approved nursing homes on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

Division 3—Miscellaneous

49A Commonwealth benefit not payable if approval of nursing home suspended

The proprietor of an approved nursing home is not entitled to Commonwealth benefit in respect of any day that is included in a period of suspension of the approval of the nursing home.

49B Payment of Commonwealth benefit to patient

(1) If:

(a) the proprietor of an approved nursing home charges fees in respect of the nursing home care provided to an approved nursing home patient during a period; and

(b) the proprietor does not deduct from the fees Commonwealth benefit that is payable, or may become payable, to the proprietor in respect of the patient for the period;

the Secretary may direct that the Commonwealth benefit so payable, or the amount so paid in advance, be paid to the person to whom the fees were charged and not to the proprietor.

(2) If:

(a) the proprietor of the nursing home has been paid, whether by way of advance on account of Commonwealth benefit or otherwise, an amount of Commonwealth benefit in respect of the patient for the period; and

(b) the proprietor charges fees in respect of nursing home care provided to the patient during the period without deducting the amount of benefit so paid in respect of the patient;

the proprietor must, as the Secretary demands, repay to the Commonwealth that amount.

(3) If the proprietor of the nursing home has not complied with the Secretary’s demand within 3 months, the amount to which the demand relates may be recovered by the Commonwealth as a debt.

(4) The Commonwealth must pay an amount equal to the amount received under subsection (2) or (3) to the person to whom the fees concerned were charged.

50 Payment of Commonwealth benefit and nursing home fund benefit in respect of same patient for same period

(1) Where the proprietor of a nursing home who has been paid a Commonwealth benefit in respect of a patient for a period receives, or, under the rules of a private health insurer, becomes entitled to receive, a nursing home fund benefit in respect of that patient for that period, the proprietor shall notify the Secretary, in writing, accordingly.

Penalty: $2,000.

(2) A proprietor referred to in subsection (1) shall, on demand by the Secretary, repay to the Commonwealth the amount of Commonwealth benefit referred to in that subsection.

(3) Where, at the expiration of 3 months after the making of a demand under subsection (2), the proprietor has not complied with the demand, the amount to which the demand relates may be recovered by the Commonwealth as a debt due to the Commonwealth.

(4) In this section, ***nursing home fund benefit*** means an amount payable under the rules of a private health insurer in respect of a person who was an insured nursing home patient for the purposes of this Act at any time before the commencement of this subsection.

51 Claims for benefit

(1) For the purpose of obtaining payment of Commonwealth benefit, the proprietor of an approved nursing home shall, as soon as practicable after the end of each month or such other period as the Secretary approves, submit:

(a) a claim, in the authorized form, for Commonwealth benefit that is, or may become, payable in respect of that month or that period; and

(b) such information relating to the claim as is shown in the authorized form to be required or as the Secretary requests.

(2) Subject to section 51A, payment of Commonwealth benefit shall not be made except in respect of amounts included in a claim submitted in accordance with this section.

51A Advances of benefit

The Secretary may, in his or her discretion, authorise the payment to the proprietor of an approved nursing home (other than a Government nursing home) of an advance or advances in respect of Commonwealth benefit that is or may become payable to the proprietor.

51B Treatment of money overpaid or underpaid by way of an advance

(1) The proprietor of an approved nursing home is liable to repay to the Commonwealth any overpayment of Commonwealth benefit.

(2) If:

(a) an amount of Commonwealth benefit payable to the proprietor of an approved nursing home in respect of an accounting period exceeds the total of the advances paid to the proprietor in respect of that amount; and

(b) the proprietor elects, in writing, that the amount of the excess be paid to him or her in the manner specified in the principles formulated under subsection 40AA(7);

the amount of the excess is payable to the proprietor of the nursing home in accordance with the election.

Note: See section 46B for the meaning of overpayment.

51C Recovery of overpayments

(1) An overpayment of Commonwealth benefit made to the proprietor of an approved nursing home may, in whole or in part, be:

(a) deducted from an amount (including an advance) payable, or to be paid, to that proprietor of the nursing home under this Part; or

(b) recovered by the Commonwealth from that proprietor as a debt due to the Commonwealth; or

(c) recovered from that proprietor, or a later proprietor of the nursing home, in a manner determined in accordance with the principles formulated under subsection 40AA(7).

(2) If:

(a) the proprietor of a nursing home receives an overpayment of Commonwealth benefit in respect of the nursing home; and

(b) that proprietor (***previous proprietor***) sells the nursing home; and

(c) part or all of the amount of that overpayment is recovered after the sale from the current proprietor of the nursing home under paragraph (1)(c); and

(d) part or all of the overpayment is later recovered from the previous proprietor;

so much of the amount that has been recovered from the current proprietor as is equal to the amount recovered from the previous proprietor is to be paid to the current proprietor.

(3) If the current proprietor of the nursing home elects, in writing, that the amount to which he or she is entitled under subsection (2) be paid to him or her in a manner specified in the principles formulated under subsection 40AA(7), the amount is payable to that proprietor in that manner.

(4) Paragraphs (1)(a) and (b) do not affect the recovery or set‑off of amounts that have not been paid under this Part.

Note: See section 46B for the meaning of overpayment.

Part VAB—Commonwealth benefit in respect of newly built nursing homes

Division 1—Preliminary

52 Interpretation

In this Part:

***AIP*** means an approval‑in‑principle granted, before the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act), by the Minister under section 52C.

***eligible premises*** means newly built premises approved as an approved nursing home on or after 1 November 1991.

Division 2—Approval‑in‑principle of an approval of a grant in respect of a newly built nursing home

52D Minister may revoke an AIP at any time before an approval of grant is given

(1) The Minister may revoke an AIP in respect of a proposed nursing home if the Minister is satisfied that a condition of the AIP has not been complied with.

(2) Before revoking the AIP, the Minister must give written notice to the holder of the AIP that:

(a) states that the Minister is considering revoking it; and

(b) sets out the condition of the AIP that, in the Minister’s opinion, has not been complied with; and

(c) sets out the facts and reasons supporting the Minister’s opinion.

(3) The holder of the AIP may, within 14 days after receiving the notice, make a written submission to the Minister stating reasons why the AIP should not be revoked.

(4) The Minister may revoke the AIP if:

(a) the holder of the AIP did not make a submission; or

(b) after considering any submission made by the holder of the AIP, the Minister still thinks that a condition of the AIP has not been complied with.

(5) The Minister must comply with any relevant principles in force under subsection (6).

(6) The Minister may, in writing, set out principles to be complied with in deciding whether to revoke an AIP.

(7) If the Minister revokes an AIP, the Minister must notify the person who held it accordingly.

Division 3—Approval of grant of Commonwealth benefit in respect of a newly built nursing home

53 Application for Commonwealth benefit

The proprietor of eligible premises may apply, in writing, to the Minister for the grant of a Commonwealth benefit in respect of the premises.

54 Principles applicable for grant of Commonwealth benefit

(1) The Minister must formulate in writing:

(a) principles in accordance with which the grant of a Commonwealth benefit under this Part may be approved; and

(b) principles for determining the amount of the benefit.

(2) Without limiting the matters to which the principles may refer, the principles must require the Minister to take into account in deciding whether to approve the grant of a Commonwealth benefit to the proprietor of the nursing home:

(a) the honesty of the applicant; and

(b) the likely efficiency of the applicant as proprietor of the nursing home; and

(c) if the applicant has, at any time, been the proprietor or co‑proprietor of a nursing home or has, at any time, had a substantial role in the control of a nursing home:

(i) the extent to which the standards determined under section 45D for the provision of nursing home care were then met in the nursing home; and

(ii) the extent to which patients in the nursing home were then properly classified; and

(iii) the extent to which agreements, substantially complying with the form of agreement formulated by the Minister under section 40ABB, were then entered into between the proprietor of the nursing home and approved nursing home patients in the nursing home; and

(iv) the extent to which the applicant complied with requests for information under paragraph 40AA(6)(ce) or section 60B or 61B; and

(d) whether any grant for capital works costs in respect of the nursing home has been made by the Commonwealth under any other Act.

55 Approval of grant

(1) On receiving an application under section 53 for the grant of a Commonwealth benefit in respect of eligible premises, the Minister may, in accordance with the principles, approve the grant of a Commonwealth benefit to the applicant.

(1A) The Minister may refuse to approve a grant of Commonwealth benefit to an applicant unless:

(a) the applicant holds a current AIP; and

(b) the Minister is satisfied that the conditions to which the AIP is subject have been complied with.

(2) The approval of the Minister must be in writing and set out:

(a) the total amount of the benefit; and

(b) the rate at which the benefit will be paid; and

(c) the period over which the benefit will be paid; and

(d) any conditions subject to which the benefit is payable.

56 Entitlement to benefit

(1) Where the grant of a Commonwealth benefit to the proprietor of eligible premises has been approved by the Minister, the Commonwealth benefit is payable to the proprietor in accordance with the approval of the Minister.

(2) The Commonwealth benefit ceases to be payable if:

(a) immediately before the commencement day, a Commonwealth benefit was payable to the proprietor; and

(b) on or after the commencement day, the residential care service that corresponds to the eligible premises:

(i) is granted extra service status under Division 32 of the *Aged Care Act 1997*; or

(ii) is certified under Division 38 of that Act.

(3) If:

(a) immediately before the commencement day, a Commonwealth benefit was payable to the proprietor; and

(b) on or after the commencement day, a distinct part of the residential care service that corresponds to the eligible premises is granted extra service status under Division 32 of the *Aged Care Act 1997*;

the amount of the Commonwealth benefit that would, apart from this section, be payable to the proprietor is to be reduced in accordance with subsection (4).

(4) The amount of the Commonwealth benefit is to be reduced by an amount worked out using the formula:



Example: Assume the amount of the Commonwealth benefit is $10,000 per month, and that the distinct part of the residential care service that is granted extra service status contains 20 places and the total number of places in the service is 40. The amount of the Commonwealth benefit is to be reduced by:



(5) In this section:

***commencement day*** means the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

***distinct part*** 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*.

57 Appropriation

(3) Payments of Commonwealth benefit under this Part on or after 1 July 1992 are to be made out of money appropriated by Parliament for that purpose.

Part VAC—Commonwealth benefit in respect of upgraded nursing homes

Division 1—Preliminary

58 Interpretation

In this Part:

***AIP*** means an approval‑in‑principle granted, before the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act), by the Minister under section 58CA.

***eligible nursing home*** means an approved nursing home that, in accordance with the principles determined by the Minister under section 58A, is eligible for the payment of Commonwealth benefit under section 58CE.

58A Principles applicable to determining eligible nursing homes

The Minister must set out in writing principles determining whether all, or specified classes of, approved nursing homes are eligible for the payment of the Commonwealth benefit under section 58CE.

Division 2—Approval‑in‑principle of a grant in respect of an upgraded nursing home

58CB Minister may revoke an approval‑in‑principle at any time before an approval of grant is given

(1) The Minister may revoke an AIP in respect of an eligible nursing home if the Minister is of the opinion that a condition of the AIP has not been complied with.

(2) Before the Minister revokes the AIP, he or she must give written notice to the holder of the AIP that:

(a) states that the Minister is considering revoking it; and

(b) sets out the condition of the AIP that the Minister thinks has not been complied with; and

(c) sets out the facts and reasons supporting the Minister’s opinion.

(3) The holder of the AIP may, within 14 days after receiving the notice, make a written submission to the Minister stating reasons why the AIP should not be revoked.

(4) The Minister may then revoke the AIP if:

(a) the holder of the AIP did not make a submission; or

(b) after considering any submission made by the holder of the AIP, the Minister still thinks that a condition of the AIP has not been complied with.

(5) The Minister, in exercising powers under subsection (4), must comply with any relevant principles in force under subsection (6).

(6) The Minister may set out in writing principles to be complied with in respect to his or her powers under subsection (4).

(7) If the Minister revokes an AIP the Minister must notify the person who held it accordingly.

(8) The Minister may revoke an AIP before it expires.

Division 3—Approval of grant of Commonwealth benefit in respect of upgraded nursing homes

58CC Application for Commonwealth benefit

If the proprietor of an eligible nursing home holds a current AIP he or she may apply, in writing, to the Minister for the grant of a Commonwealth benefit in respect of the upgrading of the nursing home.

58CD Principles applicable for grant of Commonwealth benefit

The Minister must set out in writing principles for determining the amount of a grant of Commonwealth benefit.

58CE Approval of grant

(1) Subject to subsection (2), on receiving an application under section 58CC for the grant of a Commonwealth benefit in respect of the upgrading of a nursing home, the Minister may, in accordance with the principles, approve the grant of a Commonwealth benefit to the applicant.

(2) The Minister must not approve the grant of a benefit to an applicant unless the applicant declares in writing that the condition of the AIP referred to in subparagraph 58CA(2)(c)(ii), as in force immediately before the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act), has been complied with.

Note: The condition requires that the upgrading work on the home be completed and paid for before the persons applies for a grant under section 58CC.

(3) The approval of the Minister must be in writing and set out:

(a) the total amount of the grant; and

(b) the rate at which the benefit will be paid; and

(c) the period over which the benefit will be paid; and

(d) any conditions subject to which the benefit is payable.

58CF Entitlement to benefit

(1) If the grant of a Commonwealth benefit to the proprietor of an eligible nursing home has been approved by the Minister, the Commonwealth benefit is payable to the proprietor in accordance with the Minister’s approval.

(2) The Commonwealth benefit ceases to be payable if:

(a) immediately before the commencement day, a Commonwealth benefit was payable to the proprietor; and

(b) on or after the commencement day, the residential care service that corresponds to the eligible nursing home:

(i) is granted extra service status under Division 32 of the *Aged Care Act 1997*; or

(ii) is certified under Division 38 of that Act.

(3) If:

(a) immediately before the commencement day, a Commonwealth benefit was payable to the proprietor; and

(b) on or after the commencement day, a distinct part of the residential care service that corresponds to the eligible nursing home is granted extra service status under Division 32 of the *Aged Care Act 1997*;

the amount of the Commonwealth benefit that would, apart from this section, be payable to the proprietor is to be reduced in accordance with subsection (4).

(4) The amount of the Commonwealth benefit is to be reduced by an amount worked out using the formula:



Example: Assume the amount of the Commonwealth benefit is $10,000 per month, and that the distinct part of the residential care service that is granted extra service status contains 20 places and the total number of places in the service is 40. The amount of the Commonwealth benefit is to be reduced by:



(5) In this section:

***commencement day*** means the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences.

***distinct part*** 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*.

58CG Appropriation

(3) Payments of Commonwealth benefit under this Part on or after 1 July 1993 are to be made out of money appropriated by the Parliament for that purpose.

Part VC—Administration of Parts V, VA, VAB and VD

58K Interpretation

(1) In this Part, unless the contrary intention appears:

***authorised officer*** means a person who is an authorised officer for the purposes of this Part because of an appointment under subsection (2).

***Commonwealth benefit*** means an amount payable by the Commonwealth by way of benefit in accordance with Part VA or VAB.

(2) The Minister may, by writing signed by the Minister, appoint:

(a) a specified person;

(b) a person for the time being holding, or performing the duties of, a specified office; or

(c) persons included in a specified class of persons;

to be an authorised officer, or authorised officers, for the purposes of this Part.

59 Commonwealth benefit not payable where compensation etc. is payable to patient

(1) Where:

(a) the proprietor of an approved nursing home has lodged a claim for Commonwealth benefit in respect of a person who is, or was, a qualified nursing home patient in the nursing home receiving nursing home care in the course of treatment of, or as a result of, an injury; and

(b) the patient has received, or established the right to receive, in respect of that injury, a payment by way of compensation or damages (including a payment in settlement of a claim for compensation or damages) under the law that is or was in force in a State or internal Territory, being a payment the amount of which was, in the opinion of the Minister, determined having regard to any expenses in respect of nursing home care incurred, or likely to be incurred (whether by the patient or by another person) in the course of the treatment of, or as a result of, that injury;

the Minister may determine that the whole or a specified part of the payment referred to in paragraph (b) shall, for the purposes of this section, be deemed to relate to the expenses incurred in respect of the nursing home care referred to in paragraph (a).

(2) Where:

(a) the Minister has made a determination under subsection (1); and

(b) the amount of the Commonwealth benefit that would, but for this section, be payable in respect of the days on which the patient to whom the determination relates occupies a bed for the purpose of receiving nursing home care to which the determination relates is not in excess of the amount so determined;

Commonwealth benefit is not payable in respect of those days.

(3) Where:

(a) the Minister has made a determination under subsection (1); and

(b) the amount of the Commonwealth benefit that would, but for this section, be payable in respect of days on which the patient to whom the determination relates occupies a bed for the purpose of receiving nursing home care to which the determination relates is in excess of the amount so determined;

the amount of the Commonwealth benefit in respect of those days shall not exceed the amount of that excess.

(4) Subject to subsection (4A), where, at the time at which a claim for Commonwealth benefit is lodged, it appears to the Minister that the claim may become a claim that will give rise to a determination under subsection (1), the Minister may direct that no Commonwealth benefit be paid at that time in respect of the claim but that there be made to the claimant a provisional payment of such amount of Commonwealth benefit as the Minister thinks fit.

(4A) A direction under subsection (4) cannot be made on or after the day on which the *Health and Other Services (Compensation) Act 1995* commences.

(5) If and when a determination under subsection (1) is made with respect to a claim referred to in subsection (4), the claimant is liable to repay to the Commonwealth:

(a) where, by virtue of subsection (2), no Commonwealth benefit is payable in respect of any days on which the patient to whom the determination relates occupies a bed for the purpose of receiving the nursing home care to which the determination relates—an amount equal to the provisional payment; or

(b) in any other case—the amount by which the amount of the provisional payment exceeds the amount of the Commonwealth benefit payable in respect of the days on which the patient to whom the determination relates occupies a bed for the purpose of receiving the nursing home care to which the determination relates.

(6) An amount that a person is liable to repay under subsection (5) is recoverable as a debt due to the Commonwealth.

(7) In this section, ***injury*** includes a disease.

60B Information to be furnished by proprietor of approved nursing home

For the purposes of Parts V, VA and VAB, the Secretary may, by notice in writing served on the proprietor of the nursing home, request the proprietor to furnish to the Secretary or to an officer of the Department specified in the notice such information as the Secretary specifies, and the proprietor shall, within 28 days after the day on which the notice is served, furnish the information to the Secretary or to the specified officer.

Penalty: Imprisonment for 6 months.

61 Records to be kept by proprietors of approved nursing homes

(1) The proprietor of an approved nursing home shall keep such records as will enable claims for Commonwealth benefits to be verified and enable compliance with the conditions to which the approval of the nursing home is subject to be verified.

Penalty: 100 penalty units.

(1A) The proprietor of an approved nursing home shall keep records setting out such particulars in relation to the nursing home as are prescribed.

Penalty: 100 penalty units.

(1B) The proprietor of an approved nursing home shall comply with any provision of the regulations relating to the manner in which records for the purpose of subsection (1A) are to be kept.

Penalty: 100 penalty units.

(2) Where the Secretary considers that it would facilitate the administration of this Act in relation to a particular approved nursing home (not being a Government nursing home) if the proprietor of the approved nursing home were required to keep further records with respect to the nursing home in addition to the records referred to in subsection (1), the Secretary may, by notice in writing served on the proprietor of that approved nursing home, require the proprietor, on and after a date specified in the notice (not being a date earlier than the date of service of the notice), to keep such further records accordingly.

(3) A notice under subsection (2) shall specify:

(a) the particulars of the further records required to be kept by the proprietor of the approved nursing home concerned; and

(b) the manner in which those further records are to be kept.

(4) The proprietor of an approved nursing home shall comply with any notice served on the proprietor under subsection (2).

Penalty: 100 penalty units.

(4A) The proprietor of an approved nursing home must keep the records, in respect of the nursing home, referred to in subsections (1), (1A) and (2) for the period of 7 financial years beginning on 1 July after the financial year to which the records relate.

Penalty: 200 penalty units.

(4B) If, on the day subsection (4A) commences, the proprietor of an approved nursing home has records of the kind referred to in subsection (1), (1A) or (2) in respect of the nursing home, subsection (4A) applies to those records.

(5) Nothing in subsection (1) or (2) of this section or in subsection 40AA(6) shall be taken, by implication, to limit the generality of regulations that may be made by virtue of subsection (1A).

Note: For the definition and value of a penalty unit, see section 4AA of the *Crimes Act 1914*.

61AA Records to be kept by former proprietors for 12 months

(1) This section applies in relation to the sale of an approved nursing home that occurs after the commencement of this section.

(2) A former proprietor of an approved nursing home must retain all the accounts, books, documents and other records relating to the operation of the nursing home that he or she, as proprietor of the nursing home, was required to keep under this Part for a period of 12 months beginning on the day on which the former proprietor ceased to be the proprietor of the nursing home.

Penalty: $3,000.

(3) The former proprietor must hold the accounts, books, documents and other records at a place approved, in writing, by the Secretary.

Penalty: $3,000.

(4) A copy of the Secretary’s approval must be given to the former proprietor within 7 days of the approval being given.

61A Books and records to be kept at nominated place

(1) The proprietor of an approved nursing home shall keep all accounts, books, documents and other records relating to the operation of the nursing home at the nursing home or some other place approved by the Secretary.

Penalty: Imprisonment for 12 months.

(2) An approval under subsection (1):

(a) shall be by instrument in writing; and

(b) may be in respect of nursing homes generally or in respect of a particular nursing home.

61B Power to require persons to answer questions and produce documents

(1) An authorised officer may, by notice signed by him or her, require a person whom he or she believes on reasonable grounds to be capable of giving information relevant to the operation of this Act in relation to the conduct of an approved nursing home to attend at a reasonable time and place specified in the notice and there to answer questions and to produce such accounts, books, documents and other records in relation to the conduct of the home as are referred to in the notice.

(2) A notice under subsection (1) requiring a person to produce an account, book, document or record shall set out the effect of subsection (3).

(4) An authorised officer may make and retain copies of, or take and retain extracts from, any accounts, books, documents or other records produced pursuant to this section.

(5) A person is not excused from answering a question or producing any accounts, books, documents or other records when required so to do under this section on the ground that the answer to the question, or the production of the accounts, books, documents or other records, might tend to incriminate the person or make the person liable to a penalty, but the answer of the person to any such question, the production by the person of any such account, book, document or other record, or any information or thing (including any account, book, document or other record) obtained as a direct or indirect consequence of the answer or the production, is not admissible in evidence against the person in criminal proceedings, other than proceedings under, or arising out of or by virtue of, subsection (3) or paragraph 61E(2)(a).

(6) Where the proprietor of an approved nursing home, or a person employed by such a proprietor, has failed to attend or to answer a question, or to produce any account, book, document or other record, when required so to do under this section, Commonwealth benefit is not payable to the proprietor, unless the Secretary otherwise directs in writing, until the proprietor or that person, as the case may be, has attended, answered the question or produced the account, book, document or other record, as the case may be.

61C Power to examine on oath etc.

(1) An authorised officer may examine, on oath or affirmation, a person attending in pursuance of section 61B and, for that purpose, may administer an oath or affirmation to the person.

(2) The oath or affirmation to be made by a person for the purposes of subsection (1) is an oath or affirmation that the answers he or she will give to questions asked of him or her will be true.

61D Entry on premises and inspection of books etc.

(1) An authorised officer may, with the consent of the occupier of any premises, enter the premises and exercise the functions of an authorised officer under this section in relation to the premises.

(2) If an authorised officer has reasonable grounds for believing that there are on any premises accounts, books, documents or other records relating to the operation of an approved nursing home, the authorised officer may apply to a Justice of the Peace for a warrant authorising the authorised officer to enter the premises and inspect any such accounts, books, documents or records.

(3) If the Justice of the Peace is satisfied, by information on oath or affirmation, that:

(a) there are on the premises accounts, books, documents or other records relating to the operation of an approved nursing home;

(b) the premises are not premises that may be entered under section 42; and

(c) the occupier of the premises has not consented to the authorised officer entering the premises for the purpose of inspecting such accounts, books, documents or records;

the Justice of the Peace shall grant a warrant authorising the authorised officer, with such assistance as the authorised officer thinks necessary, to enter the premises during such hours of the day or night as the warrant specifies or, if the warrant so provides, at any time, and if necessary by force, and:

(d) to inspect any such accounts, books, documents or records that are on the premises; and

(e) to make and retain copies of, or extracts from, any such accounts, books, documents or records.

(4) An authorised officer who enters premises under this section is authorised to search the premises for any accounts, books, documents or records that may be inspected under this section.

61E Offences

(1) A person shall not refuse or fail:

(a) to attend before an authorised officer;

(b) to take an oath or make an affirmation; or

(c) to answer a question or produce an account, book, document or other record;

when so required pursuant to this Act.

Penalty: Imprisonment for 6 months.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

62 Offences

(1) A person shall not make a statement, either orally or in writing, or issue or present a document containing information, that is false or misleading in a material particular and is capable of being used in, in connection with or in support of:

(aa) an application under section 39A, 39AB, 39BA or 39B;

(a) an application under section 40AA for approval of premises as an approved nursing home;

(b) an application under section 40AD to alter the conditions applicable to a nursing home;

(c) a request to the Minister under section 40AE to review a decision of the Secretary; or

(f) a claim for Commonwealth benefit.

Penalty: Imprisonment for 5 years.

(2) A person shall not, in pursuance of a request made under subsection 43A(1) or section 60B, furnish information or a document that is false or misleading in a material particular.

Penalty: Imprisonment for 5 years.

(2A) A person shall not furnish, for the purposes of a requirement of a regulation made by virtue of section 49AA or a requirement made under such a regulation, information or a document that is false or misleading in a material particular.

Penalty: Imprisonment for 5 years.

(3) In a prosecution of a person for an offence against this section, it is a defence if the person did not know, and had no reason to suspect, that the statement, information or document to which the prosecution relates was false or misleading, as the case may be.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

Part VD—Requirements in respect of sale of approved nursing homes

Division 1—Preliminary

63 Object of Part

The object of this Part is to provide, in relation to the sale of an approved nursing home, for:

(a) the giving of notices of sale and purchase; and

(b) the investigation of the nursing home’s accounts etc. prior to sale; and

(c) the giving of certain information about the nursing home to the vendor and purchaser before the completion of the contract of sale; and

(d) the recovery of any overpayment of Commonwealth benefit paid in respect of approved nursing home patients in the nursing home; and

(e) the collection and recovery of any nursing home charge payable in respect of the nursing home.

64 Application and operation of Part

(1) This Part applies to the sale of an approved nursing home (other than a Government nursing home or a nursing home for disabled people) whether or not that sale involves a transfer of nursing home beds under section 39B.

Note 1: For the meaning of ***nursing home for disabled people*** see subsection 4(1).

Note 2: For the meaning of ***Government nursing home*** see subsection 4(1).

(2) If the vendor is selling the business or undertaking carried on at the nursing home to different purchasers, this Part applies to each of those sales as if each was a sale of an approved nursing home.

(2A) This Part does not apply if the contract of sale of an approved nursing home was entered into:

(a) if the Secretary has determined a notional scale of fees in relation to the final accounting period in respect of the home—after the Secretary has determined notional scale of fees in relation to:

(i) that final accounting period; and

(ii) each accounting period if any, in respect of the home, occurring before that final accounting period;

and after any overpayments outstanding in respect of the nursing home have been paid to or recovered by the Commonwealth, or deducted from amounts payable or to be paid under Part VA; or

(b) in any other case—after the end of the period of 3 years during which the Secretary could determine a notional scale of fees in relation to the final accounting period in respect of the home.

(2B) In subsection (2A):

***accounting period*** has the meaning given in Part VA.

***final accounting period*** means the last accounting period, in relation to the home, that ended before the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act).

***notional scale of fees*** means a notional scale of fees determined in respect of the home under section 46D.

(3) This Part does not apply if the contract of sale of an approved nursing home was entered into before this Part commenced.

(4) This Part operates as follows:

(a) notice of sale must be given in accordance with sections 65A and 65B;

(b) then:

| **OPERATION OF PART** | | | |
| --- | --- | --- | --- |
| **Notice given** | **Requirements on sale—Division 2 sections that apply** | **Payment of certain charge money to the Commonwealth—Division 2A sections that apply** | **Payments of certain moneys to the Commonwealth—Division 3 sections still apply** |
| If the Secretary receives 90 days or more notice of sale of nursing home and it is sold on or after the notified day for completion of sale | Section 65C  Section 65D  Section 65E | Subdivision 1  Section 65GS (direction to purchaser) | Section 65H (direction to purchaser)  Subsections 65K(1), (5) and (6) (overpayment outstanding)  Section 65Q  Section 65R  Section 65S |
| If the Secretary receives less than 90 days notice of sale of nursing home and it is sold on or after the notified day for completion of sale | Section 65F | Subdivision 1  Section 65GT (directions to purchaser and vendor)  Section 65GU | Section 65J  (direction to purchaser)  Subsections 65(1), (3) and (4)  Section 65N  Section 65P |
| If the Secretary does not become aware of sale until afterwards or it is sold before the notified day for completion of sale | Section 65G | Subdivision 1 at section 65GA  Section 65GB | Subsections 65K(1) and (2)  Section 65M |

65 Interpretation

(1) In this Part, unless the contrary intention appears:

***assessment*** means an assessment under section 65GE.

***business or undertaking***, in relation to an approved nursing home, means the right to operate all of the beds determined under paragraph 40AA(6)(a) as the number of approved beds in relation to the nursing home.

***chargepayer*** means a person who is, or has been, or may be liable to nursing home charge.

***Commonwealth benefit*** has the meaning given by subsection 46(1).

***fee‑increasing benefit*** means an amount of Commonwealth benefit that may, in accordance with the principles formulated under subsection 40AA(7), be taken into account to increase fees when determining a scale of fees in respect of a nursing home.

***fee‑reducing benefit*** means an amount of Commonwealth benefit that may, in accordance with the principles formulated under subsection 40AA(7), be taken into account to decrease fees when determining a scale of fees in respect of a nursing home.

***first investigation***, in relation to an approved nursing home that is being sold, means the investigation carried out under paragraph 65C(1)(c).

***first investigation period***, in relation to an approved nursing home that is being sold, means the period referred to in paragraph 65C(1)(c).

***investigation period*** means the first investigation period, or the second investigation period, in relation to an approved nursing home that is being sold.

***investigation to be carried out*** has the meaning given by subsection (5).

***late‑payment penalty*** means penalty under section 65GM.

***missed out on receiving*** has the meaning given in subsection (4).

***notified day for completion of sale***, in relation to a nursing home that is being sold, means the day on which, according to:

(a) any notice given under the Act by the vendor to the Secretary; or

(b) if the vendor has not given notice—any notice given under the Act by the purchaser to the Secretary; or

(c) if neither the vendor nor the purchaser has given notice—the information (if any) received by the Secretary;

the sale of the nursing home is to be completed.

***notional scale of fees*** has the meaning given by subsection 46(1).

***nursing home charge*** means charge imposed by the *Nursing Home Charge (Imposition) Act 1994*.

***overpayment***, in relation to Commonwealth benefit, has the meaning given by section 46B.

***overpayment outstanding*** has the meaning given by section 65K.

***purchase of an approved nursing home*** has the meaning given by subsection (2).

***purchase price***, in relation to an approved nursing home that is being sold, means:

(a) the amount of money (if any) paid by the purchaser for the transfer of the ownership of the business or undertaking carried out at the nursing home to him or her; or

(b) if the vendor is also selling real or personal property used:

(i) to accommodate the business or undertaking carried out at the nursing home; or

(ii) in the operation of the business or undertaking;

the sum of the amount of money that the purchaser pays for that property and of the amount referred to in paragraph (a).

***purchaser payment***, in relation to an approved nursing home that is being sold, means an amount paid by the purchaser of the nursing home in answer to a direction given under section 65H or 65J.

***remainder of the purchase price***, in relation to the sale of an approved nursing home, means so much of the purchase price of the nursing home that has not, before the settlement of the contract of sale of the nursing home, been paid to:

(a) the vendor of the nursing home in settlement of the contract; or

(b) the Commonwealth in answer to a direction under section 65GS or 65GT.

***sale of an approved nursing home*** has the meaning given by subsection (3).

***second investigation***, in relation to an approved nursing home that is being sold, means the investigation carried out under paragraph 65C(1)(d).

***second investigation period***, in relation to an approved nursing home that is being sold, means the period referred to in paragraph 65C(1)(d).

***vendor***, in relation to an approved nursing home that is being, or has been, sold, means the proprietor of the nursing home immediately before the sale.

***vendor advance***, in relation to an amount determined by the Secretary under paragraph 65F(1)(g), in respect of an approved nursing home, means an amount paid by the vendor of the nursing home to the Commonwealth in answer to a direction given under section 65GT.

***vendor payment***, in relation to an overpayment outstanding in respect of an approved nursing home, means an amount paid by the vendor to the Commonwealth under section 65K.

(2) A purchase of an approved nursing home occurs when the ownership of the business or undertaking carried out at the nursing home is transferred from one person to another person whether or not that transfer results from the payment of an amount of money.

(3) A sale of an approved nursing home is the transfer of the ownership of the business or undertaking carried out at the nursing home from one person to another person whether or not that transfer occurs as the result of the payment of an amount of money.

(4) For the purposes of this Part, if:

(a) a proprietor of an approved nursing home has, before 1 July 1993, received an amount of Commonwealth benefit in respect of the provision of nursing home care to an approved nursing home patient on a day; and

(b) a reconciliation of the actual and estimated expenditure by the proprietor in respect of the provision of that care has been done in accordance with principles formulated under subsection 40AA(7); and

(c) on the basis of the reconciliation it appears that the proprietor should have been entitled to receive, in respect of the provision of that care, an amount of Commonwealth benefit that is higher than the amount received by the proprietor;

the proprietor has missed out on receiving the difference between that higher amount and the amount received by the proprietor.

(5) A reference in this Part to an investigation to be carried out in respect of an approved nursing home is a reference to an investigation of such of the accounts, books, documents or other records relevant to the operation of the nursing home as the Secretary thinks appropriate.

Division 2—Requirements on sale of approved nursing home

65A Vendor must give notice of sale of an approved nursing home

(1) The vendor of an approved nursing home who enters into a contract to sell the nursing home must, before the day of completion of the sale, give the Minister notice, in writing, of the following matters:

(a) the name and address of the nursing home;

(b) the name and address of the other party to the contract;

(c) the proposed day and time of completion of the sale;

(d) the address at which completion will take place;

(e) the purchase price of the nursing home.

Penalty: $20,000.

(2) The vendor must not complete the sale within:

(a) 90 days of giving notice; or

(b) such lesser period as the Secretary may determine at the request of the vendor.

Penalty: $20,000.

(3) If the Secretary determines a period of less than 90 days, he or she must notify the vendor, in writing, of that lesser period.

(4) If:

(a) the vendor has given notice under subsection (1); and

(b) the particulars referred to in paragraphs (1)(c) or (d) change;

the vendor must give the Secretary notice in writing (***amended notice***) of the following matters:

(c) the date and time of completion of the sale;

(d) the address at which completion will take place.

(5) The vendor must give the amended notice at least 14 days before the day of completion of the sale.

Penalty: $5,000.

(6) If:

(a) the vendor has given notice under subsection (1); and

(b) the notice does not contain particulars as to the proposed date and time of completion of the sale of the nursing home;

the notice is taken not to have been given.

(7) If:

(a) the vendor has given notice under subsection (1) and the particulars referred to in paragraph (1)(c) or (d) change; and

(b) the vendor does not give an amended notice;

the notice is taken not to have been given.

65B Purchaser to give notice of prospective purchase of approved nursing home

(1) A person who contracts with the vendor of an approved nursing home to purchase the nursing home must give the Minister notice, in writing, of the following matters:

(a) that he or she has entered into a contract to purchase a nursing home;

(b) the name of the vendor and the name and address of the nursing home;

(c) the proposed time and day of completion of the sale;

(d) the address at which completion will take place;

(e) his or her name and address;

(f) the purchase price of the nursing home.

(2) The person must give notice at least 42 days before the day of completion of the sale.

(3) If:

(a) the purchaser has given notice under subsection (1); and

(b) the particulars referred to in paragraph (1)(c) or (d) change;

the purchaser must give the Secretary notice in writing (***amended notice***) of the following matters:

(c) the date and time of completion of the sale;

(d) the address at which completion will take place.

(4) If:

(a) the purchaser had given notice under subsection (1); and

(b) the notice does not contain particulars as to the proposed date and time of completion of the sale of the nursing home;

the notice is taken not to have been given.

65C Investigation of accounts etc. of approved nursing homes

(1) Subject to section 65GAA, if the Secretary:

(a) has received notice of 90 days or more of the intended sale of an approved nursing home; or

(b) been otherwise informed of the sale 90 days or more before the proposed day of sale;

the Secretary must order the following investigations to be carried out in respect of the nursing home:

(c) an investigation in respect of the period beginning on a day determined by the Secretary and ending on the 30 June last past; and

(d) an investigation in respect of the period beginning on the 1 July last past and ending at the end of the day immediately before the day on which the contract of sale is completed.

(2) The purpose of each investigation is to:

(a) establish whether the vendor, or an earlier proprietor of that nursing home, has received an overpayment in respect of the nursing home, in respect of the investigation period; and

(b) if there has been such an overpayment—allow the Secretary to work out the amount of the overpayment and how much of it (if any) has not been recovered as at the last day in the investigation period; and

(c) if the investigation period began on a day earlier than the commencement of this Part—establish whether the vendor, or an earlier proprietor of that nursing home, has, in respect of the investigation period:

(i) received a fee‑reducing benefit; or

(ii) missed out on receiving fee‑increasing benefit; and

(d) if the vendor, or an earlier proprietor of the nursing home, has:

(i) received a fee‑reducing benefit; or

(ii) missed out on receiving fee‑increasing benefit;

allow the Secretary to work out the amount of benefit.

(3) The investigation under paragraph 65C(1)(d) must be completed within 90 days from the day on which the contract of sale of the nursing home was completed.

65D Secretary may also determine certain matters

(1) Before the second investigation in respect of the operation of an approved nursing home is completed, the Secretary must determine, in writing:

(a) whether, in the Secretary’s opinion, the vendor, or an earlier proprietor of the nursing home, has received an overpayment in respect of the nursing home, in respect of the second investigation period; and

(b) the amount (if any) that, in the Secretary’s opinion, is a fair estimate of the total amount of any such overpayment.

(2) In determining an amount under paragraph (1)(b) the Secretary must comply with any relevant principles in force under subsection (3).

(3) The Minister may set out, in writing, principles to be complied with by the Secretary with respect to his or her powers under subsection (1).

Note: See section 65T for when the principles come into force.

65E Parties to a contract of sale to be informed of results of investigation etc.

If the Secretary has ordered an investigation to be carried out in respect of an approved nursing home under section 65C, the Secretary may, before the notified day for completion of sale of the nursing home, give to each of the parties to the contract of sale notice in writing of:

(a) the amount of any overpayment established by the investigation carried out under paragraph 65C(1)(c); and

(b) the means by which that amount was calculated; and

(c) if the vendor or an earlier proprietor of that nursing home has received a fee‑reducing benefit—the amount of that benefit; and

(ca) if the vendor or an earlier proprietor of that nursing home has missed out on receiving fee‑increasing benefit—the amount of that benefit; and

(d) the means by which the amount of fee‑reducing or fee‑increasing benefit was calculated; and

(e) if the Secretary has determined an amount for the purposes of paragraph 65D(1)(b)—the amount and the means by which the amount was calculated; and

(f) the amount of any grant of Commonwealth benefit paid in respect of the nursing home; and

(g) any other information about a scale of fees or a notional scale of fees determined in respect of the nursing home that, in the Secretary’s opinion, the person purchasing the home should have.

65F Proprietor gives less than 90 days notice on settlement of contract of sale or settles in less than 90 days

(1) Subject to section 65GAA, if less than 90 days before the proposed day for completion of the sale, the Secretary:

(a) receives notice of the sale of an approved nursing home under section 65A or 65B; or

(b) is otherwise informed of the intended sale of the nursing home;

the Secretary must:

(c) order an investigation to be carried out in respect of the nursing home in respect of the period beginning on a day determined by the Secretary and ending on the day immediately before the day on which the contract of sale is to be completed; and

(d) determine whether, in the Secretary’s opinion, the vendor or an earlier proprietor of that nursing home has received an overpayment in respect of the investigation period; and

(e) if the Secretary determines that, in his or her opinion, the vendor or an earlier proprietor has received an overpayment in respect of the investigation period—determine:

(i) the amount that, in the Secretary’s opinion, is an estimate of the overpayment so received; and

(ii) how much of that amount, in the Secretary’s opinion, will not be recovered by the Commonwealth as at the notified day for completion of sale; and

(f) if the investigation period began on a day earlier than the commencement of this Part—determine whether, in the Secretary’s opinion, the vendor, or an earlier proprietor of the nursing home, has, in respect of the investigation period:

(i) received a fee‑reducing benefit; or

(ii) missed out on receiving fee‑increasing benefit; and

(g) if the Secretary determines that, in his or her opinion, the vendor or an earlier proprietor of the nursing home has:

(i) received a fee‑reducing benefit; or

(ii) missed out on receiving fee‑increasing benefit;

determine an amount that is, in the Secretary’s opinion, a fair estimate of that amount.

(2) The purpose of the investigation is to:

(a) establish whether the vendor, or an earlier proprietor of that nursing home, has received an overpayment in respect of the nursing home in respect of the investigation period; and

(b) if there has been such an overpayment—allow the Secretary to work out the amount of the overpayment and how much of it (if any) is still owing on the last day in the investigation period; and

(c) if the investigation period began on a day earlier than the commencement of this Part—establish whether the vendor, or an earlier proprietor of that nursing home, has, in respect of the investigation period:

(i) received a fee‑reducing benefit; or

(ii) missed out on receiving fee‑increasing benefit; and

(d) if the vendor, or an earlier proprietor of that nursing home, has:

(i) received a fee‑reducing benefit; or

(ii) missed out on receiving fee‑increasing benefit;

allow the Secretary to work out the amount of benefit.

(2A) An investigation must be completed within 90 days from the day on which the contract of sale of the nursing home was completed.

(3) A determination under paragraph (1)(e) or (g) must:

(a) be in writing; and

(b) state the amount determined by the Secretary; and

(c) set out the means by which the amount is determined.

(4) On or before the notified day of completion of the sale, a copy of the determination may be provided to both the vendor and the purchaser of the nursing home.

(5) In determining an amount under paragraph (1)(e) the Secretary must comply with any relevant principles in force under subsection (6).

(6) The Minister may set out, in writing, principles to be complied with by the Secretary with respect to his or her powers under paragraph (1)(e).

Note: See section 65T for when the principles come into force.

65G If no notice of sale given or vendor sells before notified date

(1) This section applies in the following cases:

(a) if:

(i) an approved nursing home has been sold; and

(ii) the Secretary did not receive notice of the sale under section 65A or 65B or was not otherwise informed of the sale before the day of completion of sale;

(b) if the proprietor of an approved nursing home sells the nursing home before the notified day for completion of sale of the home.

(2) On and from the day that the Secretary becomes aware that the nursing home has been so sold, any obligations imposed on the Secretary under sections 65C, 65D, 65E or 65F cease to operate.

(3) Subject to section 65GAA, the Secretary must order an investigation to be carried out in respect of the nursing home in respect of the period beginning on a day determined by the Secretary and ending on the day immediately before the day on which the contract of sale was completed for the purposes of:

(a) determining whether the vendor or an earlier proprietor of that nursing home has received an overpayment in respect of the investigation period; and

(b) if the investigation period began on a day earlier than the commencement of this Part—determining whether the vendor or an earlier proprietor of that nursing home has, in respect of the investigation period:

(i) received a fee‑reducing benefit; or

(ii) missed out on receiving fee‑increasing benefit.

(3A) An investigation must be completed within 90 days from the day on which the Secretary becomes aware that the nursing home has been sold.

(4) The Secretary must:

(a) determine whether the vendor or an earlier proprietor of that nursing home has received an overpayment in respect of the investigation period and, if there has been such an overpayment, determine:

(i) the amount of the overpayment so received; and

(ii) how much of that amount will not be recovered as at the day before the day on which the contract of sale was completed; and

(b) if the investigation period began on a day earlier than the commencement of this Part—determine whether the vendor or an earlier proprietor of that nursing home has, in respect of the investigation period:

(i) received a fee‑reducing benefit; or

(ii) missed out on receiving fee‑increasing benefit;

and if the Secretary determines that there is such an amount of benefit, determine the amount of it.

(5) A determination under paragraph (4)(a) or (b) must:

(a) be in writing; and

(b) state the amount determined by the Secretary; and

(c) set out the means by which the amount is determined.

(6) In determining an amount under paragraph (4)(a) the Secretary must comply with any relevant principles in force under subsection (7).

(7) The Minister may set out, in writing, principles to be complied with by the Secretary with respect to his or her powers under paragraph (4)(a).

Note: See section 65T for when the principles come into force.

65GAA Effect on investigation periods of commencement of the *Aged Care Act 1997*

(1) If, apart from this section, an investigation period would end after the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act), the investigation period is taken, for the purposes of this Part, to end immediately before that commencement.

(2) The Secretary must not order an investigation to be carried out in respect of an approved nursing home in respect of a period that begins on or after the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act).

(3) If, on or after the day on which the *Aged Care Act 1997* (other than Division 1 of that Act) commences, the Secretary under subsection 65C(1), orders an investigation to be carried out:

(a) paragraph 65C(1)(c) applies in relation to such an investigation as if the reference to the 30 June last past were a reference to 30 June 1996; and

(b) paragraph 65C(1)(d) applies in relation to such an investigation as if the reference to the 1 July last past were a reference to 1 July 1996.

Division 2A—Nursing home charge

Subdivision 1—Assessment

65GA Notice of fee‑reducing benefit

(1) If:

(a) an investigation under paragraph 65C(1)(c) or 65F(1)(c) or subsection 65G(3) in respect of an approved nursing home is completed after the commencement of this section; and

(b) the investigation establishes that the vendor or an earlier proprietor of the nursing home has received a fee‑reducing benefit in respect of the investigation period;

the Secretary must work out whether some or all of that fee‑reducing benefit was received in respect of the period beginning on the day determined by the Secretary under paragraph 65C(1)(c) or 65F(1)(c) or subsection 65G(3) (as the case may be) and ending on 30 June 1993 (***charge period***).

(2) If the vendor or an earlier proprietor of the nursing home has received fee‑reducing benefit in respect of the charge period, the Secretary may give to the vendor a written notice setting out the amount of a fee‑reducing benefit in respect of the charge period.

65GB Liability to pay nursing home charge

(1) If the Secretary gives a notice under section 65GA to the vendor of the nursing home, nursing home charge is payable in respect of the nursing home in accordance with this Division.

(2) The vendor of the nursing home is liable to pay the nursing home charge.

65GC Amount of nursing home charge

The amount of nursing home charge payable by the vendor of the approved nursing home equals the amount of fee‑reducing benefit stated in the notice under section 65GA.

65GD Notice of liability to pay nursing home charge

As soon as possible after the Secretary has given notice under section 65GA in respect of an approved nursing home, the Secretary must give to the vendor a notice, in writing, stating:

(a) that the vendor is liable to pay nursing home charge in respect of the nursing home; and

(b) the amount of the charge payable; and

(c) the day on which the charge is payable.

65GE Assessment

(1) The working out by the Secretary of the amount of fee‑reducing benefit that has been received by the vendor or an earlier proprietor of an approved nursing home during the charge period is taken to be an assessment of the nursing home charge payable by the vendor in respect of the nursing home.

(2) The notice given under section 65GA in respect of the vendor’s liability to pay nursing home charge is taken to be a notice of assessment.

65GF Amendment of assessments

(1) The Secretary may amend an assessment on his or her initiative.

(2) The amendment must be made within 3 years from the day on which nursing home charge became payable.

(3) If:

(a) a chargepayer applies to the Secretary for an amendment of the assessment; and

(b) the application is made within 3 years from the day on which that nursing home charge became payable; and

(c) within that period the chargepayer lodges all information the Secretary needs to decide the application;

the Secretary may amend the assessment when considering the application even if that period has elapsed.

(4) The Secretary may amend an assessment as he or she thinks fit whether or not any nursing home charge has been paid under it.

(5) If the Secretary amends an assessment, the Secretary must give to the chargepayer notice of the amended assessment.

(6) If the amended assessment increases the amount of nursing home charge payable, the notice must:

(a) set out the extra amount payable; and

(b) the day on which it is payable.

(7) Nothing in this section prevents the amendment of an assessment to give effect to:

(a) the decision on any review or appeal; or

(b) a reduction of any particular following an objection or pending any review or appeal.

65GG Refund of overpaid amounts

(1) If:

(a) an assessment of a person’s liability is amended; and

(b) because of that amendment the person’s liability to nursing home charge is reduced;

then:

(c) the amount by which the nursing home charge is reduced is taken, in spite of section 65GC, never to have been payable; and

(d) the Secretary must:

(i) refund any overpaid amount; or

(ii) apply any overpaid amount against the person’s liability (if any) in respect of an overpayment established by an investigation under paragraph 65C(1)(c) or (d) or paragraph 65F(1)(c) or subsection 65G(3) and then refund the remainder (if any).

(2) In this section, ***overpaid amount*** includes any late‑payment penalty.

65GH Amended assessment to be an assessment

An amended assessment is taken to be an assessment for all the purposes of this Part.

65GI Objections

(1) If:

(a) a person has been assessed as liable to pay nursing home charge; and

(b) the person is dissatisfied with the assessment;

he or she may, within 42 days after having been given notice of the assessment, lodge a written objection to the assessment stating fully the grounds on which the person relies.

(2) The Minister must consider the objection and may either reject it or allow all or part of it.

(3) The Minister must give the person written notice of the decision.

(4) If an assessment has been amended in any particular, an assessed person’s right to object to the amended assessment is limited to a right to object to alterations or additions in relation to, or matters relating to, the particular.

65GJ Validity of assessment

The validity of an assessment is not affected because any provision of this Act has not been complied with.

65GK Evidentiary effect of notice of assessment etc.

(1) The production of:

(a) a notice of assessment; or

(b) a document that is signed by the Secretary and appears to be a copy of a notice of assessment;

is conclusive evidence that the assessment was duly made and that the amounts and other particulars in the assessment are correct.

(2) The production of a certificate signed by the Secretary certifying that an amount was, at the date of the certificate, due and payable by the person is evidence of the matters stated in the certificate.

(3) This section does not apply in proceedings under the *Administrative Appeals Tribunal Act 1975* or the *Administrative Decisions (Judicial Review) Act 1977* on a review or appeal relating to the assessment.

Subdivision 2—Collection and recovery

65GL Secretary may extend time for payment

(1) The Secretary may, in a particular case, extend the time for payment of nursing home charge, or allow it to be paid by instalments on days fixed by the Secretary.

(2) In this section:

***nursing home charge*** includes late‑payment penalty.

65GM Penalty for late payment

(1) If an amount of nursing home charge remains unpaid after the day on which it was payable, the chargepayer is liable to pay a penalty at the rate of 16% per year on the unpaid amount.

(2) The penalty is calculated from the day on which the charge became payable.

(3) The fact that a judgment is entered or given in a court for the payment of nursing home charge, or of a composite amount that includes nursing home charge, does not of itself cause the charge to stop being unpaid for the purposes of subsection (1).

(4) If the judgment debt bears interest, the penalty payable under subsection (1) is reduced by the following amount:



(5) The Secretary may remit some or all of the penalty if:

(a) the Secretary is satisfied that the person did not contribute to the delay in payment and has taken reasonable steps to mitigate the causes of the delay; or

(b) the Secretary is satisfied:

(i) that the person contributed to the delay but has taken reasonable steps to mitigate the causes of the delay; and

(ii) having regard to the nature of the reasons that caused the delay, that it would be fair and reasonable to remit some or all of the penalty; or

(c) the Secretary is satisfied that there are special circumstances that make it reasonable to remit some or all of the penalty.

65GN Recovery of unpaid nursing home charge

(1) Unpaid nursing home charge may be recovered as a debt in any court of competent jurisdiction.

(2) In this section:

***nursing home charge*** includes late payment penalty.

65GO Recovery of nursing home charge from persons with joint liability

(1) If there are 2 or more persons jointly liable to pay nursing home charge they are each liable for the whole of the charge.

(2) A person who has paid nursing home charge may recover the following contribution from any other person jointly liable to pay:



(3) The person entitled to the contribution:

(a) may recover it as a debt in any court of competent jurisdiction; or

(b) may retain or deduct it out of money in the person’s hands that belongs to, or is payable to, the contributor.

(4) In this section:

***nursing home charge*** includes late‑payment penalty.

65GP Recovery of nursing home charge from trustee of deceased chargepayer

(1) This section applies if:

(a) an approved nursing home is on sale; and

(b) the proprietor of the nursing home dies before the sale is completed; and

(c) either:

(i) the proprietor’s liability to pay nursing home charge has not been assessed at the day of his or her death; or

(ii) nursing home charge payable in respect of the nursing home has not been paid at the day of his or her death.

(2) Any notice of assessment that would have been given to the chargepayer under this Division if he or she had not died is to be given to the trustee of his or her estate.

(3) Any nursing home charge:

(a) that was payable, and that had not been paid, by the chargepayer at the time of his or her death; or

(b) that would have become payable by the chargepayer if he or she had not died;

is payable by the trustee of his or her estate.

(4) The Secretary has the same powers and remedies against the trustee of the estate for the recovery of any nursing home charge referred to in subsection (3) as the Secretary would have against the chargepayer if he or she had not died.

(5) A trustee who is dissatisfied with an assessment made under this section may object in the manner set out in section 65GI.

(6) In this section:

***nursing home charge*** includes late‑payment penalty.

65GQ Recovery of nursing home charge from unadministered deceased estate

(1) This section applies if administration of a chargepayer’s estate did not begin within 6 months after the chargepayer’s death.

(2) The Secretary may make an assessment of the nursing home charge that would have been payable by the deceased if he or she had not died.

(3) If the chargepayer resided in a State or Territory at the time of death, the Secretary must publish notice of the assessment twice in a daily newspaper circulating in the State or Territory.

(4) A person who claims an interest in the deceased chargepayer’s estate, and who is dissatisfied with the assessment, may object in the manner set out in section 65GI.

(5) If a person is granted probate of the chargepayer’s will, or letters of administration of the chargepayer’s estate, and the person is dissatisfied with the assessment, the person may object in the manner set out in section 65GI.

(6) In this section:

***administration of a chargepayer’s estate*** is taken to begin when either probate of the chargepayer’s will is granted, or letters of administration of the chargepayer’s estate are granted.

***nursing home charge*** includes late‑payment penalty.

Subdivision 3—Advance payments

65GR Overview of Subdivision

(1) This Subdivision provides for a collection mechanism to allow the Commonwealth to collect an amount from the vendor of an approved nursing home, the purchaser, or both, before the sale of the nursing home.

(2) The Commonwealth may collect the amount if:

(a) it is likely that, upon assessment, a vendor will be found to be liable to pay nursing home charge in respect of the nursing home; or

(b) the vendor has been assessed as liable to pay nursing home charge in respect of the nursing home.

65GS If paragraph 65C(1)(c) investigation done—direction to purchaser to pay amount to the Commonwealth

(1) If:

(a) an investigation of the kind referred to in paragraph 65C(1)(c) has been carried out in respect of an approved nursing home; and

(b) the vendor is liable to pay nursing home charge in respect of the nursing home;

the Secretary may, in writing, direct the purchaser of the nursing home to pay to the Commonwealth on or before the notified day for completion of sale of the nursing home:

(c) so much of the purchase price as equals the nursing home charge; or

(d) if the purchase price is less than the charge—the purchase price.

(2) The amount paid by the purchaser in answer to a direction is taken to be paid in settlement, or part settlement (as the case may be), of the amount due by the vendor to the Commonwealth in respect of the charge.

(3) Money paid to the Commonwealth by the purchaser is taken to have been paid by the purchaser to the vendor as consideration, or part of the consideration, under the contract for the sale of the nursing home.

65GT If paragraph 65F(1)(c) investigation has been ordered—vendor’s and purchaser’s liability to pay advance

(1) This section applies if the Secretary determines, under paragraph 65F(1)(g), an amount that is, in the Secretary’s opinion, a fair estimate of an amount of fee‑reducing benefit that, in the Secretary’s opinion, the vendor, or an earlier proprietor of an approved nursing home, has received in respect of the investigation period.

(2) The Secretary must determine whether some or all of that estimated fee‑reducing benefit was received in respect of the charge period.

(3) If the Secretary determines that a fee‑reducing benefit was received in respect of the charge period, the Secretary may direct the purchaser to pay to the Commonwealth, on or before the notified day for completion of sale of the nursing home:

(a) so much of the purchase price as equals the estimated amount of fee‑reducing benefit in respect of the charge period; or

(b) if the purchase price is less than the estimated amount of fee‑reducing benefit in respect of the charge period—the purchase price.

(4) The Secretary may direct the vendor to pay to the Commonwealth, on or before the notified day for completion of sale of the nursing home:

(a) if the Secretary has not given the purchaser a direction under subsection (3)—the estimated amount of fee‑reducing benefit in respect of the charge period; or

(b) if the purchaser has been so directed and the purchase price is less than the estimated amount of fee‑reducing benefit in respect of the charge period—the difference between that estimated amount and the purchase price.

(5) The vendor must comply with the direction.

Penalty: 500 penalty units.

Note: For the definition and value of a penalty unit, see section 4AA of the *Crimes Act 1914*.

(6) The amount paid under subsection (3) or (4) is taken to be money held in trust (***trust money***) by the Commonwealth for the benefit of the vendor until the investigation under paragraph 65F(1)(c) is completed.

(7) Money paid to the Commonwealth by the purchaser is taken to have been paid by the purchaser to the vendor as consideration, or part of the consideration, under the contract for the sale of the nursing home.

(8) In this section:

***investigation period***, in respect of an approved nursing home, means the period applying under paragraph 65F(1)(c).

65GU Treatment of money paid in advance under section 65GT

(1) When the investigation under paragraph 65F(1)(c) in respect of an approved nursing home is completed, the trust money is to be treated as set out under subsections (2), (3) and (4).

(2) If the investigation establishes that the vendor is not liable to pay nursing home charge, the money is held until the vendor’s liability to pay an overpayment in respect of the nursing home is determined.

(3) If the vendor has such a liability the trust money is to be applied by the Secretary against the liability and the balance (if any) is to be repaid to the vendor.

(4) If the investigation establishes that the vendor is liable to pay nursing home charge in respect of the nursing home, then:

(a) if the trust money is equal to or less than the nursing home charge—the trust money is taken to have been paid to the Commonwealth in settlement or part settlement of the amount due in respect of the charge; or

(b) if the trust money is more than the charge:

(i) so much of the trust money as equals the charge is taken to have been paid to the Commonwealth in settlement of the amount due to the Commonwealth by the vendor in respect of the charge; and

(ii) the remainder (if any) of the trust money is to be applied by the Secretary against any liability of the vendor to the Commonwealth in respect of an overpayment established by an investigation under paragraph 65F(1)(c) or (d); and

(iii) the balance of the trust money (if any) is paid to the vendor.

65GV Directions to be in writing

(1) A direction to a purchaser of an approved nursing home under section 65GS or 65GT must be in writing and set out:

(a) details of the amount of the purchase price the purchaser is directed to pay; and

(b) the day on which the amount is payable.

(2) A direction to a vendor of an approved nursing home under section 65GT must be in writing and set out:

(a) if a purchaser of the nursing home has been directed to pay some or all of the purchase price of the nursing home to the Commonwealth—details of the amounts the purchaser was directed to pay; and

(b) the day on which the vendor advance is payable.

(3) A direction must not specify a day later than the notified day for completion of the sale of the nursing home as the day on which the amount is payable.

65GW Scale of fees may take account of unpaid nursing home charge

(1) The principles formulated under subsection 40AA(7) may provide that in determining a scale of fees, or notional scale of fees, in respect of an approved nursing home, the Secretary may:

(a) take into account whether any nursing home charge remains unpaid (***outstanding charge***) in respect of the nursing home; and

(b) reduce the fees that the proprietor may charge accordingly.

(2) If, after the scale of fees or notional scale of fees is determined, the outstanding charge is paid to the Commonwealth, the Secretary must determine a new scale of fees in respect of the nursing home.

(3) The new scale of fees must reflect that there is no outstanding charge in respect of the nursing home.

Note: In determining a notional scale of fees in respect of the nursing home, the Secretary will determine whether or not the proprietor, during the accounting period, received the correct amount of general care benefit in respect of the provision of nursing home care in the nursing home. The fact that the proprietor’s fees were reduced to take account of outstanding nursing home charge will be taken into account in setting the notional fees. If the proprietor, given his or her actual expenditure on providing nursing home care, should have received a higher level of general care benefit in respect of the nursing home, the notional fees will be adjusted to reflect that the proprietor was underpaid general care benefit.

Division 3—Payment of certain moneys to the Commonwealth

65H If paragraphs 65C(1)(c) and (d) investigations done—direction to purchaser to pay amount to the Commonwealth

(1) If:

(a) investigations of the kind referred to in paragraphs 65C(1)(c) and (d) have been ordered in respect of an approved nursing home; and

(b) the Secretary has not directed the purchaser of the nursing home to pay an amount under section 65GS in respect of the nursing home;

the Secretary may, in writing, direct the purchaser of the nursing home to pay to the Commonwealth on or before the notified day for completion of sale of the nursing home:

(c) so much of the purchase price as equals the sum of:

(i) the amount of the overpayment established by the first investigation; and

(ii) the amount determined under paragraph 65D(1)(b) in respect of the nursing home; or

(d) if the purchase price is less than the sum of those amounts—the purchase price.

(1A) If:

(a) investigations of the kind referred to in paragraphs 65C(1)(c) and (d) have been ordered in respect of an approved nursing home; and

(b) the Secretary has directed the purchaser under section 65GS to pay some or all of the purchase price in respect of the nursing home to the Commonwealth;

the Secretary may, in writing, direct the purchaser of the nursing home to pay to the Commonwealth on or before the notified day for completion of sale of the nursing home:

(c) so much of the remainder of the purchase price as equals the sum of:

(i) the amount of the overpayment established by the first investigation; and

(ii) the amount determined under paragraph 65D(1)(b) in respect of the nursing home; or

(d) if the remainder of the purchase price is less than the sum of the amounts—the remainder of the purchase price.

(2) If the purchaser payment is more than the overpayment established by the first investigation:

(a) so much of the purchaser payment as equals the overpayment is taken to have been paid in settlement of the amount due by the vendor to the Commonwealth in respect of the overpayment; and

(b) the balance of the purchaser payment is taken to be money (***trust money***) held in trust by the Commonwealth for the benefit of the proprietor of the nursing home until the second investigation carried out in respect of the nursing home is completed.

(3) If the purchaser payment is equal to or less than the overpayment established by the first investigation, the whole of the purchaser payment is taken to be paid in settlement, or part settlement (as the case may be), of the amount due by the vendor to the Commonwealth in respect of the overpayment.

(4) When the second investigation is completed:

(a) if the trust money is more than the overpayment (if any) established by the second investigation:

(i) so much of it as is equal to the overpayment is taken to have been paid to the Commonwealth in settlement of the amount due to the Commonwealth by the vendor in respect of the overpayment; and

(ii) the remainder of the trust money is to be paid to the vendor; or

(b) if the trust money is equal to or less than the overpayment in respect of the second investigation period, it is taken to have been paid to the Commonwealth in settlement, or part settlement, of the amount due to the Commonwealth by the vendor in respect of the overpayment.

(5) Money paid to the Commonwealth by the purchaser is taken to have been paid by the purchaser to the vendor as consideration, or part of the consideration, under the contract for the sale of the nursing home.

65J If amount determined under paragraph 65F(1)(e)—direction to purchaser to pay amount to the Commonwealth

(1) If, in respect of the sale of an approved nursing home:

(a) the Secretary has determined an amount under paragraph 65F(1)(e); and

(b) the Secretary has not directed the purchaser of the nursing home to pay an amount under section 65GT;

the Secretary may, in writing, direct the purchaser of the nursing home to pay to the Commonwealth on or before the notified day for completion of sale of the nursing home:

(c) if the purchase price is equal to or less than the amount determined—the purchase price; or

(d) if the purchase price is more than the amount determined—so much of the purchase price as equals the amount so determined.

(1A) If, in respect of the sale of an approved nursing home:

(a) the Secretary has determined an amount under paragraph 65F(1)(e); and

(b) the Secretary has directed the purchaser under section 65GT to pay some or all of the purchase price of the nursing home to the Commonwealth;

the Secretary may, in writing, direct the purchaser of the nursing home to pay to the Commonwealth on or before the notified day for completion of sale of the nursing home:

(c) if the remainder of the purchase price is equal to or less than the amount determined—the remainder of the purchase price; or

(d) if the purchase price is more than the amount determined—so much of the purchase price as equals the amount so determined.

(2) The amount paid under subsection (1) is taken to be money (***trust money***) held in trust by the Commonwealth for the benefit of the vendor until the investigation carried out under paragraph 65F(1)(c) is completed.

(3) When the investigation carried out under paragraph 65F(1)(c) is completed:

(a) if the trust money is more than the overpayment (if any) in respect of the period to which the investigation related:

(i) so much of the trust money as is equal to the overpayment is taken to have been paid to the Commonwealth in settlement of the amount due to the Commonwealth by the vendor in respect of the overpayment; and

(ii) the remainder of the trust money is to be paid to the vendor; or

(b) if the trust money is equal to or less than the overpayment in respect of the period to which the investigation related—it is taken to have been paid to the Commonwealth in settlement, or part settlement, of the amount due to the Commonwealth by the vendor in respect of the overpayment.

(4) Money paid to the Commonwealth by the purchaser is taken to have been paid by the purchaser to the vendor as consideration, or part of the consideration, under the contract for the sale of the nursing home.

65K Certain moneys to be paid by proprietor of nursing home to the Commonwealth on or before sale of nursing home

(1) The vendor of an approved nursing home must, on or before the notified day for completion of sale of the nursing home, pay to the Commonwealth an amount equal to the amount that is, under subsection (2), (3), (4), (5) or (6), the overpayment outstanding in respect of the nursing home.

Penalty: $50,000.

(2) If:

(a) the Secretary did not receive notice of the sale of the nursing home under section 65A or 65B or was not otherwise informed of the sale before the day of completion of the sale; or

(b) the vendor sells the nursing home before the notified day for completion of sale of the home;

the overpayment outstanding in respect of the nursing home is equal to the sum of the advances in respect of Commonwealth benefit paid to the vendor in respect of approved nursing home patients who received nursing home care in the nursing home during any accounting period in respect of which the Secretary has not determined a notional scale of fees.

Note: For the meaning of ***notional scale of fees*** see section 46.

(3) If:

(a) the Secretary has made a determination under paragraph 65F(1)(e) in respect of the nursing home; and

(b) a copy of the determination has been given to the vendor on or before the day of completion of the sale; and

(c) no purchaser payment has been made in respect of the sale of the nursing home; and

(d) subsection (2) does not apply;

the overpayment outstanding in respect of the nursing home is the amount specified in the determination.

(4) If:

(a) the Secretary has made a determination under paragraph 65F(1)(e) in respect of the nursing home; and

(b) a copy of the determination has been given to the vendor on or before the day of completion of the sale; and

(c) a purchaser payment has been made in respect of the sale of the nursing home; and

(d) subsection (2) does not apply;

the overpayment outstanding in respect of the nursing home is the difference between:

(e) the amount specified in the determination; and

(f) the purchaser payment.

(5) If:

(a) an investigation has been carried out under paragraph 65C(1)(c) in respect of the nursing home; and

(b) an amount has been determined under paragraph 65D(1)(b); and

(c) no purchaser payment has been made in respect of the sale of the nursing home; and

(d) subsection (2) does not apply;

the overpayment outstanding in respect of the nursing home is the sum of:

(e) the amount of overpayment (if any) established by the first investigation; and

(f) the amount specified in the determination.

(6) If:

(a) investigations have been undertaken under paragraphs 65C(1)(c) and (d) in respect of the operation of the nursing home; and

(b) an amount has been determined under paragraph 65D(1)(b); and

(c) a purchaser payment has been made in respect of the sale of the nursing home; and

(d) subsection (2) does not apply;

the overpayment outstanding in respect of the nursing home is the difference between:

(e) the sum of:

(i) the overpayment (if any) established by the first investigation; and

(ii) the amount specified in the determination; and

(f) the purchaser payment.

65L Money paid in settlement of an overpayment outstanding—how to deal with it

A vendor payment in relation to an overpayment outstanding in respect of an approved nursing home is to be dealt with as set out in sections 65M, 65N, 65P, 65Q, 65R and 65S.

Note: For the meaning of ***vendor payment*** see subsection 65(1).

65M Treatment of amount paid in respect of overpayment outstanding to which subsection 65K(2) applies

(1) This section applies if the overpayment outstanding in respect of the approved nursing home has been determined under subsection 65K(2).

(2) The vendor payment is held in trust for the vendor’s benefit until the investigation carried out under subsection 65G(3) in respect of the nursing home is completed.

(3) If the investigation establishes that no overpayment is payable by the vendor, the vendor payment is paid to the vendor.

(4) If the investigation establishes that there has been, in respect of the investigation period, an overpayment for which the vendor is liable, then:

(a) if the vendor payment is equal to or less than the overpayment—the vendor payment is taken to have been paid to the Commonwealth in settlement or part settlement of the overpayment; or

(b) if the vendor payment is more than the overpayment:

(i) so much of the vendor payment as is equal to the overpayment is taken to have been paid to the Commonwealth in settlement of the overpayment; and

(ii) the balance is paid to the vendor.

65N Treatment of amount paid in respect of overpayment outstanding to which subsection 65K(3) applies

(1) This section applies if the overpayment outstanding in respect of the approved nursing home has been determined under subsection 65K(3).

(2) The vendor payment is held in trust for the vendor’s benefit until the investigation carried out under paragraph 65F(1)(c) in respect of the nursing home is completed.

(3) If the investigation establishes that no overpayment is payable by the vendor, the vendor payment is paid to the vendor.

(4) If the investigation establishes that there has been, in respect of the investigation period, an overpayment for which the vendor is liable, then:

(a) if the vendor payment is equal to or less than the overpayment—the vendor payment is taken to have been paid to the Commonwealth in settlement or part settlement of the overpayment; or

(b) if the vendor payment is more than the overpayment:

(i) so much of the vendor payment as is equal to the overpayment is taken to have been paid to the Commonwealth in settlement of the overpayment; and

(ii) the balance is paid to the vendor.

Note: Subsection 65GU(4) directs the Secretary to apply money paid in relation to a vendor’s liability to pay nursing home charge:

(a) in the first instance—against the charge; and

(b) then—against any liability of the vendor in respect of an overpayment.

65P Treatment of amount paid in respect of overpayment outstanding to which subsection 65K(4) applies

(1) This section applies if the overpayment outstanding in respect of the approved nursing home has been determined under subsection 65K(4).

(2) The vendor payment is held in trust for the vendor’s benefit until the investigation carried out under paragraph 65F(1)(c) in respect of the nursing home is completed.

(3) If the investigation establishes that no overpayment is payable by the vendor, the vendor payment is paid to the vendor.

(4) If:

(a) the investigation establishes that there has been, in respect of the investigation period, an overpayment for which the vendor is liable; and

(b) the Commonwealth holds in trust a purchaser payment that is equal to, or higher than, the overpayment;

the vendor payment is paid to the vendor.

(5) If:

(a) the investigation establishes that there has been, in respect of the investigation period, an overpayment for which the vendor is liable; and

(b) the Commonwealth holds in trust a purchaser payment that is less than the overpayment;

then:

(c) if the vendor payment is equal to or less than the difference (***outstanding debt***) between the overpayment and the purchaser payment—the vendor payment is taken to have been paid to the Commonwealth in settlement or part settlement of the outstanding debt; or

(d) if the vendor payment is more than the outstanding debt:

(i) so much of the vendor payment as is equal to the outstanding debt is taken to have been paid to the Commonwealth in settlement of that debt; and

(ii) the balance is paid to the vendor.

65Q Treatment of amount paid in respect of overpayment outstanding to which subsection 65K(5) applies

(1) This section applies if the overpayment outstanding in respect of the approved nursing home has been determined under subsection 65K(5).

(2) If the first investigation has established that, in respect of the investigation period, an overpayment is payable by the vendor:

(a) so much of the vendor payment as is equal to the overpayment is taken to be paid in settlement, or part settlement, of the overpayment; and

(b) the remainder of the vendor payment is held in trust for the benefit of the vendor until the second investigation is completed.

(3) If the second investigation establishes that, in respect of that investigation period, no overpayment is payable by the vendor, the remainder of the vendor payment is paid to the vendor.

(4) If the second investigation establishes that there has been, in respect of that investigation period, an overpayment for which the vendor is liable, then:

(a) if the remainder of the vendor payment is equal to or less than the overpayment—the remainder of the vendor payment is taken to have been paid to the Commonwealth in settlement or part settlement of the overpayment; or

(b) if the remainder of the vendor payment is more than the overpayment:

(i) so much of the vendor payment as is equal to the overpayment is taken to have been paid to the Commonwealth in settlement of the overpayment; and

(ii) the balance is paid to the vendor.

65R Treatment of amount paid in respect of overpayment outstanding to which subsection 65K(6) applies—Step 1: first investigation amount

(1) This section:

(a) applies if the overpayment outstanding in respect of the approved nursing home has been determined under subsection 65K(6); and

(b) sets out how that part of the vendor payment as is equal to the overpayment established by the first investigation is to be dealt with.

Note: The treatment of so much of the vendor payment that relates to the amount (if any) established by the second investigation is dealt with under section 65S.

(2) If the purchaser payment in respect of the nursing home was less than the amount of the overpayment in respect of the first investigation period, then:

(a) so much of the vendor payment as is equal to the difference between the overpayment and the purchaser payment is taken to have been paid in settlement, or part settlement, of the overpayment outstanding; and

(b) the balance is held in trust for the vendor’s benefit until the second investigation is completed.

(3) If the purchaser payment is equal to or more than the overpayment, the vendor payment is held in trust for the vendor’s benefit until the second investigation is completed.

65S Treatment of amount paid in respect of overpayment outstanding to which subsection 65K(6) applies—Step 2: second investigation amount

(1) This section:

(a) applies if the overpayment outstanding in respect of the nursing home has been determined under subsection 65K(6); and

(b) sets out how the balance of the vendor payment, held in trust, is to be dealt with when the second investigation is completed.

(2) If the second investigation establishes that no overpayment in respect of that investigation period is payable by the vendor, the balance of the vendor payment is paid to the vendor.

(3) If:

(a) the second investigation establishes that there has been, in respect of that investigation period, an overpayment for which the vendor is liable; and

(b) the Commonwealth, under section 65H, holds in trust a part of the purchaser payment in respect of the overpayment that is equal to, or higher than, the overpayment;

the balance of the vendor payment is paid to the vendor.

(4) If:

(a) the second investigation establishes that there has been, in respect of that investigation period, an overpayment for which the vendor is liable; and

(b) the Commonwealth holds in trust a part of the purchaser payment in respect of the overpayment that is less than the overpayment;

then:

(c) if the balance of the vendor payment is equal to or less than the difference (***outstanding debt***) between the overpayment and the purchaser payment—the balance of the vendor payment is taken to have been paid to the Commonwealth in settlement or part settlement of the outstanding debt; or

(d) if the balance of the vendor payment is more than the outstanding debt:

(i) so much of the balance of the vendor payment as is equal to the outstanding debt is taken to have been paid to the Commonwealth in settlement of that debt; and

(ii) the remainder is paid to the vendor.

Note: See examples in the following tables:

**Example 1**

**Example of operation of paragraphs 65S(4)(a), (b) and (c)**

**Facts**

1. The amount of the overpayment (OP) established by the second investigation is $65,000.

2. The purchaser payment held in trust (PP) is $30,000.

3. The balance of the vendor payment (VP) is $35,000.

**Application**

To work out how the vendor payment is treated under paragraphs 65S(4)(a), (b) and (c).

**Step 1** $65,000 (OP)

—$30,000 (PP)

$35,000 (Outstanding debt)

**Step 2** $35,000 (Outstanding debt)

—$35,000 (VP)

0

**Result**

1. $35,000 (VP) is taken as paid in settlement of the overpayment outstanding.

2. No money is paid to vendor.

**Example 2**

**Example of operation of paragraphs 65S(4)(a), (b) and (d)**

**Facts**

1. The amount of the overpayment (OP) established by the second investigation is $65,000.

2. The purchaser payment held in trust (PP) is $30,000.

3. The balance of the vendor payment (VP) is $60,000.

**Application**

To work out how the vendor payment is treated under paragraphs 65S(4)(a), (b) and (d).

**Step 1** $65,000 (OP)

—$30,000 (PP)

$35,000 (Outstanding debt)

**Step 2** $60,000 (VP)

—$35,000 (Outstanding debt)

$25,000

**Result**

1. $35,000 (VP) is taken as paid in settlement of the overpayment outstanding.

2. $25,000 is paid to vendor.

(5) If:

(a) the second investigation establishes that there has been, in respect of the investigation period, an overpayment for which the vendor is liable; and

(b) no part of the purchaser payment is held in trust;

then:

(c) if the balance of the vendor payment is equal to or less than the overpayment—the balance of the vendor payment is taken to have been paid to the Commonwealth in settlement or part settlement of the overpayment; or

(d) if the balance of the vendor payment is more than the overpayment:

(i) so much of the balance of the vendor payment as is equal to the overpayment is taken to have been paid to the Commonwealth in settlement of the overpayment; and

(ii) the remainder is paid to the vendor.

Division 4—Miscellaneous

65SA Interest payable on repayments to vendors made under Division 3

(1) If the Commonwealth is liable to repay an amount to the vendor under section 65H, 65J, 65M, 65N, 65P, 65Q or 65S, the Commonwealth is also liable to pay interest on that amount at the rate determined by the regulations.

(2) If an amount of purchaser payment is repayable under section 65H or 65J, the interest is payable in respect of the period beginning on the day on which the contract for sale of the nursing home was completed and ending on the day on which the repayment is made.

(3) If an amount of vendor payment is repayable under section 65M, the interest is payable in respect of the period beginning on the day on which the vendor paid the overpayment outstanding to the Commonwealth under subsection 65K(2) and ending on the day on which the repayment is made.

(4) If an amount of vendor payment is repayable under section 65N, 65P, 65Q or 65S, the interest is payable in respect of the period beginning on the day on which the vendor paid the money to the Commonwealth in answer to a direction under that section and ending on the day on which the repayment is made.

65SB Interest payable on repayments to vendors made under Division 2A

(1) If the Commonwealth is liable to repay an amount to the vendor under section 65GU, the Commonwealth is also liable to pay interest on that amount, at the rate determined by the regulations, in respect of the periods set out below.

(2) If only the purchaser has made a payment in answer to a direction under section 65GT, the interest is payable in respect of the period beginning on the day on which the contract for sale of the nursing home was completed and ending on the day on which the repayment is made.

(3) If:

(a) both a payment by the purchaser and a vendor advance has been made in answer to directions under section 65GT; or

(b) only a vendor advance has been made under such a direction;

the interest is payable in respect of the period beginning on the day on which the vendor paid the money to the Commonwealth in answer to a direction under section 65GT and ending on the day on which the repayment is made.

65T Time when principles take effect

(1) Principles set out under subsections 65D(3), 65F(6) and 65G(7):

(a) are to be laid before each House of the Parliament within 15 sitting days of that House after they have been set out; and

(b) take effect only as provided by the following provisions of this section.

(2) If:

(a) notice of a motion to amend the principles is given in either House of the Parliament within 15 sitting days after they have been laid before that House; and

(b) the principles, whether or not as amended, are subsequently approved by that House; and

(c) the other House approves the principles in the form approved by the first‑mentioned House;

the principles take effect in the form so approved from the day on which that other House approves them in that form.

(3) If no notice of motion to amend the principles is given in either House of the Parliament under paragraph (2)(a), the principles take effect from the day immediately after the last day on which the notice of motion could have been so given in either House.

65U Parties to a contract of sale to be informed of certain matters after sale

(1) If:

(a) an investigation has been undertaken under paragraph 65C(1)(d) in respect of the operation of a nursing home; and

(b) that investigation establishes that an overpayment in respect of the second investigation period is payable;

the Secretary may give the vendor and the purchaser of the nursing home information as to the amount of that overpayment.

(2) If:

(a) an investigation is carried out under paragraph 65F(1)(c) or subsection 65G(3) in respect of a nursing home; and

(b) the investigation establishes either:

(i) that an overpayment has been made in respect of the operation of the nursing home during the investigation period; or

(ii) that the vendor, or an earlier proprietor, has received a fee‑reducing benefit or missed out on receiving fee‑increasing benefit (as the case may be);

the Secretary may give the vendor and the purchaser information as to the amount of such overpayment or fee‑reducing benefit or fee‑increasing benefit.

(3) After the sale of a nursing home is completed, the Secretary may provide the purchaser of the home with any other information about a scale of fees or a notional scale of fees determined in respect of the home that, in the Secretary’s opinion, the purchaser should have.

(4) The Secretary may provide the purchaser of the home with any information about a grant of Commonwealth benefit (if any) made in respect of the home.

Part VII—Pharmaceutical benefits

Division 1—Preliminary

83Z Repeal and saving

(1) The *Pharmaceutical Benefits Act 1947*, the *Pharmaceutical Benefits Act 1949*, the *Pharmaceutical Benefits Act (No. 2) 1949* and the *Pharmaceutical Benefits Act 1952* are repealed.

(2) The National Health (Medicines for Pensioners) Regulations made under the *National Health Service Act 1948–1949* are repealed.

(3) Notwithstanding the repeal effected by subsection (1):

(a) where immediately before the commencement of this Part, a person or body was under the *Pharmaceutical Benefits Act 1947–1952*:

(i) an approved pharmaceutical chemist approved in respect of one or more premises;

(ii) an approved medical practitioner approved in respect of an area; or

(iii) an approved hospital authority approved in respect of one or more hospitals;

that person or body shall be deemed to be an approved pharmacist in respect of those premises, an approved medical practitioner in respect of that area or an approved hospital authority in respect of that hospital or those hospitals under section 90, 92 or 94, as the case requires, and the provisions of this Act apply to and in relation to that person or body accordingly; and

(b) a special arrangement made in pursuance of section 15 of the *Pharmaceutical Benefits Act 1947–1952* which was in force immediately before the commencement of this Part shall continue in force as if made in pursuance of section 100.

(4) The reference in subparagraph (3)(a)(i) to an approved pharmaceutical chemist includes a reference to a person who:

(a) owned, or was about to own, a business for the supply of pharmaceutical benefits at or from particular premises; and

(b) was purportedly approved under the *Pharmaceutical Benefits Act 1947–1952* as an approved pharmaceutical chemist.

84 Interpretation

(1) In this Part, unless the contrary intention appears:

***additional member*** means an additional member of the Tribunal.

***agreed price*** means the amount in force under a price agreement.

***applicable amount*** has the meaning given by subsection 84BA(4).

***approved hospital authority*** means a hospital authority for the time being approved, or deemed to be approved, under section 94.

***approved medical practitioner*** means a medical practitioner for the time being approved, or deemed to be approved, under section 92.

***approved pharmacist*** means a person for the time being approved under section 90 and includes:

(a) a person treated as having been so approved under any provision of a law of the Commonwealth other than section 91; and

(b) except so far as subsection 90(3) is concerned—a person treated as having been so approved under section 91.

***approved price to pharmacists*** has the meaning given by subsection 98B(3).

***approved supplier*** means an approved pharmacist, an approved medical practitioner or an approved hospital authority.

***authorised midwife*** means an eligible midwife in relation to whom an approval is in force under section 84AAF, so far as the eligible midwife provides midwifery treatment in a collaborative arrangement or collaborative arrangements of a kind or kinds specified in a legislative instrument made by the Minister for the purposes of this definition, with one or more medical practitioners of a kind or kinds specified in the legislative instrument.

***authorised nurse practitioner*** means an eligible nurse practitioner in relation to whom an approval is in force under section 84AAJ, so far as the eligible nurse practitioner provides nurse practitioner treatment in a collaborative arrangement or collaborative arrangements of a kind or kinds specified in a legislative instrument made by the Minister for the purposes of this definition, with one or more medical practitioners of a kind or kinds specified in the legislative instrument.

***authorised optometrist*** means an optometrist in relation to whom an approval is in force under section 84AAB.

***Authority*** means the Australian Community Pharmacy Authority established under section 99J.

***brand*** of a pharmaceutical item means:

(a) the trade name under which the person who is or will be the responsible person supplies the pharmaceutical item; or

(b) if there is no trade name—the name of the person who is or will be the responsible person.

***Chairperson*** means the Chairperson of the Tribunal.

***child***, in relation to a member of a friendly society, means:

(a) a child under the age of 16 years of that member; or

(b) a child of that member who:

(i) has attained the age of 16 years;

(ii) is receiving full‑time education at a school, college or university;

(iii) is wholly or substantially dependent on that member or on the spouse of that member; and

(iv) is a person who is to be treated as a child of that member in accordance with the rules of the friendly society.

Note: See also subsection (3B).

***claimed price*** means the amount specified in a determination in force under subsection 85B(3).

***co‑marketed brands*** has the meaning given by section 84AE.

***combination item*** means a pharmaceutical item that has a drug that contains at least 2 other drugs or medicinal preparations, at least one of which is a listed drug.

***combination item has a drug***: see subsection 84ABA(2).

***Commonwealth officer*** means:

(a) the Governor‑General; or

Note: See also section 16A of the *Acts Interpretation Act 1901*.

(b) a Minister; or

(c) a member of the Parliament of the Commonwealth; or

(d) the Administrator, an Acting Administrator, or a Deputy Administrator, of Norfolk Island; or

(e) a person who is in the employment of the Commonwealth; or

(f) a person who holds or performs the duties of any office or position established by or under a law of the Commonwealth; or

(g) a member of the Australian Defence Force; or

(h) the Commissioner of the Australian Federal Police, a Deputy Commissioner of the Australian Federal Police, an AFP employee, a special member or a special protective service officer (all within the meaning of the *Australian Federal Police Act 1979*).

***Commonwealth price*** means:

(a) in relation to a pharmaceutical benefit supplied by an approved pharmacist—the Commonwealth price worked out in accordance with a determination in force under subsection 98B(1); or

(b) in relation to a pharmaceutical benefit supplied by an approved medical practitioner—the Commonwealth price worked out in accordance with a determination in force under subsection 98C(1); or

(c) in relation to a pharmaceutical benefit supplied by an approved hospital authority to a patient receiving treatment in or at a hospital in respect of which the authority is approved—the amount of the payment to which the authority is entitled under subsection 99(4) in respect of the supply of the benefit.

***communicated***, in relation to a prescription, means communicated directly or indirectly.

***communicated prescription*** means a prescription that is communicated to an approved pharmacist in the circumstances and manner set out in regulations made for the purposes of paragraph 89(a).

***concessional beneficiary*** means:

(a) a person who is the holder of a pensioner concession card, a seniors health card or a health care card under the *Social Security Act 1991*; or

(b) a person (other than the holder of the card) whose name is included in a card referred to in paragraph (a); or

(c) a person:

(i) who is an Australian resident within the meaning of the *Health Insurance Act 1973*; and

(ii) to whom, or in respect of whom, there is being paid a service pension under Part III, or income support supplement under Part IIIA, of the *Veterans’ Entitlements Act 1986*; or

(d) a person who is:

(i) an Australian resident within the meaning of the *Health Insurance Act 1973*; and

(ii) eligible, under subsection 86(1), (2) or (3) of the *Veterans’ Entitlements Act 1986*, to be provided with treatment under Part V of the last‑mentioned Act; or

(da) a person who is:

(i) an Australian resident within the meaning of the *Health Insurance Act 1973*; and

(ii) entitled to treatment under section 284of the *Military Rehabilitation and Compensation Act 2004*; or

(e) a person who is:

(i) an Australian resident within the meaning of the *Health Insurance Act 1973*; and

(ii) the holder of a seniors health card within the meaning of the *Veterans’ Entitlements Act 1986*.

***concessional benefit prescription*** means a prescription that, in accordance with section 84AA, is a prescription in respect of a concessional beneficiary or of a person who, in relation to the concessional beneficiary, is a dependant within the meaning of subsection (4) or (7).

***concession card*** means a safety net concession card issued under section 84DA and includes an additional concession card, or a replacement concession card, issued under section 84H.

***concession card prescription*** means a prescription that, in accordance with section 84AA, is a prescription for the supply of a pharmaceutical benefit to a person who is a holder of a concession card.

***CTS claim*** means a claim made to the Medicare Australia CEO using the procedures of the Claims Transmission System provided for in section 99AAA of the *National Health Act 1953*.

***dependant*** has the meaning given by subsections (4) and (7).

***determined price*** means the amount specified in a determination in force under subsection 85B(2).

***drug in a combination item*** means the drug referred to in paragraph 84AB(a) in the application of that paragraph to the pharmaceutical item that is the combination item.

***drug in a pharmaceutical item*** means the drug referred to in paragraph 84AB(a) in the application of that paragraph to the pharmaceutical item.

***drug is in Part A of F2*** has the meaning given by section 84AD.

***drug is in Part T of F2*** has the meaning given by section 84AD.

***drug is on F1*** has the meaning given by section 84AC.

***drug is on F2*** has the meaning given by section 84AC.

***early supply of a specified pharmaceutical benefit*** has the meaning given by subsection 84AAA(1).

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

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

***entitlement card*** means a pharmaceutical benefits entitlement card issued under section 84E and includes an additional entitlement card, or a replacement entitlement card, issued under section 84H.

***entitlement card prescription*** means a prescription that, in accordance with section 84AA, is a prescription for the supply of a pharmaceutical benefit to a person who is a holder of an entitlement card.

***exempt item*** means a pharmaceutical item determined by the Minister under section 84AH to be an exempt item.

***expiry date***,in relation to a medicare number, means:

(a) if the number is recorded on a medicare card that specifies a particular date on which the card expires—that date; and

(b) if the number is recorded on a medicare card that does not specify a particular date on which the card expires but that has recorded on it the month at the end of which the card expires—the last day of that month; and

(c) if the number is not of a kind referred to in paragraph (a) or (b)—such date as the Minister specifies, in writing, in respect of the number.

***friendly society body*** means a body (whether corporate or unincorporate) carrying on business for the benefit of members of a friendly society or friendly societies.

***general benefit prescription*** means a prescription other than:

(b) a concessional benefit prescription; or

(c) an entitlement card prescription; or

(d) a concession card prescription.

***general patient*** means a person who is an eligible person within the meaning of the *Health Insurance Act 1973*, but who is not a concessional beneficiary.

***hospital*** means premises in which patients are received and lodged for the purpose of hospital treatment.

***hospital authority*** means the governing body of a public hospital or the proprietor of a private hospital.

***listed brand*** of a pharmaceutical item means a brand of the pharmaceutical item in relation to which a determination under subsection 85(6) is in force.

***listed drug*** means a drug or medicinal preparation in relation to which a declaration under subsection 85(2) is in force.

***medicare card*** means:

(a) a card issued by the Medicare Australia CEO and commonly known as a medicare card; or

(b) a card or written authorisation provided to a person that evidences a person’s eligibility for pharmaceutical benefits under:

(i) the scheme known as the Repatriation Pharmaceutical Benefits Scheme established under the *Veterans’ Entitlements Act 1986*; or

(ii) a scheme that applies under section 18 of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*; or

(c) any other card that is prescribed for the purposes of this definition.

***medicare number*** means:

(a) in relation to a particular person covered by a medicare card—the particular combination of numbers, or letters and numbers, on the card that is applicable only to that person as a person covered by that card; and

(b) in relation to a person who the Medicare Australia CEO is satisfied is, or is entitled to be treated as, an eligible person within the meaning of the *Health Insurance Act 1973* but who is not covered by a medicare card—the particular combination of numbers, or letters and numbers, that would be applicable to that person if that person were covered by a medicare card.

***member*** means a member of the Tribunal, and includes the Chairperson.

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

***optometrist*** means a person registered or licensed as an optometrist or optician under a law of a State or an internal Territory that provides for the registration or licensing of optometrists or opticians.

***out‑patient medication*** means a drug or medicinal preparation supplied through the out‑patient department of a public hospital.

***participating dental practitioner*** means a dental practitioner in relation to whom an approval is in force under section 84A.

***PBS prescriber*** means:

(a) a medical practitioner; or

(b) a participating dental practitioner; or

(c) an authorised optometrist; or

(d) an authorised midwife; or

(e) an authorised nurse practitioner.

***pharmaceutical benefit*** means the following:

(a) if a declaration under subsection 85(2) is in force in relation to a drug or medicinal preparation (the ***drug***) and paragraph (b), (c) and (d) do not apply—the drug;

(b) if a determination under subsection 85(3) is in force in relation to a form of the drug and paragraph (c) and (d) do not apply—the drug in that form;

(c) if a determination under subsection 85(5) is in force in relation to a manner of administration of that form of the drug and paragraph (d) does not apply—the drug in that form with that manner of administration;

(d) if a determination under subsection 85(6) is in force in relation to a brand of a pharmaceutical item that is the drug in that form with that manner of administration—that brand of the drug in that form with that manner of administration.

***pharmaceutical benefit has a drug***: see subsection 84ABA(3).

***pharmaceutical item*** has the meaning given by section 84AB.

***pharmaceutical item has a drug***: see subsection 84ABA(1).

***price agreement*** means an agreement under section 85AD.

***price determination*** means a determination under subsection 85B(2).

***record form*** means a pharmaceutical benefits prescription record form, or an out‑patient medication prescription record form, issued under section 84D.

***refund agreement*** means an agreement or arrangement under which a payment may be made by or at the direction of a person to another person in the event of the other person being charged an amount in respect of the supply of a pharmaceutical benefit.

***relevant entitlement period*** means:

(a) in the application of this Part before 1 January 1992:

(i) in relation to a pensioner—the period commencing on 1 November 1990 and ending on 31 December 1991; or

(ii) in relation to any other person—the year commencing on 1 January 1990 or 1 January 1991; or

(b) in the application of this Part on or after 1 January 1992:

(i) the year commencing on 1 January 1992; or

(ii) a succeeding year.

***relevant price***: see subsection 99ACF(5).

***repatriation pharmaceutical benefit*** means a pharmaceutical benefit within the meaning of section 91 of the *Veterans’ Entitlements Act 1986* or subsection 4(1) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*.

***responsible person*** for a brand of a pharmaceutical item means the person determined by the Minister under section 84AF to be the responsible person for the brand of the pharmaceutical item.

***Schedule equivalent*** has the meaning given by section 84AJ.

***special number***, in relation to a particular person who is included within a class of persons identified by the Minister in a determination under subsection 86E(1)—the particular combination of numbers, or letters and numbers, allocated in accordance with a procedure set out in that determination, that is applicable to that person as a person included in that class.

***special patient contribution*** has the meaning given by subsection 85B(4).

***State or Territory officer*** means:

(a) the Governor of a State; or

Note: See also section 16B of the *Acts Interpretation Act 1901*.

(b) the Administrator, an Acting Administrator, or a Deputy Administrator, of the Northern Territory; or

(c) a Minister of a State, a Minister for the Australian Capital Territory or a Minister of the Northern Territory; or

(d) a member of the Parliament of a State, a member of the Legislative Assembly for the Australian Capital Territory or a member of the Legislative Assembly of the Northern Territory; or

(e) a person who is in the employment of a State or Territory; or

(f) a person who holds or performs the duties of any office or position established by or under a law of a State or Territory; or

(g) a member of the police force or police service of a State or Territory.

***subject to a 12.5% price reduction***: see subsection 99ACA(2).

***subject to a 16% price reduction***: see subsection 99ACA(2A).

***subject to an outstanding staged reduction***: see subsection 99ACA(1).

***therapeutic group*** means a therapeutic group determined by the Minister under section 84AG.

***Tribunal*** means the Pharmaceutical Benefits Remuneration Tribunal established by section 98A.

(1A) Where a refund agreement was entered into before 24 April 1964, and, on or after that date:

(a) the agreement was or is renewed on or before the date on which it would, but for that renewal, have expired;

(b) the period of operation of the agreement was or is extended on or before the date on which it would, but for that extension, have expired; or

(c) the rights and obligations under the agreement of the party by or at whose direction payments may be made under the agreement were or are transferred to another person;

the renewal, extension or transfer shall, for the purposes of this Act, be deemed not to have been or to be an entering into a new agreement.

(1B) If:

(a) a prescription directs a repeated supply of a pharmaceutical benefit (the ***specified benefit***); and

(b) another pharmaceutical benefit (the ***supplied benefit***) is supplied, on the repeated supply, in accordance with subsection 103(2A);

then, for the purposes of determining whether a repeated supply of the specified benefit has occurred, the supplied benefit is taken to be the repeated supply, upon the prescription, of the specified benefit.

(2) In this Part, a reference to the supply, obtaining or receipt of a pharmaceutical benefit shall, unless the contrary intention appears, be read as a reference to the supply, obtaining or receipt of that pharmaceutical benefit under this Part.

(2A) A reference in this Part to a prescription for the supply of a pharmaceutical benefit to a person who is a holder of a concession card or an entitlement card is a reference to a prescription for the supply of a pharmaceutical benefit to a person who is, at the time when the prescription is written or communicated, or becomes, after the prescription is written or communicated and before the benefit is supplied upon the prescription, a holder of a concession card or an entitlement card.

(3) If the Minister so determines, the Minister of State of a State administering the laws of that State relating to public hospitals shall, for the purposes of this Part, be deemed to be the governing body of the public hospitals in that State.

(3A) A reference in this Part to the governing body, in relation to a public hospital in the Territory of Cocos (Keeling) Islands or the Territory of Christmas Island, shall be read as a reference to the Administrator of the relevant Territory.

(3B) A reference in the definition of ***child*** in subsection (1) to a child of a member includes a reference to:

(a) an adoptive child or a stepchild of the person; and

(b) someone who would be the stepchild of the person except that the person is not legally married to the person’s de facto partner; and

(c) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

(4) A ***dependant***, in relation to a person to whom paragraph (c) or (d) of the definition of***concessional beneficiary***applies, is a person who is an Australian resident within the meaning of the *Health Insurance Act 1973* and:

(a) the spouse of the person; or

(b) a child under the age of 16 years who is in the custody, care and control of the person or the spouse of the person; or

(c) a person who:

(i) has attained the age of 16 years but is under the age of 25 years; and

(ii) is receiving full time education at a school, college or university; and

(iii) is not being paid a disability support pension under the *Social Security Act 1991*; and

(iv) is wholly or substantially dependent on the person or on the spouse of the person.

(7) For the purposes of this Part, if:

(a) paragraph (e) of the definition of***concessional beneficiary*** applies to a person (the ***seniors health card holder***); and

(b) no other paragraph of the definition of***concessional beneficiary*** applies to the seniors health card holder;

a person who, apart from this subsection, would be a dependant of the seniors health card holder is taken not to be a dependant of the seniors health card holder.

Note: A person who is the holder of a seniors health card within the meaning of the *Veterans’ Entitlements Act 1986* is a person to whom paragraph (e) of the definition of ***concessional beneficiary*** applies.

(8) A reference in this Part to the provision to a person or body of a medicare number as a number applicable to a particular individual is a reference to:

(a) the production to that person or body of a medicare card having on it a medicare number as a number applicable to that particular individual; or

(b) the provision to that person or body of any other information, whether documentary or oral, that indicates a medicare number as a number applicable to that particular individual.

(9) A reference in this Part to the provision to a person or body of the expiry date in relation to a medicare number provided as a number applicable to a particular individual is a reference to:

(a) the production to the person or body of a medicare card that indicates the expiry date in relation to that medicare number; or

(b) the provision to the person or body of any other information, whether documentary or oral, that indicates the expiry date in relation to that medicare number.

(10) A reference in this Part to a medicare number, or a special number, ultimately supplied to the Medicare Australia CEO in relation to a prescription, is a reference to:

(a) if the number is not inserted in a CTS claim relating to that prescription—the number in the form in which it appears on the prescription (or in the case of a communicated prescription, the written version of the prescription), at the time when the prescription is sent to the Medicare Australia CEO by an approved supplier with a claim for payment; or

(b) if that number is inserted in a CTS claim relating to the prescription—the number so inserted.

84AAA Early supply of a specified pharmaceutical benefit

(1) A supply of a pharmaceutical benefit to a person (whether or not that supply is a supply of a kind described in paragraph 84C(4A)(a)) is an ***early supply of a specified pharmaceutical benefit*** if:

(a) the supply of the pharmaceutical benefit is made within 20 days after the day of a previous supply to the person of:

(i) the pharmaceutical benefit; or

(ii) another pharmaceutical benefit that has the same pharmaceutical item as the pharmaceutical benefit; or

(iii) another pharmaceutical benefit that is Schedule equivalent to the pharmaceutical benefit;

whether or not the previous supply was a supply of a kind described in paragraph 84C(4A)(a); and

(b) the pharmaceutical item in the pharmaceutical benefit is specified in an instrument under subsection (2); and

(c) the supply does not result from a prescription originating from a hospital.

Note: For ***hospital*** see subsection 4(1).

(2) The Minister may, by legislative instrument, specify pharmaceutical items for the purposes of paragraph (1)(b).

Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

(3) A pharmaceutical item may be specified in an instrument under subsection (2) by reference to:

(a) the circumstances in which a pharmaceutical benefit that has the pharmaceutical item is supplied; or

(b) any other circumstances in relation to a pharmaceutical benefit that has the pharmaceutical item.

84AA Concessional benefit prescriptions, concession card prescriptions and entitlement card prescriptions

(1) A prescription that is written by a PBS prescriber in accordance with the Act and the regulations shall not be taken, for the purposes of this Part, to be a prescription in respect of a concessional beneficiary or a person who, in relation to a concessional beneficiary, is a dependant of the beneficiary within the meaning of subsection 84(4) or (7) unless there is written or marked on the prescription, or there purports to be written or marked on the prescription, in such manner as is prescribed by regulations made for the purposes of this subsection, such information relating to the status of the person to whom the prescription relates as such a concessional beneficiary or dependant as is prescribed by those last‑mentioned regulations in relation to persons having that status.

(1A) A prescription that is written by a PBS prescriber in accordance with this Act and the regulations shall not be taken, for the purposes of this Part, to be a prescription for the supply of a pharmaceutical benefit to a person who is a holder of a concession card or an entitlement card unless there is written or marked on the prescription, or there purports to be written or marked on the prescription, in such a manner as is prescribed by regulations made for the purposes of this subsection, such information relating to the status of the person to whom the prescription relates as a holder of a concession card or an entitlement card as is prescribed by those last‑mentioned regulations.

(2) A prescription that is communicated to an approved pharmacist in pursuance of paragraph 89(a) in such circumstances as are prescribed for the purposes of that paragraph shall not be taken, for the purposes of this Part, to be a prescription in respect of a concessional beneficiary or a person who, in relation to a concessional beneficiary, is a dependant of the beneficiary within the meaning of subsection 84(4) or (7) unless, before supply of the pharmaceutical benefit upon that prescription, there is communicated, or there is purportedly communicated, to the pharmacist, in such manner as is prescribed by regulations made for the purposes of this subsection, such information relating to the status of the person to whom the prescription relates as such a concessional beneficiary or dependant as is prescribed by those last‑mentioned regulations in relation to persons having that status.

(3) A prescription that is communicated to an approved pharmacist in pursuance of paragraph 89(a) in such circumstances as are prescribed for the purposes of that paragraph shall not be taken, for the purposes of this Part, to be a prescription for the supply of a pharmaceutical benefit to a person who is a holder of a concession card or an entitlement card unless, before supply of the benefit upon that prescription, there is communicated, or there is purportedly communicated, to the pharmacist, in such manner as is prescribed by regulations made for the purposes of this subsection, such information relating to the status of the person to whom the prescription relates as a holder of a concession card or an entitlement card as is prescribed by those last‑mentioned regulations.

(4) Nothing in subsection (1), (1A), (2) or (3) shall be read as derogating from subsection 87(3A).

84A Participating dental practitioners

(1) A dental practitioner may give to the Secretary a notification, in writing, that the dental practitioner wishes to become a participating dental practitioner for the purposes of this Part.

(2) Where the Secretary receives a notification under subsection (1), the Secretary shall, by writing signed by the Secretary, approve the dental practitioner concerned as a participating dental practitioner for the purposes of this Part.

(3) The Secretary shall notify the dental practitioner concerned of the dental practitioner’s approval under this section.

84AAB Authorised optometrists

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

(2) The Secretary may approve the application if satisfied that the optometrist meets the criteria determined under paragraph (3)(a). The approval is subject to any conditions determined under paragraph (3)(b).

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

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

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

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

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

84AAC Secretary may suspend or revoke approval of authorised optometrist

(1) The Secretary may suspend or revoke an approval under section 84AAB if satisfied that the optometrist to whom the approval relates:

(a) does not, at the time of the suspension or revocation, meet the criteria that would apply if the optometrist were to apply under subsection 84AAB(1) to be an authorised optometrist at that time; or

(b) has breached a condition to which the approval is subject under paragraph 84AAB(3)(b); or

(c) has breached a condition to which an approval would be subject under paragraph 84AAB(3)(b) if the person were to apply under subsection 84AAB(1) to be an authorised optometrist at that time.

(2) Before deciding to suspend or revoke the approval, the Secretary must notify the optometrist that suspension or revocation is being considered. The notice must:

(a) be in writing; and

(b) include the Secretary’s reasons for considering the suspension or revocation; and

(c) invite the optometrist to make written submission to the Secretary within the period of 28 days (the ***submission period***) after being given the notice.

(3) In deciding whether to suspend or revoke the approval, the Secretary must consider any written submissions made by the optometrist during the submission period.

(4) The Secretary must give to the optometrist written notice of the decision. If the decision is to suspend an approval, the notice must specify the period for which the approval is suspended.

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

(5) If the Secretary does not give the optometrist written notice of the decision within the period of 60 days after the end of the submission period, the Secretary is taken to have decided not to suspend or revoke the approval.

(6) If the Secretary suspends the approval, the Secretary may, by written notice at any time, further suspend or revoke the approval under subsection (1) or remove the suspension.

84AAD Review of decisions relating to authorised optometrists  
[*see* Note 2]

(1) If the Secretary:

(a) decides not to approve an optometrist under section 84AAB; or

(b) suspends or revokes the approval of an optometrist under section 84AAC;

the optometrist may apply, in writing, to the Secretary for reconsideration by the Secretary of the decision.

(2) On receiving an application under subsection (1) relating to a decision not to approve an optometrist under section 84AAB, the Secretary must reconsider the decision and:

(a) affirm the decision; or

(b) approve the optometrist.

An approval under paragraph (b) is taken, for the purposes of this Act, to be an approval under section 84AAB.

(3) On receiving an application under subsection (1) relating to a suspension or revocation of the approval of an optometrist under section 84AAC, the Secretary must reconsider the decision and:

(a) affirm the suspension or revocation; or

(b) reinstate the approval of the optometrist.

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

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

Note: Section 105AC requires the person to be notified of the person’s review rights.

(5) In this section:

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

84AAE Meaning of *eligible midwife*

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

(a) is a midwife; and

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

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

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

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

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

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

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

84AAF Authorised midwives

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

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

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

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

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

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

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

84AAG Secretary may suspend or revoke approval of authorised midwife

(1) The Secretary may suspend or revoke an approval under section 84AAF if satisfied that the person to whom the approval relates:

(a) is not, at the time of the suspension or revocation, an eligible midwife; or

(b) does not, at the time of the suspension or revocation, meet the criteria that would apply if the person were to apply under subsection 84AAF(1) to be an authorised midwife at that time; or

(c) has breached a condition to which the approval is subject under paragraph 84AAF(3)(b); or

(d) has breached a condition to which an approval would be subject under paragraph 84AAF(3)(b) if the person were to apply under subsection 84AAF(1) to be an authorised midwife at that time.

(2) Before deciding to suspend or revoke the approval, the Secretary must notify the person that suspension or revocation is being considered. The notice must:

(a) be in writing; and

(b) include the Secretary’s reasons for considering the suspension or revocation; and

(c) invite the person to make written submissions to the Secretary within the period of 28 days (the ***submission period***) after being given the notice.

(3) In deciding whether to suspend or revoke the approval, the Secretary must consider any written submissions made by the person during the submission period.

(4) The Secretary must give to the person written notice of the decision. If the decision is to suspend an approval, the notice must specify the period for which the approval is suspended.

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

(5) If the Secretary does not give the person written notice of the decision within the period of 60 days after the end of the submission period, the Secretary is taken to have decided not to suspend or revoke the approval.

(6) If the Secretary suspends the approval, the Secretary may, by written notice at any time, further suspend or revoke the approval under subsection (1) or remove the suspension.

84AAH Review of decisions relating to authorised midwives

(1) If the Secretary:

(a) decides not to approve an eligible midwife under section 84AAF; or

(b) suspends or revokes an approval under section 84AAG;

the person to whom the approval relates may apply, in writing, to the Secretary for reconsideration by the Secretary of the decision.

(2) On receiving an application under subsection (1) relating to a decision not to approve an eligible midwife under section 84AAF, the Secretary must reconsider the decision and:

(a) affirm the decision; or

(b) approve the eligible midwife.

An approval under paragraph (b) is taken, for the purposes of this Act, to be an approval under section 84AAF.

(3) On receiving an application under subsection (1) relating to a suspension or revocation of an approval under section 84AAG, the Secretary must reconsider the decision and:

(a) affirm the suspension or revocation; or

(b) reinstate the approval.

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

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

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

(5) In this section:

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

84AAI Meaning of *eligible nurse practitioner*

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

(a) is a nurse practitioner; and

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

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

84AAJ Authorised nurse practitioners

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

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

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

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

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

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

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

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

(1) The Secretary may suspend or revoke an approval under section 84AAJ if satisfied that the person to whom the approval relates:

(a) is not, at the time of the suspension or revocation, an eligible nurse practitioner; or

(b) does not, at the time of the suspension or revocation, meet the criteria that would apply if the person were to apply under subsection 84AAJ(1) to be an authorised nurse practitioner at that time; or

(c) has breached a condition to which the approval is subject under paragraph 84AAJ(3)(b); or

(d) has breached a condition to which an approval would be subject under paragraph 84AAJ(3)(b) if the person were to apply under subsection 84AAJ(1) to be an authorised nurse practitioner at that time.

(2) Before deciding to suspend or revoke the approval, the Secretary must notify the person that suspension or revocation is being considered. The notice must:

(a) be in writing; and

(b) include the Secretary’s reasons for considering the suspension or revocation; and

(c) invite the person to make written submissions to the Secretary within the period of 28 days (the ***submission period***) after being given the notice.

(3) In deciding whether to suspend or revoke the approval, the Secretary must consider any written submissions made by the person during the submission period.

(4) The Secretary must give to the person written notice of the decision. If the decision is to suspend an approval, the notice must specify the period for which the approval is suspended.

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

(5) If the Secretary does not give the person written notice of the decision within the period of 60 days after the end of the submission period, the Secretary is taken to have decided not to suspend or revoke the approval.

(6) If the Secretary suspends the approval, the Secretary may, by written notice at any time, further suspend or revoke the approval under subsection (1) or remove the suspension.

84AAL Review of decisions relating to authorised nurse practitioners

(1) If the Secretary:

(a) decides not to approve an eligible nurse practitioner under section 84AAJ; or

(b) suspends or revokes an approval under section 84AAK;

the person to whom the approval relates may apply, in writing, to the Secretary for reconsideration by the Secretary of the decision.

(2) On receiving an application under subsection (1) relating to a decision not to approve an eligible nurse practitioner under section 84AAJ, the Secretary must reconsider the decision and:

(a) affirm the decision; or

(b) approve the eligible nurse practitioner.

An approval under paragraph (b) is taken, for the purposes of this Act, to be an approval under section 84AAJ.

(3) On receiving an application under subsection (1) relating to a suspension or revocation of an approval under section 84AAK, the Secretary must reconsider the decision and:

(a) affirm the suspension or revocation; or

(b) reinstate the approval.

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

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

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

(5) In this section:

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

84AB Pharmaceutical items

If:

(a) a declaration under subsection 85(2) is in force in relation to a drug or medicinal preparation (the ***drug***); and

(b) a determination under subsection 85(3) is in force in relation to a form of the drug; and

(c) a determination under subsection 85(5) is in force in relation to a manner of administration of that form of the drug;

then the drug in that form with that manner of administration is a ***pharmaceutical item***.

84ABA References to pharmaceutical items, combination items or pharmaceutical benefits having a drug

(1) A reference in this Part to a pharmaceutical item having a drug is a reference to the pharmaceutical item having the drug or medicinal preparation referred to in paragraph 84AB(a) in the application of that paragraph to the pharmaceutical item.

(2) A reference in this Part to a combination item having a drug is a reference to the combination item having the drug or medicinal preparation referred to in paragraph 84AB(a) in the application of that paragraph to the pharmaceutical item that is the combination item.

(3) A reference in this Part to a pharmaceutical benefit having a drug is a reference to the pharmaceutical benefit having the drug or medicinal preparation referred to in paragraph (a) of the definition of ***pharmaceutical benefit*** in subsection 84(1) in relation to the pharmaceutical benefit.

84AC When listed drug is on F1 or F2

F1

(1) A ***drug is on F1*** if there is a determination in force under section 85AB or 99AEJ that the drug is on F1.

(2) A ***drug is on F1*** if:

(a) the regulations prescribe that the drug is on F1; and

(b) there is not a determination under section 85AB in force that the drug is on F2.

F2

(3) A ***drug is on F2*** if there is a determination in force under section 85AB that the drug is on F2.

(4) A ***drug is on F2*** if the regulations prescribe that the drug is on F2.

Regulations

(5) On the day on which this section commences, the regulations may prescribe that a drug or medicinal preparation that is a listed drug on that day is on F1 or F2.

84AD When listed drug is in Part A or Part T of F2

Part A

(1) A ***drug is in Part A of F2*** if there is a determination in force under section 85AC that the drug is in Part A of F2.

(2) A ***drug is in Part A of F2*** if the regulations prescribe that the drug is in Part A of F2.

Part T

(3) A ***drug is in Part T of F2*** if there is a determination in force under section 85AC that the drug is in Part T of F2.

(4) A ***drug is in Part T of F2*** if the regulations prescribe that the drug is in Part T of F2.

Regulations

(5) Regulations made under subsection 84AC(5) that prescribe that a drug is on F2 may also prescribe that the drug is in Part A or Part T of F2.

(6) Regulations made for subsection (2) or (4) cease to be in force on 1 December 2010.

(7) Regulations made for subsection (5), to the extent that they prescribe that a drug is in Part A or Part T of F2, cease to be in force on 1 December 2010.

Note: Subsection (7) does not affect the regulations to the extent that they prescribe that a drug is on F1 or F2.

84AE Co‑marketed brands

When co‑marketed brands are to be treated as one brand

(1) For the purposes of section 85AB, 2 or more brands of a pharmaceutical item that are co‑marketed brands of the pharmaceutical item are to be treated as if they were only one brand of the pharmaceutical item.

Meaning of co‑marketed brands

(2) 2 or more brands of a pharmaceutical item are ***co‑marketed brands*** of the pharmaceutical item if:

(a) a determination is in force under subsection (3) that the brands are co‑marketed brands of the pharmaceutical item; or

(b) both of the following apply:

(i) the regulations prescribe under subsection (4) that the brands are co‑marketed brands of the pharmaceutical item;

(ii) there is no determination in force under subsection (3B) that the brands cease to be co‑marketed brands of the pharmaceutical item.

Ministerial determination

(3) The Minister may, by legislative instrument, determine that 2 or more brands (the ***co‑marketed brands***) of a pharmaceutical item (the ***co‑marketed item***) are co‑marketed brands of the co‑marketed item if the following paragraphs are satisfied:

(a) within 4 months of the first of the co‑marketed brands of the co‑marketed item being included on the Australian Register of Therapeutic Goods, applications are made to include the other co‑marketed brands of the co‑marketed item on the Register;

(b) the first determination that is made under subsection 85(6) in relation to a brand of the co‑marketed item is made only in relation to the co‑marketed brands of the co‑marketed item;

(c) each of the co‑marketed brands is a listed brand of the co‑marketed item;

(d) no other brand is a listed brand of the co‑marketed item;

(e) if there is another pharmaceutical item that has the same drug as the co‑marketed item:

(i) each of the co‑marketed brands is a listed brand of that pharmaceutical item; and

(ii) no other brand is a listed brand of that pharmaceutical item.

(3A) The Minister may, by legislative instrument, vary or revoke a determination under subsection (3) so that all brands (the ***co‑marketed brands***) that are co‑marketed brands of a pharmaceutical item (the ***co‑marketed item***) cease to be co‑marketed brands of the co‑marketed item if:

(a) any of the co‑marketed brands is not a listed brand of the co‑marketed item; or

(b) another brand is a listed brand of the co‑marketed item; or

(c) if there is another pharmaceutical item that has the same drug as the co‑marketed item:

(i) any of the co‑marketed brands is not a listed brand of that pharmaceutical item; or

(ii) another brand is a listed brand of that pharmaceutical item.

(3B) The Minister may, by legislative instrument, determine that all brands (the ***co‑marketed brands***) that are prescribed by the regulations as being co‑marketed brands of a pharmaceutical item (the ***co‑marketed item***) cease to be co‑marketed brands of the co‑marketed item if:

(a) any of the co‑marketed brands is not a listed brand of the co‑marketed item; or

(b) another brand is a listed brand of the co‑marketed item; or

(c) if there is another pharmaceutical item that has the same drug as the co‑marketed item:

(i) any of the co‑marketed brands is not a listed brand of that pharmaceutical item; or

(ii) another brand is a listed brand of that pharmaceutical item.

Regulations

(4) For the purposes of paragraph (2)(b), on the day on which this section commences, the regulations may prescribe that 2 or more brands that are listed brands of a pharmaceutical item on that day are co‑marketed brands of the pharmaceutical item.

84AF Responsible person for a brand of a pharmaceutical item

(1) The Minister may, by legislative instrument, determine that a person is the responsible person for a brand of a pharmaceutical item if:

(a) the person notified the Minister that the person is or will be the supplier of the brand of the pharmaceutical item to:

(i) wholesalers; or

(ii) in the case of a supply where wholesalers are not involved—approved pharmacists directly; and

(b) the brand of the pharmaceutical item is a listed brand; and

(c) there is no determination in force under this section that another person is the responsible person for:

(i) the brand of the pharmaceutical item; or

(ii) the brand of any other pharmaceutical item.

(2) The notification referred to in paragraph (1)(a) may be made before or after the commencement of this section.

84AG Therapeutic groups

Determinations

(1) The Minister may, by legislative instrument, determine:

(a) one or more therapeutic groups; and

(b) that 2 or more listed drugs are in the same therapeutic group.

(1A) If the Minister proposes to make a determination under paragraph (1)(a), the Minister must obtain the advice in writing of the Pharmaceutical Benefits Advisory Committee in relation to the proposed determination.

(2) A determination for the purposes of paragraph (1)(b) may specify the circumstances in which a listed drug is, or is not, in a therapeutic group.

(3) In making a determination for the purposes of paragraph (1)(b), the Minister may have regard to advice (if any) given (whether before or after the commencement of this section) to the Minister by the Pharmaceutical Benefits Advisory Committee to the effect that a drug or medicinal preparation should, or should not, be treated as interchangeable on an individual patient basis with another drug or medicinal preparation.

(4) If:

(a) section 99ADH has applied to a brand of a pharmaceutical item; and

(b) the Minister has determined, under paragraph (1)(b), that the drug in the pharmaceutical item is in a therapeutic group;

the Minister must, by legislative instrument, vary the determination to remove the drug from that group with effect on the day that section 99ADH applied to the brand of the pharmaceutical item.

(5) Without limiting the powers of the Minister under subsection (1), the Minister may, by legislative instrument, vary a determination to remove a drug from a therapeutic group that contains only 2 drugs. In that case, the group will contain only that remaining drug.

Regulations

(6) On the day on which this section commences, the regulations may prescribe one or more therapeutic groups.

84AH Exempt items

The Minister may, by legislative instrument, determine that a pharmaceutical item (the ***relevant item***) is an ***exempt item*** if:

(a) there is only one listed brand of the relevant item; and

(b) there are no listed brands of other pharmaceutical items that are bioequivalent or biosimilar to the listed brand of the relevant item; and

(c) the relevant item and at least one listed brand of another pharmaceutical item have the same drug; and

(d) the Minister is satisfied, having regard to advice (if any) given to the Minister by the Pharmaceutical Benefits Advisory Committee (whether before or after the commencement of this section), that:

(i) the listed drug in the relevant item represents suitable therapy for a particular patient population; and

(ii) the relevant item is suitable for use by a particular subgroup of that population because of either or both of the form and manner of administration of the drug in the item; and

(iii) no other pharmaceutical item that has that drug is suitable for use by that subgroup because of either or both of the form and manner of administration of the drug in that other item.

84AI Rounding amounts

If an amount worked out under this Part is not a number of whole cents, round the amount to the nearest cent (rounding 0.5 cents upwards).

84AJ When pharmaceutical benefits are Schedule equivalent

A pharmaceutical benefit (the ***first benefit***) is ***Schedule equivalent*** to another pharmaceutical benefit (the ***second benefit***) if the Schedule of Pharmaceutical Benefits referred to in paragraph 103(2A)(b) states that the first benefit and the second benefit are equivalent.

Division 1A—Safety net concession cards and pharmaceutical benefits entitlement cards

84B Family relationships

(1) For the purposes of this Division, the following are the members of a person’s family:

(a) the person’s spouse;

(b) any dependent child of the person or the person’s spouse.

(2) For the purposes of this section, a person who is, at any time during a relevant entitlement period, a dependent child of another person shall be taken to be a dependent child of that other person throughout the remainder of that period.

(3) For the purposes of this section, a person shall not be taken to have the custody of a child unless the person, whether alone or jointly with another person, has the right to have, and to make decisions concerning, the daily care and control of the child.

(4) In this section:

***child*** means a person who:

(a) is under the age of 16 years; or

(b) is a student child.

***dependent child***, in relation to a person, means:

(a) a child under the age of 16 years who is:

(i) in the custody, care and control of the person; or

(ii) where no other person has the custody, care and control of the child—is wholly or substantially in the care and control of the person; or

(b) a student child who is wholly or substantially dependent on the person.

***spouse***, in relation to a person, means:

(a) a person who is legally married to, and is not living, on a permanent basis, separately and apart from, that person; and

(b) a de facto partner of the person within the meaning of paragraph (a) of the definition of ***de facto partner*** in subsection 4(1), who is not living, on a permanent basis, separately and apart from the person;

(c) a de facto partner of the person within the meaning of paragraph (b) of the definition of ***de facto partner*** in subsection 4(1).

***student child*** means a person who:

(a) has attained the age of 16 years but has not attained the age of 25 years; and

(b) is receiving full‑time education at a school, college or university.

(5) For the purposes of the definition of ***spouse*** in subsection (4):

(a) a person who is the spouse of another person (the ***person’s*** ***partner***) under paragraph (a) or (b) of the definition is not taken to be living separately and apart from the person’s partner on a permanent basis, if the person is living apart from the person’s partner only because of the illness or infirmity of either or both of them; and

(b) a person who is the spouse of another person (the ***person’s partner***) under paragraph (c) of the definition is not taken to have ceased to live with the person’s partner on a de facto basis, if the person is living apart from the person’s partner only because of the illness or infirmity of either or both of them.

84BA Supplies of out‑patient medication

(1) The purpose of this section is to make provision so that account may be taken of payments made by a person to a public hospital authority for supplies of out‑patient medication when it is being ascertained, for the purposes of this Part, whether the person is eligible to be issued with a concession card or an entitlement card.

(2) Before the beginning of a relevant entitlement period, the Minister must determine in writing the amounts that, for the purposes of this Part, will be taken to have been paid to a public hospital for supplies of out‑patient medication made, against payment, by the hospital during the relevant entitlement period.

(3) In making a determination, the Minister may determine:

(a) different amounts in respect of a supply of out‑patient medication, having regard to the State or Territory in which the hospital supplying the medication is situated; and

(b) different amounts in respect of:

(i) supplies made to concessional beneficiaries and persons who, in relation to concessional beneficiaries, are dependants within the meaning of subsection 84(4) or (7); and

(ii) supplies made to holders of a concession card; and

(iii) supplies made to general patients other than holders of a concession card.

(4) In this Part:

***applicable amount***, in relation to a supply of out‑patient medication made by a public hospital to a person during a relevant entitlement period, means the amount that, under the determination applicable for that period, is to be taken to have been paid to the hospital for the supply of medication.

84C Eligibility for concession and entitlement cards

(1AA) A person who is both a general patient and an eligible person at any time during a relevant entitlement period is eligible to be issued with a concession card if:

(a) the total of the amounts charged (otherwise than under subsection 87(2A)) to the person for supplies of pharmaceutical benefits (including supplies taken, because of subsection 99(2A) to be supplies otherwise than under this Part) and repatriation pharmaceutical benefits made to the person during the period and of the applicable amounts in relation to the supplies of out‑patient medication made to the person during the period; or

(b) the total of the amounts charged (otherwise than under subsection 87(2A)) to the person and to the person’s family for supplies for pharmaceutical benefits (including supplies taken, because of subsection 99(2A) to be supplies otherwise than under this Part) and repatriation pharmaceutical benefits made to the person and the person’s family during the period and of the applicable amounts in relation to the supplies of out‑patient medication made to the person and to the person’s family during the period;

is the amount of the general patient safety net (within the meaning of section 99F) or an amount that, together with the amount that the person may be charged under paragraph 87(2)(b), (c) or (e) (whichever is applicable) for the supply of a pharmaceutical benefit, would not be less than the amount of the general patient safety net.

Note: The figures expressed in this subsection in dollars are periodically adjusted under section 99G.

(1C) A person who is a concessional beneficiary during a relevant entitlement period commencing on or after 1 January 1992 is eligible to be issued with an entitlement card in respect of that period if either of the following paragraphs applies:

(a) the total of:

(i) the amounts charged (otherwise than under subsection 87(2A)) for supplies of pharmaceutical benefits and repatriation pharmaceutical benefits made to the person during that period when the person was a concessional beneficiary; and

(ia) the applicable amounts in relation to the supplies of out‑patient medication made to the person during that period when the person was a concessional beneficiary; and

(ii) where the person has, during that period, been a general patient—the transferred value of amounts (if any) charged for supplies of pharmaceutical benefits and repatriation pharmaceutical benefits made to the person, and of applicable amounts in relation to the supplies (if any) of out‑patient medication made to the person, during that period when the person was a general patient;

is the amount of the concessional beneficiary safety net (within the meaning of section 99F) or an amount that, together with the amount chargeable under paragraph 87(2)(a) for the supply of a pharmaceutical benefit would be not less than the amount of the concessional beneficiary safety net;

(b) the total of:

(i) the aggregate of amounts charged (otherwise than under subsection 87(2A)) for supplies of pharmaceutical benefits and repatriation pharmaceutical benefits made to the person and the person’s family during that period when the person was a concessional beneficiary; and

(ia) the applicable amounts in relation to the supplies of out‑patient medication made to the person and the person’s family during that period when the person was a concessional beneficiary; and

(ii) where the person has, during that period, been a general patient—the transferred value of amounts (if any) charged for supplies of pharmaceutical benefits and repatriation pharmaceutical benefits made to the person and the person’s family, and of applicable amounts in relation to the supplies (if any) of out‑patient medication made to the person and the person’s family, during that period when the person was a general patient;

is the amount of the concessional beneficiary safety net (within the meaning of section 99F) or an amount that, together with the amount chargeable under paragraph 87(2)(a) for the supply of a pharmaceutical benefit would be not less than the amount of the concessional beneficiary safety net.

(2) For the purposes of this section, a pharmaceutical benefit supply or a supply of out‑patient medication is taken to have been made, during a relevant entitlement period, to a person’s family if and only if the supply was made, during that period, to:

(a) a person who was, at the time when the person applied for the issue of a concessional card or an entitlement card in respect of that period, a member of the person’s family; or

(b) a person who was, at the time of supply, a member of the person’s family.

(3) Where:

(a) a prescription is for the supply of a pharmaceutical benefit or a repatriation pharmaceutical benefit to a person (in this subsection referred to as the ***patient***); and

(b) upon the prescription, a pharmaceutical benefit or repatriation pharmaceutical benefit (the ***benefit***) is given to another person, as agent for the patient, for supply to the patient;

the benefit shall, for the purposes of this section, be taken to have been supplied to the patient upon the prescription.

(4) The supply or repeated supply of a pharmaceutical benefit to a person shall not be taken into account for the purposes of this section unless:

(a) the pharmaceutical benefit is supplied:

(i) by an approved pharmacist, at or from premises in respect of which the pharmacist is for the time being approved, on presentation of a prescription written by a PBS prescriber in accordance with this Act and the regulations, or, in such circumstances as are prescribed for the purposes of paragraph 89(a), on communication to the pharmacist, in the manner prescribed for the purposes of that paragraph, of a prescription of a PBS prescriber; or

(ii) in accordance with section 92 or 94;

Note: Sometimes a supply can still be taken into account if the pharmacist is approved later. See subsection 99(3B).

(b) at the time of supply, the person:

(iii) was not a holder of an entitlement card;

(c) in a case where the supply is made upon a general benefit prescription, the Commonwealth price for the pharmaceutical benefit exceeds $28.60 and an approved pharmacist or approved medical practitioner is not entitled to be paid by the Commonwealth under subsection 99(2AA) an amount that is equal to the special patient contribution for a brand of a pharmaceutical item that is the pharmaceutical benefit—the amount received in respect of the supply is equal to or exceeds the aggregate of $28.60 and the special patient contribution (if any) for the brand of the pharmaceutical item;

(d) in a case where the supply is made upon a concessional benefit prescription, the Commonwealth price for the pharmaceutical benefit exceeds $4.60 and an approved pharmacist or approved medical practitioner is not entitled to be paid by the Commonwealth under subsection 99(2AA) an amount that is equal to the special patient contribution for a brand of a pharmaceutical item that is the pharmaceutical benefit—the amount received in respect of the supply is equal to or exceeds the aggregate of $4.60 and the special patient contribution (if any) for the brand of the pharmaceutical item; and

(e) in a case where the supply is deemed, by virtue of subsection 99(2A), (2AB) or (2B), to be a supply otherwise than under this Part:

(i) the amount demanded or received in respect of the supply does not exceed the aggregate of:

(A) the price worked out in accordance with a determination in force under subsection (7) for the pharmaceutical benefit;

(B) any charge demanded or received by reason only that the supply was made at a time outside normal trading hours; and

(C) any charge demanded or received in accordance with regulations made for the purposes of paragraph 87(4)(b).

Note: The figures expressed in this subsection in dollars are periodically adjusted under section 99G.

(4AA) The supply or repeated supply of a pharmaceutical benefit or repatriation pharmaceutical benefit to a person must not be taken into account for the purposes of this section if:

(a) it is an early supply of a specified pharmaceutical benefit; and

(b) it is not a supply of out‑patient medication.

(4A) The supply or repeated supply of a repatriation pharmaceutical benefit to a person is not to be taken into account for the purposes of this section unless:

(a) the repatriation pharmaceutical benefit is supplied:

(i) under the scheme established under section 91 of the *Veterans’ Entitlements Act 1986*; or

(ii) in accordance with a determination under paragraph 286(1)(c) of the *Military Rehabilitation and Compensation Act 2004*; or

(iii) under a scheme that applies under section 18 of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*; and

(b) at the time of supply the person was not a holder of an entitlement card.

(4B) A supply of out‑patient medication to a person is not to be taken into account for the purposes of this section if, at the time of the supply, the person is the holder of an entitlement card.

(7) The Minister may determine the manner in which the price for all or any pharmaceutical benefits is to be ascertained for the purpose of this section.

(8) A manner determined under subsection (7) shall:

(a) in the case of a pharmaceutical benefit that is a listed brand of a pharmaceutical item—take as a basis the approved price to pharmacists of the brand of the pharmaceutical item that was in force on the first day of the month of the year in which the supply occurs; and

(b) in the case of other pharmaceutical benefits—take as a basis the basic wholesale price of each ingredient that is applicable on the day on which the supply occurs; and

(c) provide for the addition of such fees and other amounts as are determined by the Tribunal for the purposes of paragraph 98B(2)(c); and

(d) provide for the addition of such other fees and other amounts as are determined by the Minister.

(9) The Minister shall not determine an amount for the purpose of paragraph (8)(d) unless the Pharmacy Guild of Australia has agreed in writing to the making of that determination.

(10) A determination under subsection (7) shall:

(a) be made by notice in writing published in the *Gazette*; and

(b) come into operation on such date as is specified in the determination.

(11) In this section, unless the contrary intention appears:

***basic wholesale price*** has the same meaning as in section 98B.

***pharmaceutical benefit supply*** means a supply or a repeated supply of a pharmaceutical benefit or repatriation pharmaceutical benefit.

84CA Modification of amounts paid

For the purposes of subsection 84C(1C), the transferred value of amounts charged for, or applicable in relation to, supplies is worked out by multiplying $4.60 by the number of supplies.

Note: The figure expressed in this section in dollars is periodically adjusted under section 99G.

84D Pharmaceutical benefits prescription record forms etc.

(1) Upon application, the Secretary shall issue to a person a pharmaceutical benefits prescription record form in accordance with subsections (3) and (4).

(1A) Upon application, the Secretary must issue to a person an out‑patient medication prescription record form in accordance with subsections (3) and (4).

(2) An approved pharmacist, approved medical practitioner or approved hospital authority may issue to a person a pharmaceutical benefits prescription record form in accordance with subsections (3) and (4).

(2A) A public hospital authority may issue to a person an out‑patient medication prescription record form in accordance with subsections (3) and (4).

(3) A pharmaceutical benefits prescription record form and an out‑patient medication prescription record form must:

(a) be in accordance with the form approved by the Secretary; and

(b) include the prescribed particulars of the person to whom the form is issued.

(4) A pharmaceutical benefits prescription record form or an out‑patient medication prescription record form issued to a person may include the prescribed particulars of any person who is a member of the person’s family and:

(c) is not a holder of an entitlement card.

(5) Where a pharmaceutical benefits prescription record form or an out‑patient medication prescription record form is issued to a person, the person and each member of the person’s family whose particulars are included in the form in accordance with subsection (4) shall be taken, for the purposes of this section, to be a holder of the form.

(6) Where:

(a) an approved pharmacist, approved medical practitioner or approved hospital authority supplies a pharmaceutical benefit or repatriation pharmaceutical benefit to a holder of a pharmaceutical benefits prescription record form;

(b) the form is presented at the time of supply; and

(c) the supply is:

(i) a supply of a pharmaceutical benefit to be taken into account under subsection 84C(4) for the purposes of section 84C; or

(ii) a supply of a repatriation pharmaceutical benefit to be taken into account, under subsection 84C(4A), for the purposes of section 84C;

the pharmacist, medical practitioner or authority shall record the supply of that pharmaceutical benefit on the form.

(7) A record made for the purposes of subsection (6) shall include:

(a) the prescribed particulars of the prescription upon which the pharmaceutical benefit or repatriation pharmaceutical benefit is supplied;

(b) the date on which the pharmaceutical benefit or repatriation pharmaceutical benefit is supplied; and

(c) such other particulars in relation to the supply of the pharmaceutical benefit or repatriation pharmaceutical benefit as are prescribed;

and shall be signed by:

(d) in a case where the record is made by an approved pharmacist—the pharmacist;

(e) in a case where the record is made by an approved medical practitioner—the medical practitioner; or

(f) in a case where the record is made by an approved hospital authority—the medical practitioner or pharmacist by or under whose supervision the pharmaceutical benefit or repatriation pharmaceutical benefit is dispensed.

(8) An approved pharmacist may authorise a person to record, on behalf of the pharmacist, the supply of pharmaceutical benefits and repatriation pharmaceutical benefits for the purposes of subsection (6).

(9) A reference in subsection (7) to an approved pharmacist includes a reference to a person authorised by a pharmacist under subsection (8) to record, on behalf of the pharmacist, the supply of pharmaceutical benefits and repatriation pharmaceutical benefits.

(10) Where:

(a) an out‑patient medication is supplied to the holder of an out‑patient medication prescription record form; and

(b) the form is presented at the time of supply; and

(c) the supply is not excluded under subsection 84C(4B) from being taken into account for the purposes of section 84C;

the medical practitioner or pharmacist by whom, or under whose supervision, the medication is dispensed, or any person authorised under subsection (12) to do so, must record the supply of the medication on the form.

(11) A record made for the purposes of subsection (10) must include:

(a) the prescribed particulars of the prescription upon which the medication is supplied; and

(b) the date on which the medication is supplied; and

(c) any other particulars of the supply that are prescribed;

and must be signed by the person making the record.

(12) The public hospital authority of a public hospital may authorise in writing a person employed at the hospital to record, for the purposes of subsection (10), the supply of an out‑patient medication dispensed by, or under the supervision of, a medical practitioner or pharmacist.

84DA Issue of safety net concession card

(1) Where:

(a) a person applies, either personally or through the person’s agent, to the Secretary for a safety net concession card in respect of a relevant entitlement period; and

(b) the Secretary is satisfied that the person is eligible to be issued with such a card in respect of that period;

the Secretary must issue a safety net concession card to the person in respect of that period.

(2) Where:

(a) a person applies, either personally or through the person’s agent, to an approved pharmacist, approved medical practitioner, approved hospital authority or public hospital authority for a safety net concession card in respect of a relevant entitlement period; and

(b) the pharmacist, medical practitioner or authority is satisfied that the person is eligible to be issued with such a card in respect of that period;

the pharmacist, medical practitioner or authority may issue a safety net concession card to the person in respect of that period.

(3) An application under subsection (1) or (2) must:

(a) be in the form approved by the Secretary; and

(b) contain such particulars, and be accompanied by such documents, as are prescribed; and

(c) be signed by the person making the application or by the person’s agent.

(4) Where an application is made to a person for the issue of a safety net concession card, the person to whom the application is made must, in determining whether to issue a card, have regard to:

(a) the matters contained in the application;

(b) any record form or other document that accompanies the application; and

(c) such other matters as the person considers relevant.

(5) Where:

(a) a person applies, either personally or through the person’s agent, to an approved pharmacist, approved medical practitioner, approved hospital authority or public hospital authority for a safety net concession card in respect of a relevant entitlement period; and

(b) the pharmacist, medical practitioner or authority issues such a card to the person in respect of that period;

the pharmacist, medical practitioner or authority must submit the application, and all documents that accompanied the application, to the Secretary by lodging them at a prescribed office within one month (or such longer period as is prescribed) after the day on which the card is issued.

84E Issue of pharmaceutical benefits entitlement card

(1) Where:

(a) a person applies, either personally or through the person’s agent, to the Secretary for a pharmaceutical benefits entitlement card in respect of a relevant entitlement period; and

(b) the Secretary is satisfied that the person is eligible to be issued with a pharmaceutical benefits entitlement card in respect of that period;

the Secretary shall issue a pharmaceutical benefits entitlement card to the person in respect of that period.

(2) Where:

(a) a person applies, either personally or through the person’s agent, to an approved pharmacist, approved medical practitioner, approved hospital authority or public hospital authority for a pharmaceutical benefits entitlement card in respect of a relevant entitlement period; and

(b) the pharmacist, medical practitioner or authority is satisfied that the person is eligible to be issued with a pharmaceutical benefits entitlement card in respect of that period;

the pharmacist, medical practitioner or authority may issue a pharmaceutical benefits entitlement card to the person in respect of that period.

(3) An application under subsection (1) or (2) shall:

(a) be in accordance with the form approved by the Secretary;

(b) contain such particulars, and be accompanied by such documents, as are prescribed; and

(c) be signed by the person making the application or by the person’s agent.

(4) Where an application is made to a person for the issue of an entitlement card, the person to whom the application is made shall, in determining whether to issue an entitlement card, have regard to:

(a) the matters contained in the application;

(b) any record form or other document that accompanies the application; and

(c) such other matters as the person considers relevant.

(5) Where:

(a) a person applies, either personally or through the person’s agent, to an approved pharmacist, approved medical practitioner, approved hospital authority or public hospital authority for a pharmaceutical benefits entitlement card in respect of a relevant entitlement period; and

(b) the pharmacist, medical practitioner or authority issues a pharmaceutical benefits entitlement card to the person in respect of that period;

the pharmacist, medical practitioner or authority shall submit the application, and all relevant documents that accompanied or supported the application, to the Secretary by lodging them at a prescribed office within one month (or such longer period as is prescribed) after the day on which the entitlement card is issued.

(7) In subsection (5), ***relevant document*** means a document accompanying an application under subsection (1) or (2).

84F Form of cards

(1) A concession card must be in the form approved by the Secretary for that card.

(1A) An entitlement card must be in the form approved by the Secretary for that card.

(2) Without limiting the generality of subsections (1) and (1A), a concession card and an entitlement card shall include particulars of:

(a) the relevant entitlement period in respect of which the card is issued; and

(b) the person to whom the card is issued and each person who is, at the time when the card is issued, a member of the person’s family.

(3) The omission from a concession card or an entitlement card of particulars of a person who is, at the time when the card is issued, a member of the family of the person to whom the card is issued does not affect the validity of the card.

84G Persons covered by card

Subject to subsection 84H(3), where a concession card or an entitlement card is issued to a person, the person and each person who is, at the time when the card is issued, a member of the person’s family shall be taken, for the purposes of this Act, to be a holder of the card.

84H Additional and replacement cards

(1) Where a concession card or an entitlement card has been issued, an additional concession card or an additional entitlement card (as the case may be) may, in accordance with the regulations, be issued to a person who is a holder of the card.

(2) Without limiting the generality of subsection (1), regulations made for the purposes of that subsection may provide for the issue of an additional card to a person:

(a) who is or was a holder of a concession card or an entitlement card that has been lost, stolen, damaged or destroyed; or

(b) who is a holder of a concession card or an entitlement card but whose particulars are not included on the card.

(3) Where:

(a) a person (in this subsection called the ***original card holder***) has been issued with a concession card, or an entitlement card, in respect of a relevant entitlement period; and

(b) a person (in this subsection referred to as the ***new family member***) becomes, after the issue of the card and during that period, a member of the original card holder’s family;

a replacement concession card or a replacement entitlement card (as the case may be) may, in accordance with the regulations, be issued to the original card holder, being a card that includes particulars of the holders of the original card and of the new family member and, where such a replacement card is issued, each holder of the original card and the new family member shall be taken, from the time when the replacement card is issued, to be a holder of the replacement card.

(4) Regulations made for the purposes of subsection (1) or (3) may provide for application to be made to the Administrative Appeals Tribunal for review of a decision of a person refusing to issue an additional card or a replacement card.

84HA Fee to approved pharmacist etc. for issuing card

(1) An approved pharmacist, approved medical practitioner or approved hospital authority who issues a safety net concession card, a pharmaceutical benefits entitlement card or an additional or replacement card in relation to any of those cards is entitled to be paid by the Commonwealth, in respect of the issue of the card, the fee determined by the Minister, for the purposes of this section, for the issue of cards generally or for the issue of cards of that kind, as the case requires.

(2) The Minister shall not determine a fee for the purposes of this section unless the Pharmacy Guild of Australia has agreed in writing to the making of that determination.

(3) A determination under subsection (1) shall:

(a) be made by notice in writing published in the *Gazette*; and

(b) come into operation on such day as is specified in the determination.

84J Period of effect of card

A concession card or an entitlement card issued in respect of a relevant entitlement period commences to have effect on the day on which it is issued and ceases to have effect at the end of that period.

84K Return of card

Where a concession card or an entitlement card is issued to a person who is not eligible to be issued with the card, the Secretary may, by notice in writing to a holder of the card, require the holder to deliver the card, within such period (not being a period of less than 7 days) as is specified in the notice, to:

(a) the Secretary; or

(b) such other person as is specified in the notice;

for cancellation and the holder shall comply with the notice.

84L Offences

(1) An approved pharmacist, approved medical practitioner, approved hospital authority or public hospital authority shall not issue a concession card or an entitlement card to a person who is not eligible to be issued with such a card.

Penalty: $5,000 or imprisonment for 2 years, or both.

(2) An approved pharmacist, approved medical practitioner, approved hospital authority or public hospital authority shall not include in a concession card or an entitlement card, as the name of a member of a person’s family, the name of a person who is not a member of the person’s family.

Penalty: $5,000 or imprisonment for 2 years, or both.

(3) A person shall not fail to comply with a notice given to the person under section 84K.

Penalty: $2,000 or imprisonment for 12 months, or both.

(4) A person shall not fail to comply with subsection 84DA(5) or 84E(5).

Penalty for contravention of this subsection: $2,000 or imprisonment for 12 months, or both.

(5) Subsections (3) and (4) do not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3) of the *Criminal Code*.

Division 2—Supply of pharmaceutical benefits

85 Pharmaceutical benefits

Pharmaceutical benefits

(1) Benefits shall be provided by the Commonwealth, in accordance with this Part, in respect of pharmaceutical benefits.

Note 1: While most pharmaceutical benefits are generally available for supply under this Part, some pharmaceutical benefits (see section 85AA) can only be supplied under this Part in accordance with special arrangements under section 100.

Note 2: Special arrangements under section 100 can modify the effect of this Part in relation to the supply of pharmaceutical benefits that are covered by the arrangements (see subsection 100(3)).

Drugs etc.

(2) The drugs and medicinal preparations in relation to which this Part applies are:

(a) drugs and medicinal preparations that are:

(i) declared by the Minister, by legislative instrument, to be drugs and medicinal preparations to which this Part applies; or

(ii) included in a class of drugs and medicinal preparations declared by the Minister, by legislative instrument, to be a class of drugs and medicinal preparations to which this Part applies; and

(b) medicinal preparations composed of:

(i) one or more of the drugs and medicinal preparations referred to in paragraph (a), being a drug or medicinal preparation that is, or drugs and medicinal preparations that are, included in a class of drugs and medicinal preparations declared by the Minister, by legislative instrument, to be a class of drugs and medicinal preparations to which this paragraph applies; and

(ii) one or more of such additives as are declared by the Minister, by legislative instrument, to be additives to which this paragraph applies.

Note 1: The Minister cannot make a declaration under this subsection in relation to a drug or medicinal preparation unless the Pharmaceutical Benefits Advisory Committee has recommended that the drug or medicinal preparation be declared (see subsections 101(4) and (4A)).

Note 2: If the Minister makes a declaration in relation to a drug or medicinal preparation under this subsection, the Minister cannot vary or revoke that declaration so as to delist the drug or medicinal preparation without first obtaining the Pharmaceutical Benefits Advisory Committee’s advice (see subsection 101(4AAB)).

Drugs etc. that can only be supplied under special arrangements

(2A) If:

(a) the Minister makes a declaration under subsection (2) in relation to a drug or medicinal preparation (the ***drug***); and

(b) the Pharmaceutical Benefits Advisory Committee has recommended under subsection 101(4AAD) that the drug be made available only under special arrangements under section 100;

then the Minister must, by legislative instrument, declare that the drug can only be supplied under such special arrangements.

Note: If the Minister makes a declaration in relation to a drug or medicinal preparation under this subsection, the Minister cannot vary or revoke that declaration without first satisfying the conditions set out in subsection 101(4AAF).

Forms

(3) The Minister may, by legislative instrument, determine, by reference to strength, type of unit, size of unit or otherwise, the form or forms of a listed drug.

(4) A form of a listed drug as determined by the Minister under subsection (3) may be such as to require the addition of a substance or substances to the drug so that it will be suitable for administration in a particular manner or at a particular strength.

Manners of administration

(5) The Minister may, by legislative instrument, determine the manner of administration of a form of a listed drug, being a form of the drug in relation to which a determination under subsection (3) is in force.

Brands

(6) The Minister may, by legislative instrument, determine a brand of a pharmaceutical item.

Prescriptions of pharmaceutical benefits in certain circumstances

(7) The Minister may, by legislative instrument, determine:

(a) that a particular pharmaceutical benefit is to be a relevant pharmaceutical benefit for the purposes of section 88A; and

(b) the circumstances in which a prescription for the supply of the pharmaceutical benefit may be written.

Pharmaceutical benefits that can only be supplied under special arrangements

(8) The Minister may, by legislative instrument, determine that:

(a) a particular pharmaceutical benefit (other than a pharmaceutical benefit that has a drug covered by subsection (2A)) can only be supplied under special arrangements under section 100; or

(b) one or more of the circumstances in which a prescription for the supply of a pharmaceutical benefit may be written under paragraph (7)(b) are circumstances in which the benefit can only be supplied under special arrangements under section 100.

85AA Pharmaceutical benefits that can only be supplied under special arrangements

(1) If the Minister makes a declaration under subsection 85(2A) in relation to a drug or medicinal preparation (the ***drug***), then every pharmaceutical benefit that has that drug can only be supplied under this Part in accordance with special arrangements under section 100.

(2) If the Minister makes a determination under paragraph 85(8)(a) in relation to a pharmaceutical benefit, then that pharmaceutical benefit can only be supplied under this Part in accordance with special arrangements under section 100.

(3) If the Minister makes a determination under paragraph 85(8)(b) about the circumstances in which a pharmaceutical benefit can only be supplied under special arrangements under section 100, then, in those circumstances, the pharmaceutical benefit can only be supplied under this Part in accordance with those arrangements.

85A Determinations of forms of pharmaceutical benefits or pharmaceutical items with respect to classes of persons

(1) The Minister may determine, by reference to strength, type of unit, size of unit or otherwise, the form or forms of a pharmaceutical benefit or pharmaceutical item that is or are allowable for the purposes of this Part for prescription by persons included in a class of persons specified in the determination.

(2) The Minister may, with respect to the writing of prescriptions by persons included in a specified class of persons for the supply of a pharmaceutical benefit:

(a) determine the maximum quantity or number of units of:

(i) if the pharmaceutical benefit has a pharmaceutical item—the pharmaceutical item; or

(ii) in any other case—the pharmaceutical benefit;

that may, in one prescription, be directed to be supplied on any one occasion, either for all purposes or for particular purposes; and

(b) determine the maximum number of occasions on which the supply of the pharmaceutical benefit may, in one prescription, be directed to be repeated, either for all purposes or for particular purposes; and

(c) determine the manner of administration that may, in a prescription, be directed to be used in relation to the pharmaceutical benefit.

(3) The regulations may make provision authorizing the variation of the application, in relation to persons included in a class of persons, of a determination under paragraph (2)(a) or (b) and, where such a variation is made, the determination shall be deemed to have effect as varied.

(4) A copy of each determination made by the Minister under this section shall be published in the *Gazette*.

85AB Minister may determine that a listed drug is on F1 or F2

(1) Subject to subsection (5), the Minister may, by legislative instrument, determine that a listed drug is on F1 or F2.

(2) The Minister may only determine that the drug is on F1 if the drug satisfies all the criteria for F1.

Note: For other circumstances in which the Minister may determine that a listed drug is on F1, see section 99AEJ.

(3) The Minister may only determine that the drug is on F2 if the drug does not satisfy one or more of the criteria for F1.

(4) The ***criteria for F1*** are as follows:

(a) there are no brands of pharmaceutical items that:

(i) have the drug; and

(ii) are bioequivalent or biosimilar; and

(iii) are listed brands of the pharmaceutical items on any day in the relevant period;

(b) there are no brands of pharmaceutical items that:

(i) have another listed drug that is in the same therapeutic group as the drug; and

(ii) are bioequivalent or biosimilar; and

(iii) are listed brands of the pharmaceutical items on any day in the relevant period;

(c) the drug was not on F2 on the day before the determination under subsection (1) comes into force.

(5) This section does not apply to the drug if:

(a) the drug is in a combination item; and

(b) there are no brands of combination items that:

(i) have the drug; and

(ii) are bioequivalent or biosimilar; and

(iii) are listed brands of the combination items on any day in the relevant period.

(6) In this section:

***relevant period*** means the period that consists of:

(a) the day before the day the determination under subsection (1) comes into force; and

(b) the day the determination under subsection (1) comes into force.

85AC Minister may determine that a listed drug is in Part A or Part T of F2

(1) If, under section 85AB, the Minister determines that a drug is on F2, the Minister may, by legislative instrument, determine that the drug is in Part A or Part T of F2.

(2) The Minister may only determine that the drug is in Part A if the drug satisfies neither of the criteria for Part T.

(3) The Minister may only determine that the drug is in Part T if the drug satisfies either or both of the criteria for Part T.

(4) The ***criteria for Part T*** are as follows:

(a) the drug is in the same therapeutic group as a drug that is in Part T;

(b) the drug was in Part T on the day before the determination under subsection (1) comes into force.

(5) A determination under this section ceases to be in force on 1 December 2010.

85AD Price agreements

(1) The Minister and the responsible person for a listed brand of a pharmaceutical item may, from time to time, agree, by reference to a quantity or number of units of the pharmaceutical item, an amount that is, for the purposes of this Part, taken to be the appropriate maximum price for sales of the brand of the pharmaceutical item to approved pharmacists.

Note: Division 3A limits the Minister’s power to agree to amounts for the purposes of subsection (1).

(2) It does not matter that at the time the agreement is made:

(a) the person is not yet the responsible person; or

(b) the item is not yet a pharmaceutical item.

However, the person must be the responsible person, and the item must be the pharmaceutical item, at the time the amount referred to in subsection (1) comes into force.

(3) The agreement must be in writing.

85B Price determinations and special patient contributions

Section applies if no price agreement

(1) This section applies if the Minister and the responsible person for a listed brand of a pharmaceutical item have been unable to make a price agreement for the brand of the pharmaceutical item.

Price determination

(2) The Minister may, by legislative instrument, determine, by reference to a quantity or number of units of the pharmaceutical item, the amount that is, for the purposes of this Part, taken to be the appropriate maximum price for sales of the brand of the pharmaceutical item to approved pharmacists.

Note: Division 3A limits the Minister’s power to determine amounts under subsection (2).

Claimed price determination

(3) The Minister may, by legislative instrument, determine, by reference to a quantity or number of units of the pharmaceutical item, the amount that is, for the purposes of this Part, taken to be the price claimed by the responsible person as the responsible person’s price for sales of the brand of the pharmaceutical item to approved pharmacists.

Special patient contribution

(4) The amount that is the ***special patient contribution*** for the brand of the pharmaceutical item is the difference between the responsible person’s Commonwealth price for the brand of the pharmaceutical item and the Commonwealth price for the brand of the pharmaceutical item.

(5) If the Minister makes a determination under subsection (3), the Minister may, by legislative instrument, determine the circumstances in which the Commonwealth is to pay the special patient contribution for the brand of the pharmaceutical item.

(6) In this section:

***Commonwealth price*** means the Commonwealth price in relation to the brand of the pharmaceutical item.

***responsible person’s Commonwealth price*** means the price that would have been the Commonwealth price in relation to the brand of the pharmaceutical item if that Commonwealth price had been based on the price determined by the Minister under subsection (3) to be the price claimed by the responsible person as the responsible person’s price for sales of the brand of the pharmaceutical item.

86 Entitlement to receive pharmaceutical benefits

(1) Subject to this Part, a person who:

(a) is, or is to be treated as, an eligible person within the meaning of the *Health Insurance Act 1973*; and

(b) is receiving:

(i) medical treatment by a medical practitioner; or

(ii) dental treatment by a participating dental practitioner; or

(iii) optometrical treatment by an authorised optometrist; or

(iv) midwifery treatment by an authorised midwife; or

(v) nurse practitioner treatment by an authorised nurse practitioner;

is entitled to receive pharmaceutical benefits under this Part without the payment or furnishing of money or other consideration other than a charge made in accordance with section 87.

Residency

(2) For the purposes of paragraph (1)(a), while a person is working outside Australia as a Commonwealth officer, he or she is taken to reside in Australia.

(3) For the purposes of paragraph (1)(a), while a person is working outside Australia as a State or Territory officer, he or she is taken to reside in Australia.

(4) For the purposes of paragraph (1)(a), while the spouse, or a dependent child, of a person covered by subsection (2) or (3) is outside Australia accompanying that person, the spouse or child is taken to reside in Australia.

Note: Paragraph (1)(a) refers to a person being an eligible person within the meaning of the *Health Insurance Act 1973*. Under that Act an Australian resident is an eligible person. A person must reside in Australia to be an Australian resident.

Definitions

(5) In this section:

***dependent child*** has the same meaning as in section 84B.

***spouse*** has the same meaning as in section 84B.

86A Pharmaceutical benefits not to be supplied in respect of persons reasonably believed not to be in Australia

(1) An approved supplier must not supply a pharmaceutical benefit in respect of a person if the approved supplier has reason to believe that the person is not in Australia at the time of the supply.

Commonwealth, State or Territory officers working outside Australia

(2) However, subsection (1) does not apply to the supply of a pharmaceutical benefit in respect of:

(a) a person working outside Australia as a Commonwealth officer; or

(b) a person working outside Australia as a State or Territory officer; or

(c) the spouse, or a dependent child, of a person covered by paragraph (a) or (b) if the spouse or child is outside Australia accompanying that person.

Definitions

(3) In this section:

***dependent child*** has the same meaning as in section 84B.

***spouse*** has the same meaning as in section 84B.

86B Approved supplier may request provision of medicare number

Approved supplier may request provision of medicare number

(1) If:

(a) an approved supplier is presented with a prescription for the supply of a pharmaceutical benefit to a person; and

(b) the person presenting the prescription claims to be, or to be the agent of, the person to whom the prescription relates; and

(c) the person presenting the prescription does not request that the drug or medicinal preparation to which the prescription relates not be supplied as a pharmaceutical benefit;

the approved supplier may request the person presenting the prescription to provide to the approved supplier a medicare number applicable to the person to whom the prescription relates and the expiry date in relation to the number.

Inclusion of medicare number in a prescription does not prevent later request

(2) The approved supplier may make the request under subsection (1) whether or not:

(a) the prescription already contains a medicare number as a number applicable to the person to whom the prescription relates; or

(b) the approved supplier’s records already contain such a number (whether with or without the expiry date in relation to that number) recorded and retained in accordance with section 86D.

Approved supplier’s powers if medicare number is provided

(3) If a medicare number is provided to the approved supplier as a number applicable to the person following a request under subsection (1), or is included as such a number in the approved supplier’s records in accordance with section 86D, the approved supplier may:

(a) if the prescription has already been endorsed with a medicare number as such a number, check the number so provided or included against the endorsed number and:

(i) confirm that they are the same; or

(ii) if they are not the same and the approved supplier considers the number so provided or included more reliable than the endorsed number—alter the endorsed number to the number so provided or included or insert the number so provided or included in the CTS claim relating to the prescription, noting the discrepancy; or

(iii) if they are not the same and the approved supplier considers the endorsed number more reliable than the number so provided or included—disregard the number so provided or included and, if making a CTS claim, insert the endorsed number in the CTS claim relating to that prescription; and

(b) if the prescription has not already been endorsed with a medicare number as such a number:

(i) endorse the prescription with the medicare number so provided or included as a number applicable to the person; or

(ii) insert the number so provided or included in the CTS claim relating to that prescription; and

(c) if the approved supplier has also been provided with, or has, in the approved supplier’s records, the expiry date in relation to the medicare number ultimately supplied to the Medicare Australia CEO—confirm that the supply of a pharmaceutical benefit authorised by the prescription is not being sought after the expiry date.

Approved supplier’s powers in respect of prescription (other than communicated prescription) covering person included in class determined under subsection 86E(1)

(4) If:

(a) the prescription for the supply of a pharmaceutical benefit that is presented to the approved supplier does not contain a medicare number as a number applicable to the person to whom the prescription relates; and

(b) despite a request under subsection (1), a medicare number is not provided to the approved supplier as such a number; and

(c) a medicare number is not retained in the approved supplier’s records in accordance with section 86D as such a number; and

(d) the approved supplier is satisfied that the person to whom the prescription relates is included within a class of persons identified by the Minister under subsection 86E(1);

the approved supplier may:

(e) endorse on the prescription the special number applicable to the person as a member of that class; or

(f) insert that number in the CTS claim relating to that prescription.

Approved supplier’s powers in respect of written version of communicated prescription not containing medicare number

(5) If:

(a) a prescription for the supply of a pharmaceutical benefit is not presented to an approved supplier as described in subsection (1) but is communicated to the approved supplier in circumstances set out in regulations made for the purposes of paragraph 89(a); and

(b) the approved supplier later receives a written version of the prescription that does not contain a medicare number as a number applicable to the person to whom the prescription relates;

the approved supplier may, after the written version of the prescription is received, endorse on the written version, or insert in the CTS claim relating to the prescription:

(c) if a medicare number is already retained in the approved supplier’s records in accordance with section 86D as a number applicable to the person to whom the prescription relates—that medicare number; or

(d) if a medicare number is not so retained as a number applicable to the person to whom the prescription relates—the special number applicable to the person under subsection 86E(1) as a person in respect of whom a prescription has been so communicated.

86C On and after 1 January 2001 approved supplier must request provision of medicare number in certain circumstances

Approved supplier must request provision of medicare numbers in certain circumstances

(1) If:

(a) an approved supplier is presented, on or after 1 January 2001, with a prescription for the supply of a pharmaceutical benefit to a person; and

(b) the pharmaceutical benefit is one in respect of the supply of which the approved supplier would, but for the operation of subsection 99(7), be entitled to receive a payment under subsection 99(2) or (4); and

(c) the person presenting the prescription claims to be, or to be the agent of, the person to whom the prescription relates; and

(d) the person presenting the prescription does not request that the drug or medicinal preparation to which the prescription relates not be supplied as a pharmaceutical benefit;

the approved supplier must, if:

(e) the prescription does not contain a medicare number as a number applicable to the person to whom the prescription relates; and

(f) the approved supplier’s records do not already contain a medicare number as such a number (whether with or without the expiry date in relation to that number) recorded and retained in accordance with section 86D;

request the person presenting the prescription to provide to the approved supplier a medicare number applicable to the person to whom the prescription relates and the expiry date in relation to that number.

Inclusion of medicare number in a prescription does not prevent later request

(2) Even if:

(a) the prescription presented to the approved supplier already contains a medicare number as a number applicable to the person to whom the prescription relates; or

(b) the approved supplier’s records already contain a medicare number as such a number (whether with or without the expiry date in relation to that number) recorded and retained in accordance with section 86D;

the approved supplier may request the person presenting the prescription to provide to the approved supplier a medicare number applicable to the person to whom the prescription relates and the expiry date in relation to that number.

Approved supplier’s obligations in relation to medicare number provided

(3) If:

(a) a medicare number is provided to the approved supplier as a number applicable to the person to whom the prescription relates following a request under subsection (1) or is included as such a number in the approved supplier’s records in accordance with section 86D; and

(b) the prescription has not already been endorsed with a medicare number as a number applicable to the person to whom the prescription relates;

the approved supplier must:

(c) endorse the prescription with the medicare number so provided or included; or

(d) insert the number so provided or included in the CTS claim relating to the prescription.

If medicare number is provided, approved supplier may check prescription endorsed by practitioner

(4) If:

(a) a medicare number applicable to the person to whom the prescription relates is provided to the approved supplier following a request under subsection (2) or is included in the approved supplier’s records in accordance with section 86D; and

(b) the prescription has already been endorsed with a medicare number as a number applicable to the person to whom the prescription relates;

the approved supplier may check the number so provided or included against the endorsed number and:

(c) confirm that they are the same; or

(d) if they are not the same and the approved supplier considers the number so provided or included more reliable than the endorsed number:

(i) alter the endorsed number to the number so provided or included; or

(ii) insert the number so provided or included in the CTS claim relating to the prescription, noting the discrepancy; or

(e) if they are not the same and the approved supplier considers the endorsed number more reliable than the number so provided or included—disregard the number so provided or included and, if making a CTS claim, insert the endorsed number in the CTS claim relating to that prescription.

Approved supplier may check to ensure that supply not being sought after relevant expiry date

(5) If the approved supplier has also been provided with, or has in the approved supplier’s records, the expiry date in relation to the medicare number ultimately supplied to the Medicare Australia CEO, the approved supplier may confirm that the supply of the pharmaceutical benefit authorised by the prescription is not being sought after the expiry date.

Requirement in respect of prescription (other than communicated prescription) covering person included in class determined under subsection 86E(1)

(6) If:

(a) the prescription for the supply of a pharmaceutical benefit that is presented to the approved supplierdoes not contain a medicare number as a number applicable to the person to whom the prescription relates; and

(b) despite a request under subsection (1), a medicare number is not provided to the approved supplier as such a number; and

(c) a medicare number is not retained in the approved supplier’s records in accordance with section 86D as such a number; and

(d) the approved supplier is satisfied that the person to whom the prescription relates is included within a class of persons identified by the Minister in a determination under subsection 86E(1);

the approved supplier must:

(e) endorse on the prescription the special number applicable to the person as a member of that class; or

(f) insert that special number in the CTS claim relating to the prescription.

Requirement in respect of written version of communicated prescription not containing medicare number

(7) If:

(a) a prescription for the supply of a pharmaceutical benefit is not presented to an approved supplier as described in subsection (1) but is communicated to the approved supplier in circumstances set out in regulations made for the purposes of paragraph 89(a); and

(b) the pharmaceutical benefit is one in respect of the supply of which the approved supplier would, but for the operation of subsection 99(7), be entitled to receive a payment under subsection 99(2) or (4); and

(c) the approved supplier later receives a written version of the prescription that does not contain a medicare number as a number applicable to the person to whom the prescription relates;

the approved supplier must, after the written version of the prescription is received, endorse on the written version, or insert in the CTS claim relating to the prescription:

(d) if a medicare number is already retained in the approved supplier’s records in accordance with section 86D as a number applicable to the person to whom the prescription relates—that medicare number; or

(e) if a medicare number is not so retained as a number applicable to the person to whom the prescription relates—the special number applicable to the person under subsection 86E(1) as a person in respect of whom a prescription has been so communicated.

Note 1: Subsection 99(7) sets out the consequences of a failure ultimately to supply a medicare number or special number to the Medicare Australia CEO or, in the case of a medicare number that is so supplied, of a discrepancy with a medicare number held in the records of the Medicare Australia CEO.

Note 2: If, because a medicare number is not provided and a special number is not applicable, a person pays the full amount to an approved supplier for the supply of a pharmaceutical benefit, the person may be entitled to an appropriate refund from the Commonwealth (see subsection 87A(2)).

86D Power of approved suppliers to record and retain medicare numbers and expiry dates

Approved supplier may record and retain medicare numbers and expiry dates supplied by or on behalf of patients

(1) If:

(a) an approved supplier is provided with a medicare number as a number applicable to a person (whether with or without the expiry date in relation to that number) either:

(i) as a result of a request under section 86B or 86C; or

(ii) to facilitate the supply of pharmaceutical benefits at a later time or times; and

(b) the approved supplier is satisfied that the person providing the number, or number and date, is:

(i) the person in respect of whom the number was provided; or

(ii) the legal guardian of that person; or

(iii) another person who, in accordance with a written determination made by the Minister for the purposes of this subsection, is capable of giving an authorisation under this subsection;

the approved supplier may, with the authorisation of the person providing the number, or number and date, undertake the permitted recording and retention activities in relation to that number, or number and date.

Supplier may record and retain medicare numbers and expiry dates supplied by PBS prescribers in respect of communicated prescriptions

(2) If:

(a) a prescription for the supply of a pharmaceutical benefit is communicated to an approved supplier in circumstances set out in regulations made for the purposes of paragraph 89(a); and

(b) at the time the prescription is communicated, the PBS prescriber communicating the prescription informs the approved supplier of a medicare number as a number applicable to the person to whom the prescription relates (whether with or without the expiry date in relation to that number);

the approved supplier may undertake the permitted recording and retention activities in relation to that number, or number and date.

Note: An approved supplier can only be informed of a medicare number under this section with the authority of the person whose number it is, or of another person on that person’s behalf (see subsection 88(3B)).

Persons not obliged to authorise recording and retention of particulars

(3) Nothing in this section implies that a person is under any obligation to authorise an approved supplier to undertake the permitted recording and retention activities in respect of a medicare number, or of a medicare number and the expiry date in relation to such a number, provided as a result of a request under section 86B or 86C.

Approved supplier responsible for storage and security

(4) An approved supplier who, under this section, records and retains medicare numbers, or medicare numbers and expiry dates in relation to those numbers, in the approved supplier’s records must ensure:

(a) that the record of those numbers, or numbers and dates, is protected, by such security safeguards as it is reasonable in the circumstances to take, against loss, against unauthorised access, use, modification or disclosure, and against other misuse; and

(b) if it is necessary for access to the record of those numbers, or numbers and dates, to be given to a person in connection with the provision of services to the approved supplier—that everything reasonably within the power of the approved supplier is done to prevent unauthorised use or disclosure of information contained in that record.

Determinations are disallowable instruments

(5) Ministerial determinations for the purposes of subsection (1) are disallowable instruments within the meaning of section 46A of the *Acts Interpretation Act 1901*.

Permitted recording and retention activities

(6) In this section:

***permitted recording*** ***and retention activities***, in relation to a medicare number provided to an approved supplier under subsection (1) or (2) as a number applicable to a person (whether with or without an expiry date in relation to that number), are:

(a) to record and retain that number, or that number and date, in the approved supplier’s records in relation to that person; or

(b) if the approved supplier has already recorded and retained either or both of those particulars in relation to that person by virtue of a previous operation of this section—to check the accuracy and completeness of the recorded particulars in respect of that person and, if the recorded particulars are inaccurate or incomplete, to modify those particulars appropriately.

86E Minister may determine certain persons to be special evidentiary categories

Determination of classes of persons whose entitlement to pharmaceutical benefits can be evidenced otherwise than by provision of medicare numbers

(1) The Minister may, by written instrument, determine that certain classes of persons are classes of persons in respect of whom an entitlement to pharmaceutical benefits can be evidenced otherwise than by provision of a medicare number.

Classes that may be the subject of a determination

(2) Without limiting the classes that may be so determined, those classes may include the following:

(a) persons who are not legally competent;

(b) persons requiring drugs or medicinal preparations in an emergency;

(c) foreign persons:

(i) who are entitled to be treated as eligible persons within the meaning of the *Health Insurance Act 1973* under section 7 of that Act; and

(ii) who are able to produce evidence, of a kind specified in the determination, to prove that entitlement;

(d) persons in respect of whom a prescription is communicated in circumstances set out in regulations made for the purposes of paragraph 89(a).

Determinations may set out particulars of which suppliers must be satisfied

(3) In a determination under subsection (1), the Minister may set out:

(a) the particular matters in respect of which an approved supplier must be satisfied before being satisfied that a person is included within a particular class determined under that subsection; and

(b) the procedure to be followed by the approved supplier in establishing such matters.

Determinations under subsection (1) must establish procedure for allocation of special numbers

(4) The Minister must include, in each determination under subsection (1) that identifies a class of persons, a procedure for allocating a particular combination of numbers, or letters and numbers, that is to be the special number applicable to a person included within that class as a member of that class.

Determinations are disallowable instruments

(5) Ministerial determinations under subsection (1) are disallowable instruments within the meaning of section 46A of the *Acts Interpretation Act 1901*.

87 Limited charges for pharmaceutical benefits

(1) Subject to this section, an approved pharmacist, a medical practitioner or an approved hospital authority shall not demand or receive a payment (other than a payment from the Commonwealth) or other valuable consideration in respect of the supply of a pharmaceutical benefit.

(2) Subject to subsection (2A), an approved pharmacist or an approved medical practitioner acting in accordance with his or her approval may, in respect of each supply (including each repeated supply) by the approved pharmacist or approved medical practitioner, as the case may be, of a pharmaceutical benefit:

(a) upon:

(i) a concessional benefit prescription; or

(ii) an entitlement card prescription where the supply is an early supply of a specified pharmaceutical benefit; or

(iii) a concession card prescription (other than where the supply is an early supply of a specified pharmaceutical benefit);

charge the person to whom the pharmaceutical benefit is supplied $4.60; or

(b) upon a general benefit prescription if, during the relevant entitlement period in which the supply is made, the person supplied has previously been charged, for supplies of pharmaceutical benefits, an amount that is not less than the amount of the general patient safety net (within the meaning of section 99F)—charge the person $4.60; or

(c) upon a general benefit prescription if, during the relevant entitlement period in which the supply is made, the person supplied, together with the members of his or her family (within the meaning of Division 1A), has previously been charged, for supplies of pharmaceutical benefits, an amount that is not less than the amount of the general patient safety net (within the meaning of section 99F)—charge the person $4.60; or

(e) upon a general benefit prescription (other than one relating to a supply to which paragraph (b) or (c) applies), or a concession card prescription (where the supply is an early supply of a specified pharmaceutical benefit)—charge the person to whom the pharmaceutical benefit is supplied $28.60.

Note: The figures expressed in this subsection in dollars are periodically adjusted under section 99G.

(2AAA) Paragraphs (2)(b) and (c) do not apply to an early supply of a specified pharmaceutical benefit.

(2AA) For the purposes of paragraphs 2(b) and (c), a person is taken to have been charged the price worked out in accordance with a determination in force under subsection 84C(7) for each supply, during the relevant entitlement period, of a pharmaceutical benefit that is taken, because of subsection 99(2A), to be a supply otherwise than under this Part.

(2AB) In determining, for the purposes of paragraph (2)(b) or (c), an amount that has previously been charged for supplies of pharmaceutical benefits:

(a) supplies taken, because of subsection 99(2A), to be supplies otherwise than under this Part are taken to be supplies of pharmaceutical benefits; and

(b) supplies of repatriation pharmaceutical benefits are taken to be supplies of pharmaceutical benefits; and

(c) any additional amounts charged under subsection (2A) are to be disregarded; and

(d) the amount that would, apart from paragraph (2)(b) or (c) (as the case requires), be chargeable in respect of the particular supply in question is to be included; and

(e) any amount charged in respect of an early supply of a specified pharmaceutical benefit (other than a supply of out‑patient medication) is to be disregarded.

(2A) In addition to any amount that may be charged in accordance with subsection (2), an approved pharmacist or an approved medical practitioner acting in accordance with his or her approval may, in respect of each supply (including each repeated supply) of a pharmaceutical benefit that is a listed brand of a pharmaceutical item and in relation to which a determination under section 85B is in force, charge the person to whom it is supplied an amount equal to the special patient contribution for the brand of the pharmaceutical item, unless the approved pharmacist or approved medical practitioner is entitled to be paid by the Commonwealth that special patient contribution under subsection 99(2AA).

(3) Where an approved pharmacist or an approved medical practitioner supplies a pharmaceutical benefit in accordance with a direction included in a prescription in pursuance of subsection 88(6) or (6A), the amount chargeable in accordance with subsection (2), of this section is, in lieu of whichever of the amounts referred to in subsection (2), of this section is applicable, an amount equal to the product of that applicable amount and the minimum number of occasions of supply that would have had to be directed if the medical practitioner, authorised midwife or authorised nurse practitioner had prescribed the same total quantity or number of units of the pharmaceutical benefit by way of repeated supplies.

(3A) An approved pharmacist, approved medical practitioner or approved hospital authority shall not supply a pharmaceutical benefit to a person on terms that are appropriate for the supply of the benefit to:

(ba) a holder of a concession card; or

(c) a holder of an entitlement card; or

(d) a concessional beneficiary; or

(e) a person who is a dependant of a concessional beneficiary within the meaning of subsection 84(4) or (7); or

(f) a general patient;

unless the pharmacist, medical practitioner or authority is satisfied that the person is entitled to receive the benefit on those terms.

(3B) Without limiting the generality of subsection (3A), an approved pharmacist, approved medical practitioner or approved hospital authority may refuse to supply a pharmaceutical benefit to a person on terms that are appropriate for the supply of the benefit to:

(ba) a holder of a concession card; or

(c) a holder of an entitlement card; or

(d) a concessional beneficiary; or

(e) a person who is a dependant of a concessional beneficiary within the meaning of subsection 84(4) or (7); or

(f) a general patient;

unless the person produces evidence (whether by way of the production of a card or evidence of identity or otherwise) to the pharmacist, medical practitioner or authority that the person is entitled to receive the benefit on those terms.

(4) The regulations may provide for the making of a charge, not exceeding an amount ascertained in accordance with the regulations:

(b) by an approved pharmacist or an approved medical practitioner in respect of the supply of a pharmaceutical benefit by delivery at or to a place other than premises in respect of which the approved pharmacist is approved, or premises at which the approved medical practitioner carries on practice, as the case may be.

(5) Subsection (1) does not prevent an approved hospital authority from charging, in respect of the supply of pharmaceutical benefits to a patient receiving treatment in or at a hospital, amounts not exceeding the sum of the charges that the patient could have been required to pay in accordance with subsections (2) and (2A), if the patient had obtained the pharmaceutical benefits from an approved pharmacist upon a prescription or prescriptions directing the supply of the maximum quantity or number of units applicable under a determination of the Minister under subsection 85A(2).

(5A) Subsection (5) does not apply to a supply if:

(a) the patient is the holder of an entitlement card; and

(b) the supply is not an early supply of a specified pharmaceutical benefit.

(6) The reference in subsection (1) to a payment or other valuable consideration in respect of the supply of a pharmaceutical benefit does not include a reference to a charge demanded or received by reason only that the supply is made at a time outside normal trading hours.

87A Entitlement to refund in certain circumstances

(1) If:

(a) an approved supplier did not supply a pharmaceutical benefit to a person on terms that are appropriate for the supply of a benefit to:

(i) the holder of a concession card or entitlement card; or

(ii) a concessional beneficiary; or

(iii) a person who is a dependant of a concessional beneficiary within the meaning of subsection 84(4) or (7);

because the supplier was not satisfied that the person was entitled to receive the benefit on those terms; and

(b) the Secretary is satisfied that the person was entitled at the time to receive the benefit on those terms;

the person is entitled to be paid by the Commonwealth an amount equal to the difference between:

(c) the amount payable for the supply of the benefit on those terms; and

(d) an amount equal to:

(i) if, because of subsection 99(2A), (2AB) or (2B), the supply of the benefit is taken to be a supply otherwise than under this Part—the Commonwealth price for the supply of the benefit; or

(ii) in any other case—the amount that the person was charged under section 87.

(2) A person is entitled to be paid by the Commonwealth an amount equal to the difference between the amount payable for the supply of a pharmaceutical benefit on terms that are appropriate for the supply of the benefit to a general patient and an amount equal to the Commonwealth price for the supply of the benefit if:

(a) an approved supplier did not supply the benefit to the person on those terms because the supplier was not satisfied that the person was entitled to receive the benefit on those terms; and

(b) the Secretary is satisfied that the person was entitled at the time to receive the benefit on those terms.

(3) Subsection (4) applies if:

(a) under this Act an approved supplier charged a person an amount in respect of a supply of a pharmaceutical benefit; and

(b) at the time of the supply, the person was eligible to be issued with a concession card or an entitlement card but was not the holder of such a card.

(4) If the Secretary is satisfied:

(a) that the failure to issue a concession card or entitlement card was not caused by some wilful action of the person; and

(b) that in the circumstances the person should be treated as if:

(i) the person had been at the time when the pharmaceutical benefit was supplied the holder of a concession card or entitlement card; and

(ii) the prescription upon which the pharmaceutical benefit had been supplied were a concession card prescription or entitlement card prescription (as the case may be);

the person is entitled to be paid by the Commonwealth an amount equal to any amount paid by the person that would not have been payable if the pharmaceutical benefit had been supplied on a concession card prescription or an entitlement card prescription (as the case may be).

88 Prescribing of pharmaceutical benefits

(1) Subject to this Part, a medical practitioner is authorized to write a prescription for the supply of a pharmaceutical benefit.

(1A) Subject to this Part, a participating dental practitioner is authorized to write a prescription for the supply of any pharmaceutical benefit determined from time to time by the Minister, for the purposes of this subsection, by legislative instrument.

(1C) Subject to this Part, an authorised optometrist is authorised to write a prescription on or after 1 January 2008 for the supply of any pharmaceutical benefit determined from time to time by the Minister for the purposes of this subsection, by legislative instrument.

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

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

(1F) When writing a prescription under subsection (1), (1A), (1C), (1D) or (1E) for the supply of a pharmaceutical benefit that has a pharmaceutical item, the PBS prescriber, in identifying the pharmaceutical benefit that he or she is directing to be supplied, need not specify:

(a) a listed brand of the pharmaceutical item in the pharmaceutical benefit; or

(b) the manner of administration of the pharmaceutical item in the pharmaceutical benefit.

(2) A PBS prescriber shall not, by writing a prescription or otherwise, authorize the supply of a pharmaceutical benefit, being a narcotic drug, for the purpose of the administration of that benefit to himself or herself.

(3) A prescription for the supply of a pharmaceutical benefit must not be written:

(a) by a medical practitioner otherwise than in relation to the medical treatment of a person requiring that pharmaceutical benefit; or

(b) by a participating dental practitioner otherwise than in relation to the dental treatment of a person requiring that pharmaceutical benefit; or

(c) by an authorised optometrist otherwise than in relation to the optometrical treatment of a person requiring that pharmaceutical benefit; or

(d) by an authorised midwife otherwise than in relation to the midwifery treatment of a person requiring that pharmaceutical benefit; or

(e) by an authorised nurse practitioner otherwise than in relation to the nurse practitioner treatment by the authorised nurse practitioner of a person requiring that pharmaceutical benefit.

(3A) A PBS prescriber, when writing or communicating a prescription for the supply of a pharmaceutical benefit to a person, may:

(a) request the provision of a medicare number applicable to the person and of the expiry date in relation to that number; and

(b) if a medicare number (whether with or without the expiry date in relation to that number):

(i) is so provided as a number applicable to the person; or

(ii) is retained as such a number in the PBS prescriber’s records in accordance with section 88AA;

endorse the medicare number on a prescription written for that person (including, in the case of a communicated prescription, a subsequent written version of that communicated prescription).

(3B) A PBS prescriber must not inform an approved supplier of a medicare number, or a medicare number and an expiry date in relation to that number, in the circumstances described in subsection 86D(2), unless:

(a) the person in respect of whom the number was provided; or

(b) the legal guardian of that person; or

(c) another person identified in a determination made by the Minister under section 86D or 88AA as capable of authorising the recording and retention of such number or number and date;

authorises the PBS prescriber to inform the approved supplier of that number, or number and date.

(3C) Nothing in this section implies that a person is under any obligation:

(a) to provide a medicare number, or a medicare number and the expiry date in relation to that number, to a PBS prescriber; or

(b) to authorise such a PBS prescriber to inform an approved supplier of such a number, or number and date, in the circumstances described in subsection 86D(2).

(4) Where a determination of the Minister under subsection 85A(1) is applicable to a PBS prescriber, the PBS prescriber shall not write a prescription for the supply of a pharmaceutical benefit except in accordance with that determination or any other determination that is applicable to him or her.

(5) Subject to subsection (6), a PBS prescriber is not authorized, in a prescription for the supply of a pharmaceutical benefit, to direct that:

(a) there be supplied on one occasion a quantity or number of units of:

(i) if the pharmaceutical benefit has a pharmaceutical item—the pharmaceutical item; or

(ii) in any other case—the pharmaceutical benefit;

in excess of the maximum quantity or number of units (if any) applicable under a determination of the Minister under subsection 85A(2); or

(b) the pharmaceutical benefit is to be administered in a manner other than the manner (if any) applicable under a determination of the Minister under subsection 85A(2).

(6) Where a medical practitioner may, in accordance with this Part, direct a repeated supply of a pharmaceutical benefit, the medical practitioner may, in such circumstances and subject to such conditions as are prescribed, instead of directing a repeated supply, direct in the prescription the supply on one occasion of a quantity or number of units of the pharmaceutical benefit not exceeding the total quantity or number of units of:

(a) if the pharmaceutical benefit has a pharmaceutical item—the pharmaceutical item; or

(b) in any other case—the pharmaceutical benefit;

not exceeding the total quantity or number of units that could be prescribed if the medical practitioner directed a repeated supply.

(6A) If a person who is an authorised midwife or authorised nurse practitioner may, in accordance with this Part, direct a repeated supply of a pharmaceutical benefit, the person may, instead of directing a repeated supply, direct in the prescription the supply on one occasion of a quantity or number of units of the pharmaceutical benefit not exceeding the total quantity or number of units of:

(a) if the pharmaceutical benefit has a pharmaceutical item—the pharmaceutical item; or

(b) in any other case—the pharmaceutical benefit;

not exceeding the total quantity or number of units that could be prescribed if the person directed a repeated supply.

(6B) However, the person may only make a direction under subsection (6A) if:

(a) the regulations prescribe either or both of the following:

(i) circumstances in which the person may make such a direction;

(ii) conditions on the making of such a direction; and

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

(7) Except in accordance with a determination of the Minister under subsection 85A(2), a PBS prescriber is not authorized, in a prescription for the supply of a pharmaceutical benefit, to direct that the supply of the pharmaceutical benefit be repeated on one or more occasions.

(8) If, in one prescription:

(a) the supply of a pharmaceutical benefit (the ***first benefit***) and another pharmaceutical benefit (the ***second benefit***) is directed; and

(b) the second benefit is:

(i) Schedule equivalent to the first benefit; or

(ii) if the first benefit is a listed brand of a pharmaceutical item—another listed brand of the pharmaceutical item;

then the prescription is taken to direct the repeated supply of the first benefit.

88AA Power of PBS prescribers to record and retain medicare numbers and expiry dates

(1) If:

(a) a PBS prescriber is provided with a medicare number as a number applicable to a person (whether with or without the expiry date in relation to that number) either:

(i) as a result of a request under subsection 88(3A); or

(ii) to facilitate the writing of a prescription for the supply of pharmaceutical benefits at a later time or times; and

(b) the PBS prescriber is satisfied that the person providing the number, or number and date, is:

(i) the person in respect of whom the number was provided; or

(ii) the legal guardian of that person; or

(iii) another person who, in accordance with a written determination made by the Minister for the purposes of this subsection, is capable of giving an authorisation under this subsection;

the PBS prescriber may, with the authorisation of the person providing the number, or number and date:

(c) record and retain that number, or number and date, in the PBS prescriber’s records; or

(d) if the PBS prescriber has already recorded and retained either or both of those particulars by virtue of a previous operation of this section—check the accuracy and completeness of the recorded particulars and, if the recorded particulars are inaccurate or incomplete, appropriately modify those particulars.

(2) Nothing in subsection (1) implies that a person is under any obligation to authorise the recording and retention, in a PBS prescriber’s records, of a medicare number, or of the expiry date in relation to such a number, provided as a result of a request under subsection 88(3A).

PBS prescriber responsible for storage and security

(3) A PBS prescriber who, under this section, records and retains medicare numbers, or medicare numbers and expiry dates in relation to those numbers, in the PBS prescriber’s records must ensure:

(a) that the record of those numbers, or numbers and dates, is protected, by such security safeguards as it is reasonable in the circumstances to take, against loss, against unauthorised access, use, modification or disclosure, and against other misuse; and

(b) that if it is necessary for access to the record of those numbers, or numbers and dates, to be given to a person in connection with the provision of services to the PBS prescriber, everything reasonably within the power of the PBS prescriber is done to prevent unauthorised use or disclosure of information contained in that record.

(4) Ministerial determinations for the purposes of subsection (1) are disallowable instruments within the meaning of section 46A of the *Acts Interpretation Act 1901*.

88A Prescription of certain pharmaceutical benefits authorised only in certain circumstances

Where a pharmaceutical benefit is determined, under subsection 85(7), to be a relevant pharmaceutical benefit for the purposes of this section, the writing of a prescription for the supply of the benefit is authorised under this Part only in circumstances specified in the determination under subsection 85(7).

89 Pharmaceutical benefits to be supplied only on prescription etc.

A person is not entitled to receive a pharmaceutical benefit unless it is supplied:

(a) by an approved pharmacist, at or from premises in respect of which the pharmacist is for the time being approved, on presentation of a prescription written by a PBS prescriber in accordance with this Act and the regulations, or, in such circumstances as are prescribed, on communication to that pharmacist, in the prescribed manner, of a prescription of a PBS prescriber; or

Note: Sometimes the person will still be entitled to receive the pharmaceutical benefit if the pharmacist is approved later. See subsection 99(3B).

(b) in accordance with the provisions of section 92, section 93, section 93AA, section 93A or section 94.

90 Approved pharmacists [*see* Note 1]

(1) Subject to this section, the Secretary may, upon application by a pharmacist for approval to supply pharmaceutical benefits at particular premises, approve that pharmacist for the purpose of supplying pharmaceutical benefits at those premises.

(2) Where a pharmacist desires to supply pharmaceutical benefits at more than 1 premises, a separate application shall be made in respect of each of the premises and, where approval is granted in respect of 2 or more premises, a separate approval shall be granted in respect of each of the premises.

(3) Subject to this section, where an approved pharmacist desires to supply pharmaceutical benefits at premises other than premises in respect of which approval has been granted, the Secretary may on application by the approved pharmacist, grant approval in respect of those other premises.

(3A) Subject to subsections (3AA) and (3AE), an application under this section must be referred to the Authority.

(3AA) Subsection (3A) does not apply to an application for an approval arising out of a change in the ownership of a pharmacy situated at particular premises if the change results or resulted from:

(a) the sale of the pharmacy; or

(b) the acquisition, following the death of a person who was the owner or one of the owners of the pharmacy, of that person’s interest in the business of the pharmacy; or

(c) a change in the constitution of a partnership that owned the pharmacy;

if the pharmacy is to continue to operate at the same premises.

(3AB) In subsections (3AA) and (3AE):

***pharmacy*** means a business in the course of the carrying on of which pharmaceutical benefits are supplied.

(3AC) For the purposes of paragraph (3AA)(b), if a person who is the owner or one of the owners of the business of a pharmacy dies, another person will be taken to have acquired the interest of the deceased person only after:

(a) a grant of probate of the will, or letters of administration of the estate, of the owner who has died, by a court of a State or Territory having jurisdiction in relation to the owner; and

(b) the transfer to that other person of that interest.

(3AD) Despite the grant of that probate or those letters of administration being taken to have had effect from the date of death of the owner, any permission to supply pharmaceutical benefits at particular premises that is granted under section 91 in respect of:

(a) a period preceding that grant of probate or those letters of administration; or

(b) a period following that grant of probate or those letters of administration and preceding the subsequent transfer of the business;

is unaffected.

(3AE) Subsection (3A) does not apply to an application for an approval if:

(a) the application arises out of an expansion or contraction of particular premises (the ***original premises***) at which a pharmacy is situated; and

(b) the expanded or contracted premises occupy any of the space occupied by the original premises.

(3AF) However, the Secretary may, at his or her discretion, refer to the Authority an application referred to in subsection (3AE).

(3B) An approval may be granted under this section in respect of an application that has been referred to the Authority under subsection (3A) or (3AF) only if the Authority has recommended the grant of the approval, but the Secretary may refuse to grant an approval even if the grant has been recommended by the Authority.

(3C) Unless sooner repealed, subsections (3A), (3AA), (3AB), (3AC), (3AD), (3AE), (3AF) and (3B) cease to have effect at the end of 30 June 2015.

(3D) The Secretary must not grant approval under this section to a pharmacist in respect of particular premises if the Secretary is satisfied that on or after the day the approval would otherwise be granted:

(a) the pharmacist would be unable to supply pharmaceutical benefits at the premises; or

(b) the premises would not be accessible by members of the public for the purpose of receiving pharmaceutical benefits at times that, in the opinion of the Secretary, are reasonable.

(4) Nothing in this section authorizes the Secretary to grant approval to a pharmacist in respect of premises at which that pharmacist is not permitted, under the law of the State or Territory in which the premises are situated, to carry on business.

(5) Where the Secretary makes a decision granting or rejecting an application made by a pharmacist under this section, the Secretary shall cause to be served on the pharmacist, notice in writing of that decision.

Note: In certain circumstances, the Minister may substitute for a decision of the Secretary rejecting an application for approval, a decision granting the approval (see section 90A).

(5AA) If, under this section, a pharmacist is granted approval to supply pharmaceutical benefits at particular premises, the pharmacist may also supply pharmaceutical benefits from those premises.

(5A) A pharmacist who:

(a) before 18 December 1990, was granted an approval to supply pharmaceutical benefits at or from particular premises; and

(b) supplied pharmaceutical benefits on or before 18 December 1990 from other premises without the Secretary having granted approval under subsection (3) in respect of those other premises;

is to be taken to have been granted in respect of those other premises, or whichever of those premises was the premises from which the pharmacist last supplied pharmaceutical benefits before 18 December 1990, an approval under subsection (3).

(5B) The reference in paragraph (5A)(b) to supplying pharmaceutical benefits includes a reference to supplying drugs and medicinal preparations for which payment was made as if they were pharmaceutical benefits.

(5C) Subsection (5A) does not apply if:

(a) the approval referred to in paragraph (5A)(a) was not in force immediately before the commencement of section 20 of the *Health and Community Services Legislation Amendment Bill (No. 2) 1993*; or

(b) the pharmacist is not permitted, under the law of the State or Territory in which the premises referred to in paragraph (5A)(b) are situated, to carry on business at those premises.

(6) For the purposes of this section, a reference to a pharmacist is taken to include a reference to a person who owns, or is about to own, a business for the supply of pharmaceutical benefits at particular premises.

(7) Subsection (6) does not permit an application to be made under subsection (1) by a beneficiary of a deceased approved pharmacist who is not himself or herself a pharmacist before the interest in the business of the deceased pharmacist is transferred to the beneficiary in the course of the administration of the estate of the deceased pharmacist.

(8) Nothing in this section prevents the approval of more than one pharmacist for the purpose of supplying pharmaceutical benefits at particular premises.

90A Minister may substitute decision approving pharmacist

(1) This section applies in relation to a decision of the Secretary under section 90 rejecting an application by a pharmacist for approval to supply pharmaceutical benefits at particular premises, if:

(a) the application was made on or after 1 July 2006; and

(b) the decision was made on the basis that the application did not comply with the requirements of the relevant rules determined by the Minister under section 99L.

(2) The Minister may substitute for the Secretary’s decision a decision approving the pharmacist for the purpose of supplying pharmaceutical benefits at the particular premises if the Minister is satisfied that:

(a) the Secretary’s decision will result in a community being left without reasonable access to pharmaceutical benefits supplied by an approved pharmacist; and

(b) it is in the public interest to approve the pharmacist.

(3) For the purposes of subsection (2):

***community*** means a group of people that, in the opinion of the Minister, constitutes a community.

***reasonable access***, in relation to pharmaceutical benefits supplied by an approved pharmacist, means access that, in the opinion of the Minister, is reasonable.

(4) The power under subsection (2) may only be exercised:

(a) on request by the pharmacist made under section 90B; and

(b) by the Minister personally.

(5) Subject to subsection 90B(5), the Minister does not have a duty to consider whether to exercise the power under subsection (2) in respect of the Secretary’s decision.

(6) The power under subsection (2) does not authorise the Minister to approve a pharmacist for the purpose of supplying pharmaceutical benefits at particular premises at which the pharmacist is not permitted, under the law of the State or Territory in which the premises are situated, to carry on business.

(7) A decision by the Minister not to exercise the power under subsection (2) in respect of the Secretary’s decision does not prevent the pharmacist from making an application to the Administrative Appeals Tribunal under subsection 105AB(7) for review of the Secretary’s decision.

(8) For the purposes of this section (other than subsection (7)):

(a) a reference to a decision of the Secretary includes a reference to a decision of the Secretary that has been affirmed by a decision of the Administrative Appeals Tribunal or an order of a federal court; and

(b) a reference to a decision of the Administrative Appeals Tribunal includes a reference to a decision of the Administrative Appeals Tribunal that has been affirmed by an order of a federal court.

90B Request to Minister to approve pharmacist

(1) If section 90A applies to a decision of the Secretary under section 90 rejecting an application by a pharmacist, the pharmacist may, in writing, request the Minister to exercise the Minister’s power under subsection 90A(2) in respect of the Secretary’s decision.

(2) The Minister may determine the form in which a request under subsection (1) must be made and, if the Minister does so, such a request must be made in that form.

(3) A request under subsection (1) must be made:

(a) within 30 days after the pharmacist is notified of the Secretary’s decision; or

(b) if the pharmacist has applied to the Administrative Appeals Tribunal for review of the Secretary’s decision—within 30 days after:

(i) the pharmacist is given a copy of the Administrative Appeals Tribunal’s decision affirming the Secretary’s decision; or

(ii) the application has been discontinued, withdrawn or dismissed; or

(c) if the pharmacist has sought an order from a federal court in respect of the Secretary’s decision or a decision of the Administrative Appeals Tribunal affirming the Secretary’s decision—within 30 days after:

(i) the court has made an order affirming the Secretary’s decision or the Administrative Appeals Tribunal’s decision, as the case requires; or

(ii) the court proceeding has been discontinued, withdrawn or dismissed.

(4) The Minister must, within 3 months after receiving a request under subsection (1), personally decide whether to consider the request. If the Minister has not made a decision within this period, the Minister is taken to have decided not to consider the request.

(5) If the Minister decides to consider a request under subsection (1), the Minister must, within 3 months after making that decision, personally decide whether to exercise the power under subsection 90A(2) in respect of the Secretary’s decision. If the Minister has not made a decision within this period, the Minister is taken to have decided not to exercise the power under subsection 90A(2) in respect of the Secretary’s decision.

(6) The Secretary must, by notice in writing, advise the pharmacist of:

(a) the decision made, or taken to have been made, by the Minister under subsection (4); and

(b) if applicable, the decision made, or taken to have been made, by the Minister under subsection (5).

90C Circumstances in which request may not be made

(1) A request must not be made under subsection 90B(1) in relation to a decision of the Secretary to which section 90A applies if:

(a) the Secretary’s decision is the subject of a proceeding before the Administrative Appeals Tribunal or a federal court; and

(b) the proceeding has not been discontinued, withdrawn or dismissed, or otherwise finally determined.

(2) A request under subsection 90B(1) is taken to have been withdrawn if, before the Minister has made a decision in relation to the request under subsection 90B(4) or (if applicable) subsection 90B(5), the Secretary’s decision becomes the subject of a proceeding before the Administrative Appeals Tribunal or a federal court.

90D Provision of further information

(1) For the purpose of deciding whether to consider a request made by a pharmacist under subsection 90B(1) or whether to exercise the power under subsection 90A(2) in relation to such a request:

(a) the Minister may, by notice in writing given to the pharmacist, require the pharmacist to provide such further information, or produce such further documents, to the Minister as the Minister specifies, within the period specified in the notice; and

(b) the Minister may give a notice in writing to any other person:

(i) advising the person of the request; and

(ii) inviting the person to provide comments on, or information or documents relevant to, the request within the period specified in the notice.

(2) If:

(a) the Minister gives a notice to a pharmacist under paragraph (1)(a); and

(b) the pharmacist does not provide the information specified in the notice or produce the documents specified in the notice within the period specified in the notice;

the Minister may treat the request as having been withdrawn.

(3) If the Minister gives a notice to a person under paragraph (1)(b), the Minister:

(a) is only required to consider comments, information or documents provided by the person during the period specified in the notice; and

(b) if the person does not provide any comments, information or documents within that period—is not required to take any further action to obtain such comments, information or documents.

90E Effect of decision by Minister to approve pharmacist

If the Minister decides to substitute for a decision of the Secretary to which section 90A applies a decision approving a pharmacist for the purpose of supplying pharmaceutical benefits at particular premises:

(a) the pharmacist is to be treated for all purposes of this Act as if the pharmacist is approved under section 90 in respect of those premises; and

(b) references in this Act to an approval granted under section 90 include references to an approval treated as having been granted under section 90 by paragraph (a) of this section; and

(c) the conditions to which an approval granted under section 90 is subject (including any condition that is imposed by means of a determination under paragraph 92A(1)(f)) apply also to an approval that is treated as having been granted under section 90 by paragraph (a) of this section; and

(d) the rights conferred and obligations imposed on an approved pharmacist apply to the pharmacist in his or her activities as an approved pharmacist.

91 Application to supply pharmaceutical benefits following the death of approved pharmacist

(1) If:

(a) a person is an approved pharmacist in respect of a pharmacy at particular premises; and

(b) the approved pharmacist dies at any time on or after the commencement of this section; and

(c) another person claims to be:

(i) the executor, or one of the executors, of the will of the deceased pharmacist in respect of which probate has been granted; or

(ii) the executor, or one of the executors, of the will of the deceased pharmacist although probate has not yet been granted; or

(iii) a person, or one of the persons, to whom the administration of the estate of the deceased pharmacist has been granted; or

(iv) a person, or one of the persons, intending to apply for administration of the estate of the deceased pharmacist; and

(d) that other person applies to the Secretary for permission to supply pharmaceutical benefits at those premises;

the Secretary may, if the Secretary reasonably believes that the applicant is, or on the grant of probate of the will or letters of administration of the estate is likely to be, such an executor or administrator, grant the applicant permission to supply such pharmaceutical benefits at those premises.

(2) An application under subsection (1) in relation to the supply of pharmaceutical benefits at particular premises:

(a) must be made in writing in a form approved by the Secretary; and

(b) must be made as soon as reasonably practicable after the death of the pharmacist who previously supplied such pharmaceutical benefits at those premises; and

(c) must be accompanied by documentary evidence relating to:

(i) the identity of the applicant; and

(ii) the nature of the applicant’s claim to be a person referred to in a subparagraph of paragraph 91(1)(c);

of a kind determined in writing by the Secretary for the purposes of this paragraph.

(3) A determination made for the purposes of paragraph (2)(c) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(4) For the purpose of considering an application under this section, the Secretary may, by notice in writing given to the applicant, require the applicant to provide such further information, or produce such further documents, to the Secretary as the Secretary specifies, within such period as the Secretary specifies.

(5) If the Secretary requires the provision of information or the production of documents within a specified period and the information or documents are not provided or produced within that period, the Secretary may treat the application as having been withdrawn.

(6) When the Secretary makes a decision to grant or refuse an application under this section, the Secretary must cause notice in writing of that decision to be given to the applicant. If the Secretary decides to refuse an application, the notice must include reasons for the refusal.

(7) If the Secretary grants an applicant permission to supply pharmaceutical benefits at premises the subject of the application:

(a) the person granted that permission is to be treated for all purposes of this Act as if the person is, and, since the referral day in relation to the permission, had been, approved under section 90 as an approved pharmacist in relation to the pharmacy at those premises; and

(b) any supply of pharmaceutical benefits at or from those premises by a pharmacist who is not an approved pharmacist after the referral day in relation to the permission and before the grant of that permission is to be treated as if it had been a supply of those pharmaceutical benefits by the person to whom the permission is granted; and

(c) references in this Act to an approval granted under section 90 include references to an approval treated as having been granted under section 90 by paragraph (a); and

(d) the conditions to which an approval granted under section 90 is subject (including any condition that is imposed by means of the Minister’s determination under paragraph 92A(1)(f)) apply also to an approval that is treated as having been granted under section 90 by paragraph (a); and

(e) the rights conferred and obligations imposed on an approved pharmacist apply to that person in his or her activities as such an approved pharmacist.

(8) For the purposes of subsection (7), the ***referral day***, in relation to a permission granted under this section, is:

(a) unless paragraph (b) applies—the day following the date of death of the deceased pharmacist to whom the application for permission related; or

(b) if there has been a prior permission granted under this section in relation to the premises to which the permission relates—the day following the date the prior permission was revoked.

(9) A permission granted to a person under subsection (1) in relation to particular premises continues, unless it is sooner revoked, until that person or another person is approved by the Secretary under section 90 in respect of those premises.

(10) Nothing in this section authorises the Secretary to grant a permission under subsection (1) to a person to supply pharmaceutical benefits at particular premises at which the person is not permitted, under the law of the State or Territory in which the premises are situated, to carry on business.

(11) If:

(a) probate of the will, or administration of the estate, of a deceased approved pharmacist is granted; and

(b) the person granted a permission under subsection (1) in relation to the supply of pharmaceutical benefits at premises where that pharmacist carried on business is not, or is not included among persons who are, granted that probate or administration;

he or she must, as soon as he or she becomes aware of that fact, notify the Secretary in writing of that fact.

(12) If the Secretary becomes aware, either as a result of a notification under subsection (11) or otherwise, that:

(a) probate of the will, or administration of the estate, of a deceased approved pharmacist is granted; and

(b) the person granted a permission under subsection (1) is not, or is not included among persons who are, granted that probate or administration;

the Secretary must, by notice in writing given to the person granted that permission, revoke the permission.

(13) If a partnership agreement provides for the disposal of the pharmacy business of a deceased approved pharmacist to any surviving partner or partners, nothing in this section is to be taken to override the operation of the terms of that agreement.

92 Approved medical practitioners

(1) Where there is no pharmacist approved in respect of premises from which, in the opinion of the Secretary, a convenient and efficient pharmaceutical service may be supplied in a particular area and a medical practitioner is practising in that area, the Secretary may approve the medical practitioner for the purpose of supplying pharmaceutical benefits to persons in that area.

(1A) Where the Secretary makes a decision under subsection (1) approving or refusing to approve a medical practitioner, the Secretary shall cause to be served on the medical practitioner, notice in writing of that decision.

(2) Pharmaceutical benefits supplied by a medical practitioner so approved shall be supplied in accordance with such conditions as are prescribed.

92A Approvals to be subject to conditions

(1) The approval of a person as an approved pharmacist, or the approval of a medical practitioner, for the purposes of this Part (including an approval granted before the commencement of this section and an approval of a person or body referred to in section 83Z) is, by force of this section, subject to the following conditions:

(a) a condition that the approved pharmacist or approved medical practitioner will not, by advertisement, notice or otherwise, state or indicate that he or she is willing to supply all or any pharmaceutical benefits to all or any persons without charge or for a charge other than the charge that he or she may make without contravening section 87;

(b) a condition that, where the approved pharmacist or approved medical practitioner makes, by advertisement, notice or otherwise, a statement with respect to the charge for which he or she is willing to supply, or with respect to his or her willingness to supply without charge, drugs or medicinal preparations generally or a class of drugs or medicinal preparations, he or she will indicate in the statement whether or not the statement relates to the supply of pharmaceutical benefits;

(c) a condition that the approved pharmacist or approved medical practitioner will not follow a practice of supplying all or any pharmaceutical benefits to all or any persons without charge or for a charge other than the charge that he or she may make without contravening section 87;

(ca) a condition that where:

(i) the approved pharmacist supplies a pharmaceutical benefit upon a prescription that, in accordance with subsection 84AA(2) or (3), is a concessional benefit prescription, a concession card prescription or an entitlement card prescription; and

(ii) that prescription is subsequently reduced to a document in writing (in this paragraph referred to as the ***relevant document***) and given to the approved pharmacist in pursuance of regulations in force for the purposes of this Part;

the approved pharmacist shall write or mark on the relevant document the information communicated, or purportedly communicated, to him or her under subsection 84AA(2) or (3) in such manner as would, if the relevant document were a written prescription, cause that prescription to be, in accordance with subsection 84AA(1) or (1A), a concessional benefit prescription, a concession card prescription or an entitlement card prescription, as the case requires;

(d) a condition that the approved pharmacist or approved medical practitioner will not enter into a refund agreement or become an agent of a party to a refund agreement for the purposes of the refund agreement;

(e) a condition that the approved pharmacist, being a friendly society or a friendly society body, will keep a record, in a form approved by the Secretary, of the names and addresses, being addresses last known to the pharmacist, of all members:

(i) where the pharmacist is a friendly society—of the friendly society; or

(ii) where the pharmacist is a friendly society body—of the friendly society, or of any of the friendly societies, for the benefit of the members of which the pharmacist is carrying on business;

who were, immediately before 24 April 1964, and have continued to be, parties to agreements or arrangements under which contributions were and are payable by those members or on their behalf to friendly societies, or to friendly society bodies, for the purpose of obtaining benefits in respect of medicines;

(f) any other condition (including, but not limited to, a condition relating to premises) determined by the Minister.

(1A) A determination under paragraph (1)(f) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(2) The conditions specified in paragraphs 92A(1)(a), (b) and (c) do not apply in relation to:

(a) the supply, or a statement relating to the supply, of pharmaceutical benefits upon entitlement card prescriptions;

(b) the supply, or a statement relating to the supply, of pharmaceutical benefits by a friendly society or by a friendly society body to members:

(i) in the case of a friendly society—of the friendly society; or

(ii) in the case of a friendly society body—of the friendly society, or of any of the friendly societies, for the benefit of the members of which the friendly society body is carrying on business;

who were, immediately before 24 April 1964, and have continued to be, parties to agreements or arrangements under which contributions were and are payable by those members or on their behalf to friendly societies, or to friendly society bodies, for the purpose of obtaining benefits in respect of medicines; or

(c) the supply, or a statement relating to the supply, of pharmaceutical benefits by a friendly society or by a friendly society body to the spouses, or to the children, of members referred to in paragraph (b).

(3) For the purposes of section 95, any conduct of an approved pharmacist or an approved medical practitioner that is a contravention of the conditions specified in this section shall be deemed to be conduct that is an abuse of his or her approval.

(4) For all purposes in connection with the writing or marking on a document by an approved pharmacist of information of the kind referred to in paragraph (1)(ca), the communication, or purported communication, of the information referred to in subsection 84AA(2) or (3), as the case requires, shall be taken to afford full and sufficient grounds for the writing or marking of that information by the pharmacist on that document.

92B Persons not to enter into certain refund agreements

(1) Except as provided in subsection (2), a person who is an insurer must not enter into a contract of insurance that comprises or contains a refund agreement.

Penalty: 20 penalty units

(2) This section does not prevent a private health insurer from entering into a complying health insurance policy under which the insurer covers the cost of pharmaceutical benefits dispensed to a person as part of an episode of hospital treatment or hospital‑substitute treatment covered by the policy.

93 Supply of certain pharmaceutical benefits by medical practitioners

(1) Except as prescribed, a medical practitioner is authorized to supply such pharmaceutical benefits as the Minister determines to persons who are entitled under this Part to receive those pharmaceutical benefits.

(2) For the purpose of this section, the Minister may determine the maximum quantity or number of units of a pharmaceutical benefit which may be obtained by a medical practitioner during a specified period and a medical practitioner shall obtain the pharmaceutical benefit as prescribed.

(2A) A copy of each determination made by the Minister in pursuance of this section shall be published in the *Gazette*.

(3) Payment by the Commonwealth in respect of the supply of pharmaceutical benefits under this section shall be made as prescribed.

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

(1) Except as prescribed by the regulations, an authorised midwife or an authorised nurse practitioner is authorised to supply such pharmaceutical benefits as the Minister, by legislative instrument, determines to persons who are entitled under this Part to receive those pharmaceutical benefits.

(2) For the purposes of this section, the Minister may, by legislative instrument, determine the maximum quantity or number of units of a pharmaceutical benefit which may be obtained by an authorised midwife or an authorised nurse practitioner during a specified period.

(3) The regulations may make provision for or in relation to the obtaining of pharmaceutical benefits by an authorised midwife or an authorised nurse practitioner for the purposes of this section.

(4) The regulations may make provision for or in relation to payments by the Commonwealth in respect of the supply of pharmaceutical benefits under this section.

93A Supply of certain pharmaceutical benefits to patients in private hospitals or aged care facilities

(1) In this section:

***prescribed institution*** means:

(a) a private hospital; or

(b) a residential care service within the meaning of the *Aged Care Act 1997*.

(2) For the purposes of this section, the Minister may determine:

(a) the pharmaceutical benefits or classes of pharmaceutical benefits that may be supplied under this section to patients receiving treatment in prescribed institutions; and

(b) the conditions under which such pharmaceutical benefits may be supplied to, and held by, prescribed institutions.

(3) A copy of each determination made by the Minister under subsection (2) is to be published in the *Gazette*.

(4) An approved supplier may supply to a prescribed institution, in accordance with determinations made under paragraph (2)(b), pharmaceutical benefits that are covered by a determination made under paragraph (2)(a).

(5) A medical practitioner may authorise a prescribed institution to supply pharmaceutical benefits covered by a determination made under paragraph (2)(a) to patients receiving treatment in the institution.

(6) Payment by the Commonwealth in respect of the supply of pharmaceutical benefits under this section is to be made as prescribed.

94 Approved hospital authorities

(1) Upon application by a hospital authority, the Minister may, in the Minister’s discretion but subject to subsection (5), approve a hospital authority for the purpose of its supplying pharmaceutical benefits to patients receiving treatment in or at the hospital of which it is the governing body or proprietor.

(2) The approval of a hospital authority under subsection (1) may be expressed to be subject to such terms and conditions as the Minister determines.

(3) Where a hospital authority desires to supply pharmaceutical benefits to patients receiving treatment in or at several hospitals:

(a) a separate application shall, unless the Minister otherwise allows, be made in respect of each hospital; and

(b) separate approval may be granted in respect of each hospital.

(4) Where an approved hospital authority desires to supply pharmaceutical benefits to patients receiving treatment in or at a hospital other than a hospital in respect of which approval has been granted, the Minister may, on application by the approved hospital authority, grant approval in respect of that other hospital.

(4A) Where the Minister makes a decision granting or rejecting an application made by a hospital authority under this section, the Minister shall cause to be served on the hospital authority, notice in writing of that decision.

(5) A hospital authority shall not be approved under this section in respect of a hospital unless the dispensing of drugs and medicinal preparations at that hospital is performed by or under the direct supervision of a medical practitioner or pharmacist.

(5A) The Minister may, in the Minister’s discretion, at any time, by notice in writing, vary, or suspend or revoke, an approval in force under this section (including an approval granted before the commencement of this subsection).

(5B) A suspension under subsection (5A) has effect for such period as the Minister determines and specifies in the notice of suspension.

95 Suspension or revocation of approval

(1) The Minister may, after investigation and report by the appropriate Committee of Inquiry, by notice in writing:

(a) reprimand an approved pharmacist; or

(b) suspend or revoke the approval of the pharmacist under section 90;

and may, at any time, by notice in writing, remove that suspension or restore that approval.

(3) A suspension under subsection (1) has effect for such period as the Minister determines and specifies in the notice of suspension.

(4) If the Secretary considers that it is necessary in the public interest so to do pending investigation and report by the appropriate Committee of Inquiry, the Secretary may suspend an approval referred to in subsection (1) and the Secretary may at any time remove the suspension.

(5) Where the approval of a pharmacist is suspended under subsection (4), the Secretary shall forthwith refer the matter to the appropriate Committee of Inquiry for investigation and report to the Minister.

(6) A suspension by the Secretary under subsection (4) has effect only until the Minister has dealt with the matter in accordance with subsection (7).

(7) On receipt of a report from a Committee of Inquiry on a matter referred to it in accordance with subsection (5), the Minister may, by notice in writing, further suspend the approval for such period as the Minister specifies in the notice, revoke the approval or remove the suspension.

(8) The Minister shall not suspend, further suspend or revoke an approval under the preceding provisions of this section unless, having regard to the evidence before the Committee of Inquiry and the report of the Committee, the Minister is satisfied that the pharmacist has, in relation to or arising out of the approval, been guilty of conduct which is an abuse of that approval or is an abuse or contravention of this Act or the regulations or shows the pharmacist, as the case may be to be unfit to continue to enjoy the approval.

(9) The suspension or revocation of the approval of a pharmacist under this section may be in respect of all of the premises in respect of which the approval was granted or may be in respect of particular premises.

(10) For the purposes of this section, a reference to a pharmacist is taken to include a person to whom subsection 90(6) applies.

98 Cancellation by Secretary of approval of pharmacists etc.

(1) Whenever:

(a) an approved pharmacist requests that his or her approval under section 90 in respect of all or any of the premises in respect of which he or she is approved be cancelled;

(aa) a participating dental practitioner requests that his or her approval as a participating dental practitioner under section 84A be cancelled; or

(b) an approved medical practitioner requests that his or her approval in respect of an area under section 92 be cancelled; or

(c) an authorised optometrist requests that his or her approval as an authorised optometrist under section 84AAB be cancelled; or

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

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

the Secretary shall cancel that approval.

(2) Where:

(a) an approved pharmacist gives the Secretary notice in writing that the pharmacist has ceased to carry on business as a pharmacist at premises in respect of which the pharmacist is approved; or

(b) an approved medical practitioner gives the Secretary notice in writing that the medical practitioner has ceased to practise in the area in respect of which the medical practitioner is approved;

the Secretary may (at his or her discretion) cancel the approval.

(3) If the Secretary is satisfied that:

(a) an approved pharmacist is not carrying on business as a pharmacist at premises in respect of which the pharmacist is approved; or

(b) the premises are not accessible by members of the public for the purpose of receiving pharmaceutical benefits at times that, in the opinion of the Secretary, are reasonable;

then the Secretary may (at his or her discretion), by notice in writing to the pharmacist, cancel the approval of the pharmacist under section 90.

(3A) Where the Secretary is satisfied that an approved medical practitioner is not practising in the area in respect of which the medical practitioner is approved, the Secretary may (at his or her discretion), by notice in writing to the medical practitioner, cancel the approval of the medical practitioner under section 92.

(4) If a person becomes an approved pharmacist in respect of premises in an area in respect of which a medical practitioner is approved under section 92, the Secretary shall cancel the approval of the medical practitioner in respect of that area or of that part of the area in relation to which that section no longer applies.

(4A) If a pharmacist:

(a) before 18 December 1990, was granted an approval to supply pharmaceutical benefits at or from particular premises; and

(b) because of the operation of subsection 90(5A), is taken to have been granted such an approval in respect of other premises;

the Secretary is taken, immediately after the commencement of section 20 of the *Health and Community Services Legislation Amendment Act (No. 2) 1993*, to have cancelled the approval in respect of the premises referred to in paragraph (a).

(5) A reference in this section to an approved pharmacist carrying on business as a pharmacist at premises is a reference, in the case of an approved pharmacist to whom subsection 90(6) applies, to an approved pharmacist carrying on a business for the supply of pharmaceutical benefits at the premises.

(6) For the purposes of this section, an approved pharmacist is taken not to be carrying on business as a pharmacist if the approved pharmacist is not supplying pharmaceutical benefits in the course of carrying on the business.

98AA Cancellation by Minister of approval of hospital

(1) Whenever an approved hospital authority requests that its approval under section 94 in respect of all or any of the hospitals in respect of which it is approved be cancelled, the Minister shall cancel that approval.

(2) Where an approved hospital authority gives the Minister notice in writing that the authority has ceased to conduct a hospital in respect of which it is approved, the Minister may (at his or her discretion) cancel the approval.

(3) Where the Minister is satisfied that an approved hospital authority is not conducting a hospital in respect of which it is approved, the Minister may (at his or her discretion), by notice in writing to the authority, cancel the approval of the authority under section 94.

98AB Notification by Department of alterations to pharmaceutical benefits scheme

The Secretary must cause to be made publicly available on the Department’s website information on the outcomes of the changes to the pharmaceutical benefits scheme resulting from the introduction of the *National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007*.

Division 3—Payment for supply of pharmaceutical benefits

98A Establishment of Pharmaceutical Benefits Remuneration Tribunal

(1) For the purposes of this Part, there is hereby established a Tribunal to be known as the Pharmaceutical Benefits Remuneration Tribunal.

(2) The Tribunal shall consist of:

(a) a Chairperson appointed by the Governor‑General; and

(b) 4 additional members appointed by the Minister.

(2A) The Minister:

(a) must appoint as an additional member at least one person who has been, but is no longer, engaged either directly or indirectly in community pharmacy; and

(b) is to make that appointment only after he or she has consulted with the Pharmacy Guild of Australia.

(3) An appointment under subsection (2) shall be on a part‑time basis.

(4) A person is not eligible to be appointed as Chairperson unless the person is a Deputy President of Fair Work Australia.

98B Functions of Tribunal

(1) The functions of the Tribunal are:

(a) to determine the manner in which the Commonwealth price of all or any pharmaceutical benefits is to be worked out for the purpose of payments to approved pharmacists in respect to the supply by them of pharmaceutical benefits; and

(c) if an agreement referred to in section 98BAA provides for the Tribunal to perform functions under the agreement—those functions.

(2) A manner determined under paragraph (1)(a) shall:

(a) in the case of a pharmaceutical benefit that is a listed brand of a pharmaceutical item—take as a basis the approved price to pharmacists of the brand of the pharmaceutical item that was in force on the first day of the month of the year in which the supply occurs; and

(b) in the case of other pharmaceutical benefits—take as a basis the basic wholesale price of each ingredient that is applicable on the day on which the supply occurs; and

(c) provide for the addition of such fees and other amounts as are determined by the Tribunal.

(3) In subsection (2):

***approved price to pharmacists*** of a listed brand of a pharmaceutical item means:

(a) if a price agreement is in force in relation to the brand of the pharmaceutical item—the amount in force under the agreement as the amount that is, for the purposes of this Part, taken to be the appropriate maximum price for sales of the brand of the pharmaceutical item to approved pharmacists; or

(b) if a price determination is in force in relation to the brand of the pharmaceutical item—the amount in force under the determination as the amount that is, for the purposes of this Part, taken to be the appropriate maximum price for sales of the brand of the pharmaceutical item to approved pharmacists.

***basic wholesale price*** in relation to an ingredient in a pharmaceutical benefit, means the amount that The Pharmacy Guild of Australia and the Minister agree from time to time is to be taken to be, for the purposes of this Part, the appropriate price for sales of that ingredient to approved pharmacists.

(4) The Tribunal may approve criteria that it considers to be appropriate for use in determining the nature or magnitude of fees or other amounts referred to in paragraph (2)(c), and may, at any time, vary or revoke such criteria.

(5) In determining fees or other amounts referred to in paragraph (2)(c), and in approving criteria under subsection (4), the Tribunal must have regard to:

(a) national minimum wage orders of Fair Work Australia, and, in particular, any statements by Fair Work Australia about the effect of wage increases on productivity, inflation and levels of employment; or

(b) if no such order has been made—the last wage‑setting decision of the Australian Fair Pay Commission.

98BA Inquiries by Tribunal

(1) The Tribunal shall, as soon as practicable after the commencement of this section, and at such subsequent intervals as are determined by the Chairperson, hold an inquiry to ascertain whether the Commonwealth price of all or any pharmaceutical benefits should be varied.

(2) The holding of an inquiry under subsection (1) shall be by means of proceedings before the Tribunal.

(3) A person interested in the subject matter of an inquiry under subsection (1) may seek the leave of the Tribunal to appear, or be represented, in the proceedings before the Tribunal for the purpose of making a submission, or presenting evidence or other material, to the Tribunal.

(4) The Tribunal shall ensure that its findings resulting from its second or any subsequent inquiry, and the reasons for them, are issued not later than 12 months after the date on which the Tribunal issued its findings resulting from its first inquiry or from the last inquiry held by it, as the case may be.

98BAA Tribunal must give effect to certain agreements

(1) Despite anything else contained in this Part, where the Minister (acting on the Commonwealth’s behalf) and the Pharmacy Guild of Australia or another pharmacists’ organisation that represents a majority of approved pharmacists have entered into an agreement in relation to the manner in which the Commonwealth price of all or any pharmaceutical benefits is to be ascertained for the purpose of payments to approved pharmacists in respect of the supply by them of pharmaceutical benefits, the Tribunal, in making a determination under subsection 98B(1) while the agreement is in force, must give effect to the terms of that agreement.

(2) Where:

(a) at the time an agreement referred to in subsection (1) is entered into, an inquiry under section 98BA is being held or such an inquiry has been completed but the Tribunal has not issued a statement under subsection 98BD(1); or

(b) such an agreement was in force immediately before the commencement of this section and at that time such an inquiry was being held or such an inquiry had been completed but the Tribunal had not issued a statement under subsection 98BD(1);

the Tribunal must terminate the inquiry or, in a case where the inquiry has been completed but a statement has not been so issued, take no further action for the purposes of that inquiry.

(3) Section 98BA does not apply while there is in force an agreement referred to in subsection (1) except so far as otherwise provided in that agreement.

98BB Constitution of Tribunal

(1) For all purposes, including the purposes of any proceeding before the Tribunal, the Tribunal is to be constituted by the Chairperson and at least 2 additional members.

(1A) The Chairperson may give directions as to the constitution of the Tribunal for the purposes of any inquiry.

(2) In this section:

***additional member*** includes an acting additional member; and

***Chairperson*** includes an acting Chairperson.

98BC Procedure of Tribunal

(1) Subject to this Part, in any proceeding before the Tribunal:

(a) the procedure of the Tribunal is within the discretion of the Tribunal;

(b) the Tribunal is not bound to act in a formal manner and is not bound by any rules of evidence but may inform itself of any matter in such manner as it thinks just; and

(c) the Tribunal shall act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms.

(2) Subject to subsection (3), a proceeding before the Tribunal shall be conducted in public.

(3) If the Tribunal is satisfied, upon the application of a party to a proceeding before the Tribunal, that, by reason of the confidential nature of a submission, or other evidence or material, submitted to the Tribunal in the proceeding, or for any other reason, it is undesirable to conduct the proceeding or a part of the proceeding in public, the Tribunal may direct that the proceeding or the part of the proceeding, as the case may be, be conducted in private.

(4) A direction by the Tribunal under subsection (3) may:

(a) specify persons for the purpose of permitting them, but no other persons, to be present when the proceeding, or the part of the proceeding, concerned is conducted in private; or

(b) specify persons for the purpose of prohibiting them from being present when the proceeding, or the part of the proceeding, concerned is conducted in private.

(5) The Chairperson is to preside in any proceeding before the Tribunal and all questions to be decided by the Tribunal are to be decided by a majority of votes of the members and, for that purpose, the Chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

98BD Findings etc. of Tribunal to be made public

(1) After the completion of an inquiry under section 98BA, the Tribunal shall issue, in a proceeding conducted in public, a statement, in writing, of its findings and the reasons for them.

(2) Where the Tribunal:

(a) determines fees or other amounts referred to in paragraph 98B(2)(c); or

(b) makes a decision approving criteria under subsection 98B(4) or varying or revoking such criteria;

the Tribunal shall issue, in a proceeding conducted in public, a statement, in writing, setting out the terms of that determination or decision and the reasons for making it.

(3) Where the Tribunal issues a statement under subsection (1) or (2), the Tribunal shall:

(a) submit to the Minister a report setting out the terms of the statement so issued; and

(b) cause to be published in the *Gazette* a notice setting out the terms of the statement so issued.

98BE Date of operation of determination of the Tribunal

A determination of the Tribunal under subsection 98B(1) shall come into operation on a date specified in the determination, not being a date earlier than the date on which a statement setting out the terms of the determination is issued by the Tribunal in accordance with section 98BD.

98C Determinations by Minister

(1) The Minister may, from time to time, determine:

(a) the manner in which the Commonwealth price of all or any pharmaceutical benefits is to be ascertained for the purpose of payments to approved medical practitioners in respect of the supply of pharmaceutical benefits, including any fees or other amounts that are to be taken into account in determining that price; and

(b) the conditions subject to which payments will be made by the Commonwealth in respect of the supply of pharmaceutical benefits by approved pharmacists and approved medical practitioners.

(2) The Minister may, before making a determination with respect to the conditions referred to in paragraph (1)(b), request the Tribunal to make a report with respect to the matters in respect of which the determination is to be made and, where such a request is made, the Tribunal shall comply with the request.

98D Form, and date of operation, of determinations under section 98C

A determination under section 98C shall:

(a) be in writing; and

(b) come into operation, or be deemed to have come into operation, on such date, being a date not earlier than 1 July 1976, as is specified in the determination.

98E Secrecy

(1) The Chairperson may, if he or she thinks it desirable to do so, give a direction in writing that any document, or evidence or other material, presented to the Tribunal in a proceeding before the Tribunal shall be treated as confidential.

(2) Where a direction is given under subsection (1) in relation to any document or evidence or other material:

(a) a person who, by virtue of the person’s office or employment under or for the purposes of this Act, has acquired any information obtained from that document or evidence or other material shall not, either directly or indirectly, except in the performance of a duty or the exercise of a function under or in connection with this Act, make a record of, or divulge or communicate to any person, that information; and

(b) a person who, by virtue of the person’s office or employment under or for the purposes of this Act, has access to that document or a record of that evidence or other material shall not be required to produce in a court, or to permit a court to have access to, that document or record, except when it is necessary to do so for the purposes of, or of a prosecution under or arising out of, this Act.

99 Payment for supply of benefits

(2) An approved pharmacist or approved medical practitioner who has supplied a pharmaceutical benefit is, subject to section 99AAA and to the conditions determined under section 98C and applicable at the time of the supply, entitled to be paid by the Commonwealth:

(a) where the prescription for the supply of the pharmaceutical benefit was an entitlement card prescription, and the supply was not an early supply of a specified pharmaceutical benefit—an amount equal to the Commonwealth price of the pharmaceutical benefit as at the time of the supply; and

(b) in any other case—the amount (if any) by which the Commonwealth price of the pharmaceutical benefit, as at the time of the supply, exceeded the amount that the pharmacist or approved medical practitioner was entitled to charge under subsection 87(2) or (3).

(2AA) If:

(a) an approved pharmacist or approved medical practitioner is entitled to be paid an amount by the Commonwealth under subsection (2) in relation to the supply of a pharmaceutical benefit; and

(b) a determination under subsection 85B(5) is in force in relation to a listed brand of a pharmaceutical item that is the pharmaceutical benefit; and

(c) the brand of the pharmaceutical item was supplied in the circumstances specified in that determination;

then, subject to section 99AAA and the conditions determined under section 98C and applicable at the time of the supply, the approved pharmacist or approved medical practitioner is entitled to be paid by the Commonwealth an amount that is equal to the amount of the special patient contribution for the brand of the pharmaceutical item.

(2A) Where a pharmaceutical benefit is supplied upon a general benefit prescription (other than in a case to which subsection (2AB) applies), or a supply of a pharmaceutical benefit is an early supply of a specified pharmaceutical benefit upon a concession card prescription, and:

(a) the pharmaceutical benefit is supplied by an approved pharmacist or an approved medical practitioner otherwise than as referred to in paragraph (b) and the Commonwealth price of the pharmaceutical benefit does not, at the time of the supply, exceed $28.60; or

(aa) the pharmaceutical benefit is supplied by an approved hospital authority and the amount that would have been the Commonwealth price of the pharmaceutical benefit if it had been supplied by an approved pharmacist does not, at the time of the supply, exceed $28.60; or

(b) the pharmaceutical benefit is supplied by an approved pharmacist or an approved medical practitioner in accordance with a direction included in a prescription in pursuance of subsection 88(6) or (6A) and the Commonwealth price of the maximum quantity or number of units of the pharmaceutical benefit that could, but for that subsection, have been directed to be supplied on any one occasion does not, at the time of the supply, exceed $28.60;

the supply and receipt of that pharmaceutical benefit shall, for all purposes of this Part (other than for the purposes of Division 1A), be deemed to be a supply and receipt otherwise than under this Part.

Note: The figures expressed in this subsection in dollars are periodically adjusted under section 99G.

(2AB) Where a pharmaceutical benefit is supplied upon a general benefit prescription to a person referred to in paragraph 87(2)(b) or (c) and:

(a) the pharmaceutical benefit is supplied by an approved pharmacist or an approved medical practitioner otherwise than as referred to in paragraph (c) and the Commonwealth price of the pharmaceutical benefit does not, at the time of the supply, exceed $4.60; or

(b) the pharmaceutical benefit is supplied by an approved hospital authority and the amount that would have been the Commonwealth price of the pharmaceutical benefit if it had been supplied by an approved pharmacist does not, at the time of the supply, exceed $4.60; or

(c) the pharmaceutical benefit is supplied by an approved pharmacist or an approved medical practitioner in accordance with a direction included in a prescription under subsection 88(6) or (6A) and the Commonwealth price of the maximum quantity or number of units of:

(i) if the pharmaceutical benefit has a pharmaceutical item—the pharmaceutical item; or

(ii) in any other case—the pharmaceutical benefit;

that could, apart from that subsection, have been directed to be supplied on any one occasion does not, at the time of the supply, exceed $4.60;

the supply and receipt of that pharmaceutical benefit is, for all purposes of this Part (other than the purposes of Division 1A), taken to be a supply and receipt otherwise than under this Part.

Note: The figures expressed in this subsection in dollars are periodically adjusted under section 99G.

(2B) Where a pharmaceutical benefit is supplied upon a concessional benefit prescription and:

(a) the pharmaceutical benefit is supplied by an approved pharmacist or an approved medical practitioner otherwise than as referred to in paragraph (c) and the Commonwealth price of the pharmaceutical benefit does not, at the time of the supply, exceed $4.60; or

(b) the pharmaceutical benefit is supplied by an approved hospital authority and the amount that would have been the Commonwealth price of the pharmaceutical benefit if it had been supplied by an approved pharmacist does not, at the time of the supply, exceed $4.60; or

(c) the pharmaceutical benefit is supplied by an approved pharmacist or an approved medical practitioner in accordance with a direction included in a prescription in pursuance of subsection 88(6) or (6A) and the Commonwealth price of the maximum quantity or number of units of:

(i) if the pharmaceutical benefit has a pharmaceutical item—the pharmaceutical item; or

(ii) in any other case—the pharmaceutical benefit;

that could, apart from that subsection, have been directed to be supplied on any one occasion does not, at the time of the supply, exceed $4.60;

the supply and receipt of that pharmaceutical benefit shall, for all purposes of this Part (other than for the purposes of Division 1A), be deemed to be a supply and receipt otherwise than under this Part.

Note: The figures expressed in this subsection in dollars are periodically adjusted under section 99G.

(3) Nothing in this section shall be deemed to authorize payment in respect of the supply of a drug or medicinal preparation:

(a) to a person who is not entitled under this Part to receive that drug or medicinal preparation as a pharmaceutical benefit;

(b) by an approved pharmacist at or from premises in respect of which he or she is not approved or otherwise than in accordance with the terms of his or her approval; or

(c) by an approved medical practitioner outside the area in respect of which he or she is approved or otherwise than in accordance with the terms of his or her approval.

(3A) Despite paragraph (3)(b), if:

(a) a pharmacist is an approved pharmacist in respect of particular premises; and

(b) the pharmacist supplies a pharmaceutical benefit (the ***pre‑approval benefit***) at or from other premises before obtaining approval under section 90 in respect of those other premises; and

(c) the pharmacist later obtains approval (the ***later approval***) under that section to supply pharmaceutical benefits at those other premises;

then, because of the later approval:

(d) the pharmacist is entitled to a payment of 90% of the amount that the pharmacist would have been entitled to be paid in respect of the supply of the pre‑approval benefit had the later approval been in force at the time of its supply; and

(e) if the amount already received by the pharmacist in respect of the pre‑approval benefit exceeds the amount that the pharmacist is entitled to under paragraph (d), the amount of the excess is to be set off against future entitlements under this section.

(3B) The pre‑approval benefit is taken to have been supplied in accordance with subparagraph 84C(4)(a)(i) and paragraph 89(a) if, under subsection (3A) of this section, the pharmacist is entitled to an amount in respect of the supply.

(4) An approved hospital authority is, subject to this Part, entitled to payment from the Commonwealth, at such rates and subject to such conditions as the Minister determines, in respect of the supply of pharmaceutical benefits to patients receiving treatment in or at a hospital in respect of which the approved hospital authority is approved.

(5) A payment to which an approved hospital authority in a State is entitled under this section may be paid to that State, or to an authority of that State, on behalf of the approved hospital authority.

(6) After the commencement of this section a payment in pursuance of subsections (4) and (5) may be made as if those subsections had come into operation on the date upon which an agreement between the Commonwealth and the State under section 5 of the *Hospital Benefits Act 1951* came into force.

(7) Subject to subsection (8), an approved supplier is not entitled:

(a) if the supplier is an approved pharmacist or an approved medical practitioner—despite subsection 99(2); and

(b) if the supplier is an approved hospital authority—despite subsection 99(4);

to be paid by the Commonwealth for the supply of a pharmaceutical benefit to a person on a prescription presented to the approved supplier on or after 1 July 2001 or such later date as is prescribed for the purposes of this subsection unless:

(c) there is ultimately supplied to the Medicare Australia CEO a medicare number, or a special number, as a number applicable to the person to whom the prescription relates; and

(d) if the number so supplied is such a medicare number—that medicare number corresponds with a medicare number that is held in the records of the Medicare Australia CEO as a number applicable to that person.

(8) The Minister may, by written determination, identify circumstances in which subsection (7) does not prevent an approved supplier being paid by the Commonwealth for the supply of a pharmaceutical benefit in respect of a person to whom a prescription relates although a medicare number ultimately supplied to the Medicare Australia CEO in relation to the prescription does not correspond with a medicare number that is held in the records of the Medicare Australia CEO as a number applicable to that person.

(9) Ministerial determinations for the purposes of subsection (8) are disallowable instruments within the meaning of section 46A of the *Acts Interpretation Act 1901*.

99AAA Claim for payment relating to supply of benefits

(1) In this section:

***Claims Transmission System*** means the procedures defined in the rules made by the Minister under paragraph (8)(c).

***manual system*** means the procedures defined in the rules made by the Minister under paragraph (8)(d).

(2) An approved supplier who wants to receive payment from the Commonwealth in relation to the supply of a pharmaceutical benefit must make a claim for payment to the Secretary in accordance with the rules made by the Minister under paragraph (8)(a).

(3) An approved supplier who makes, or proposes to make, a claim for payment in relation to the supply of a pharmaceutical benefit must give to the Secretary, in relation to the supply of that benefit, the information specified in the rules made by the Minister under paragraph (8)(b).

(4) Except as provided by section 99AAB, an approved supplier must use the Claims Transmission System to give information to the Secretary in relation to the supply of pharmaceutical benefits.

(5) If an approved supplier does not use the Claims Transmission System to provide information to the Secretary in relation to the supply of pharmaceutical benefits, the approved supplier must use the manual system to provide that information to the Secretary.

(6) The Secretary must process and determine claims made under subsection (2), and make any payments relating to those claims, in accordance with the rules made by the Minister under paragraph (8)(e).

(7) Where the Secretary decides not to approve a claim made by an approved supplier under subsection (2), the Secretary must, in writing, inform the approved supplier of the decision and give reasons for the decision.

(8) The Minister must, by instrument in writing, make:

(a) rules defining the procedures to be followed by approved suppliers in making claims for payment in relation to the supply of pharmaceutical benefits; and

(b) rules specifying the information to be given to the Secretary by approved suppliers in relation to the supply by them of pharmaceutical benefits; and

(c) rules defining the procedures to be followed by approved suppliers in providing information by electronic means to the Secretary in relation to the supply by them of pharmaceutical benefits; and

(d) rules defining the procedures to be followed by approved suppliers in providing information otherwise than by electronic means to the Secretary in relation to the supply by them of pharmaceutical benefits; and

(e) rules defining the procedures to be followed by the Secretary in:

(i) processing and determining claims by approved suppliers for payment relating to the supply of pharmaceutical benefits; and

(ii) making the payments.

(9) An instrument made by the Minister under subsection (8) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(10) In making rules for the purposes of paragraph (8)(a), the Minister may define different procedures:

(a) for the making of claims for payment supported by information provided by electronic means; and

(b) for the making of claims for payment supported by information provided otherwise than by electronic means.

99AAB Certain suppliers exempted from requirement to use the Claims Transmission System

(1) An approved supplier specified in subsection (2) is not required to comply with subsection 99AAA(4) but the approved supplier may do so if the approved supplier so wishes.

(2) For the purposes of subsection (1), the following approved suppliers are specified:

(a) an approved medical practitioner;

(e) an approved supplier in respect of whom a declaration under section 99AAC is in force.

99AAC Declaration by Secretary exempting approved supplier from using Claims Transmission System

(1) The Secretary may, subject to the guidelines determined by the Minister under subsection (2), declare in writing that an approved supplier is exempted from the operation of subsection 99AAA(4).

(2) The Minister must determine, in writing, guidelines in accordance with which the Secretary is to exercise his or her functions under subsection (1).

(3) A determination under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(4) Where the Secretary decides:

(a) not to make a declaration under subsection (1) in respect of an approved supplier; or

(b) to revoke such a declaration;

the Secretary must, in writing, inform the approved supplier of the decision and give reasons for the decision.

99AA Unauthorised payments etc.

(1) Where:

(a) a pharmaceutical benefit has been supplied to a person (in this subsection referred to as the ***patient***) by an approved pharmacist, approved medical practitioner or approved hospital authority;

(b) the pharmacist, medical practitioner or authority is paid an amount (in this subsection referred to as the ***relevant amount***) by the Commonwealth in respect of the supply of the benefit to the patient; and

(c) the patient obtained the benefit on terms that were appropriate for the supply of the benefit to:

(i) a holder of a concession card; or

(iii) a holder of an entitlement card; or

(iv) a concessional beneficiary; or

(v) a person who was a dependant of a concessional beneficiary within the meaning of subsection 84(4) or (7);

knowing, or in circumstances such that he or she ought reasonably to have known, that he or she was not entitled to receive the benefit on those terms;

the Secretary may, by notice in writing to the patient, require the patient to pay to the Commonwealth an amount equal to the relevant amount.

(2) Where:

(a) a pharmaceutical benefit is supplied to a person by an approved pharmacist, approved medical practitioner or approved hospital authority;

(b) the pharmacist, medical practitioner or authority is paid an amount (in this subsection referred to as the ***relevant amount***) by the Commonwealth in respect of the supply of the benefit to that person; and

(c) the pharmacist, medical practitioner or authority obtained the relevant amount knowing, or in circumstances such that he or she ought reasonably to have known, that it was not payable;

the Secretary may, by notice in writing to the pharmacist, medical practitioner or authority, require the pharmacist, medical practitioner or authority to pay to the Commonwealth an amount equal to the relevant amount.

(3) Where:

(a) the conditions referred to in paragraphs (1)(a), (b) and (c) or (2)(a), (b) and (c) are satisfied in relation to an amount paid by the Commonwealth; and

(b) the Secretary gives a person notice under subsection (1) or (2) as the case may be, requiring the person to pay to the Commonwealth an amount equal to the amount referred to in paragraph (a) of this subsection;

the Commonwealth may recover the amount referred to in the notice as a debt due to the Commonwealth by action in a court of competent jurisdiction.

(4) Where a person is liable to pay an amount to the Commonwealth under this section, an amount not exceeding that amount may be deducted from any other amount that is payable to the person under this Part and, where an amount is so deducted, the other amount shall, notwithstanding the deduction, be deemed to have been paid in full to the person.

99AB Advances

(1) An advance, on account of an amount that may become payable to a person under section 99 in relation to the supply of a pharmaceutical benefit, may be made to the person on such terms and conditions (if any) as are approved by the Secretary in writing.

(2) If a person receives, by way of advances on account of an amount that may become payable to the person under section 99 in relation to the supply of a pharmaceutical benefit, an amount that exceeds the amount that becomes payable to the person under section 99 in relation to the supply of the pharmaceutical benefit, the person is liable to repay to the Commonwealth the amount of the excess.

(3) If:

(a) a person receives an amount by way of advances on account of an amount that may become payable to the person under section 99 in relation to the supply of a pharmaceutical benefit; and

(b) no amount becomes payable to the person under section 99 in relation to the supply of the pharmaceutical benefit;

the person is liable to repay to the Commonwealth the amount so received.

(4) Where a person is liable to repay an amount to the Commonwealth under this section, the Commonwealth may recover the amount as a debt due to the Commonwealth by action in a court of competent jurisdiction.

(5) Where a person is liable to repay an amount to the Commonwealth under this section, an amount not exceeding that amount may be deducted from any other amount that is payable to the person under this Part and, where an amount is so deducted, the other amount shall, notwithstanding the deduction, be deemed to have been paid in full to the person.

Division 3A—Price reductions

Subdivision A—Preliminary

99AC What this Division is about

This Division is about price reductions for listed brands of pharmaceutical items.

Subdivision B requires there to be at least a 16% price reduction in the price of a new brand of a pharmaceutical item (other than a combination item) when it lists. The listing of the new brand of the pharmaceutical item also provides a trigger for price reductions to occur under Subdivision D (see section 99ACH) for:

(a) other existing brands of the pharmaceutical item; and

(b) existing brands of pharmaceutical items that have the same drug and manner of administration; and

(c) existing brands of pharmaceutical items that have a drug in the same therapeutic group and the same manner of administration.

Subdivision C sets out the circumstances in which price reductions are required for combination items.

Subdivision CA sets out the circumstances in which price reductions are required for new brands of pharmaceutical items that have the same drug as an existing brand of a pharmaceutical item that is subject to an outstanding staged reduction under section 99ACK. The listing of the new brand or brands also provides a trigger for price reductions to occur under Subdivision D (see sections 99ACM and 99ACN) for existing brands of pharmaceutical items that have that drug.

Subdivision D provides for other price reductions for pharmaceutical items (including for combination items in some cases). These price reductions:

(a) are triggered when Subdivision B applies to require a 16% price reduction to a new brand of a pharmaceutical item; or

(b) are triggered when Subdivision CA applies to a new brand of a pharmaceutical item that has the same drug as an existing brand of a pharmaceutical item that is subject to an outstanding staged reduction; or

(c) arise if the pharmaceutical item has a drug on F2 on a particular day.

99ACA Definitions etc.

(1) In this Division:

***component drug***, in relation to a drug in a combination item, means a drug or medicinal preparation that is contained in that drug.

***listed component drug*** means a component drug in relation to which a declaration under subsection 85(2) is in force.

***relevant price***: see subsection 99ACF(5).

***subject to an outstanding staged reduction***: a brand of a pharmaceutical item is ***subject to an outstanding staged reduction*** on a day if:

(a) on any day before that day, section 99ACK had applied to the brand of the pharmaceutical item; and

(b) on the day before that day, the agreed price, or the determined price and claimed price, of the brand of the pharmaceutical item had not been reduced, because of the application of section 99ACF in relation to section 99ACK or 99ACM, by 25% of the relevant price of the brand of the pharmaceutical item.

(2) A listed component drug contained in a drug in a combination item has been ***subject to a 12*.*5% price reduction*** if:

(a) any of the following has applied before 1 February 2011 to a brand of a pharmaceutical item that has the listed component drug and has the same manner of administration as the combination item:

(i) section 99ACB;

(ii) subsection 99ACF(1) or (2) because of item 1 of the table in section 99ACF; or

(b) a pharmaceutical item that has the listed component drug and has the same manner of administration as the combination item is in a class of pharmaceutical items to which a 12.5% administrative price reduction has applied.

(2A) A listed component drug contained in a drug in a combination item has been ***subject to a 16% price reduction*** if:

(a) any of the following has applied to a brand of a pharmaceutical item that has the listed component drug and has the same manner of administration as the combination item:

(i) section 99ACB;

(ii) subsection 99ACF(1) or (2) because of item 1 of the table in section 99ACF; or

(b) a pharmaceutical item that has the listed component drug and has the same manner of administration as the combination item is in a class of pharmaceutical items to which a 16% administrative price reduction has applied.

(3) The Minister may, by legislative instrument, determine that a 12.5% administrative price reduction has applied to a class of pharmaceutical items.

Subdivision B—16% price reductions for new brands of pharmaceutical items that are not combination items

99ACB 16% price reduction for new brands of pharmaceutical items that are not combination items

When section applies to new brands

(1) Subject to subsections (2) and (3), this section applies to a brand (the ***new brand***) of a pharmaceutical item (the ***trigger item***) that is not a combination item if:

(a) a determination under subsection 85(6) comes into force in relation to the new brand of the trigger item on a day (the ***determination day***); and

(b) on the day before the determination day, the new brand of the trigger item was not a listed brand of the trigger item; and

(c) on the day before the determination day:

(i) a brand (the ***existing brand***) of a pharmaceutical item (the ***existing item***) was a listed brand of the existing item; and

(ii) the new brand of the trigger item is bioequivalent or biosimilar to the existing brand of the existing item; and

(iii) the trigger item and existing item have the same drug and manner of administration.

Note: For the purposes of paragraph (c), the new brand and the existing brand may be the same brand, or the trigger item and the existing item may be the same pharmaceutical item.

Circumstances in which section does not apply

(2) This section does not apply in relation to the new brand of the trigger item if:

(a) the trigger item is in a class of pharmaceutical items to which a 12.5% or 16% administrative price reduction has applied; or

(b) another pharmaceutical item that has the same drug and manner of administration as the new brand of the trigger item is in a class of pharmaceutical items to which a 12.5% or 16% administrative price reduction has applied; or

(c) if the drug that is in the trigger item is in a therapeutic group—a pharmaceutical item that:

(i) has another drug that is in that group; and

(ii) has the same manner of administration as the new brand of the trigger item;

is in a class of pharmaceutical items to which a 12.5% or 16% administrative price reduction has applied.

(3) This section does not apply in relation to the new brand of the trigger item if:

(a) any of the following has applied:

(i) subsection (1);

(ii) subsection 99ACF(1) or (2) because of item 1 of the table in section 99ACF;

in relation to:

(b) the new brand, or another listed brand, of the trigger item; or

(c) a listed brand of another pharmaceutical item that has the same drug and manner of administration as the new brand of the trigger item; or

(d) if the drug that is in the trigger item is in a therapeutic group—a listed brand of a pharmaceutical item that:

(i) has another drug that is in that group; and

(ii) has the same manner of administration as the new brand of the trigger item.

Note: For the purposes of subparagraph (a)(i), subsection (1) is taken not to have applied in relation to a brand of a pharmaceutical item in some cases: see section 99AEI.

16% price reduction

(4) The Minister:

(a) may, under section 85AD, make a price agreement for the new brand of the trigger item; and

(b) must not make a determination under section 85B in relation to the new brand of the trigger item.

(5) Subject to subsection (6), the agreed price for the new brand of the trigger item that comes into force on the determination day must not exceed the approved price to pharmacists, on the day before the determination day, of the existing brand of the existing item, reduced by 16%.

Apportioning if quantities different

(6) If:

(a) the approved price to pharmacists, on the day before the determination day, of the existing brand of the existing item is for a particular quantity or number of units of that item; and

(b) the agreed price for the new brand of the trigger item is not for the same quantity or number of units;

then, for the purposes of subsection (4), the approved price to pharmacists of the existing brand of the existing item is taken to be adjusted proportionally to what it would have been if the quantity or number of units of the existing brand of the existing item had been the same as the quantity or number of units of the new brand of the trigger item.

Section does not limit Minister’s powers

(7) This section does not limit the Minister’s powers, after the determination day, to make:

(a) further price agreements; or

(b) determinations under section 85B;

for the new brand of the trigger item.

Subdivision C—Price reductions for combination items

99ACC Price reductions for single brands of combination items

When section applies

(1) This section applies if:

(a) subsection 85AB(5) applies to the drug in a combination item; and

(b) there is only one listed brand (the ***single brand***) of the combination item; and

(c) an agreed price (the ***existing agreed price***) is in force for the single brand of the combination item; and

(d) after the day on which the existing agreed price came into force for the single brand of the combination item:

(i) if the drug in the combination item contains only one listed component drug—that listed component drug becomes subject to a statutory price reduction on a day (the ***reduction day***); or

(ii) if the drug in the combination item contains 2 or more listed component drugs—one of the listed component drugs becomes subject to a statutory price reduction on a day (the ***reduction day***); or

(iii) if the drug in the combination item contains 2 or more listed component drugs—2 or more of the listed component drugs become subject to a statutory price reduction on the same day (the ***reduction day***); and

(e) on the reduction day, or on the day before that day, no listed brand of another combination item that has a drug that contains the same component drugs as the combination item:

(i) is bioequivalent or biosimilar to the single brand of the combination item; and

(ii) has the same manner of administration as the single brand of the combination item.

Price reduction

(2) The existing agreed price ceases to have effect at the end of the day before the reduction day.

(3) The Minister may, under a price agreement, agree on a new price for the single brand of the combination item that comes into force on the reduction day.

Note: The new price for the single brand of the combination item may be the same as the existing agreed price.

(4) If the Pharmaceutical Benefits Advisory Committee gives advice to the Minister under subsection 101(4AC) in relation to the combination item, then, in working out the new price of the single brand of the combination item, the Minister may have regard to that advice in considering the extent (if any) to which to reduce the existing agreed price.

(4A) If:

(a) subsection (4) applies; and

(b) the Minister decides to reduce the existing agreed price;

then, in agreeing the new price of the single brand of the combination item, the Minister:

(c) may have regard to the advice referred to in subsection (4) in relation to the combination item; and

(d) must take into account, in relation to the listed component drug, or each listed component drug, that became subject to statutory price reduction:

(i) the approved price to pharmacists, on the reduction day, of each brand of a pharmaceutical item that has the drug that is the listed component drug; and

(ii) the quantity of the listed component drug contained in the combination item.

(4B) If subsection (4) does not apply, then, in agreeing the new price of the single brand of the combination item, the Minister must take into account, in relation to the listed component drug, or each listed component drug, that became subject to statutory price reduction:

(a) the approved price to pharmacists, on the reduction day, of each brand of a pharmaceutical item that has the drug that is the listed component drug; and

(b) the quantity of the listed component drug contained in the combination item.

Section does not limit Minister’s powers

(5) This section does not limit the Minister’s powers, after the reduction day, to make further price agreements in relation to the single brand of the combination item.

Subject to statutory price reduction

(6) A listed component drug contained in a drug in a combination item becomes ***subject to statutory price reduction*** if:

(a) section 99ACB, subsection 99ACF(1) or (2) (because of item 1 in the table in section 99ACF) or section 99ADH has applied to a listed brand of a pharmaceutical item that:

(i) has the listed component drug; and

(ii) has the same manner of administration as the combination item; or

(b) subsection 99ACF(1) or (2) (because of any of the items (other than item 1) in the table in section 99ACF) has applied to a listed brand of a pharmaceutical item that has the listed component drug.

99ACD 16% price reduction for new brands of combination items

When section applies to new brands

(1) Subject to subsections (1A) and (2), this section applies to a brand (the ***new brand***) of a pharmaceutical item (the ***trigger combination item***) that is a combination item if:

(a) a determination under subsection 85(6) comes into force in relation to the new brand of the trigger combination item on a day (the ***determination day***); and

(b) on the day before the determination day, the new brand of the trigger combination item was not a listed brand of the trigger combination item; and

(c) on the day before the determination day:

(i) a brand (the ***existing brand***) of a pharmaceutical item (the ***existing item***) was a listed brand of the existing item; and

(ii) the new brand of the trigger combination item is bioequivalent or biosimilar to the existing brand of the existing item; and

(iii) the drug in the trigger combination item and existing item contain the same component drugs; and

(iv) the trigger combination item and the existing item have the same manner of administration.

Note: For the purposes of paragraph (c), the new brand and the existing brand may be the same brand, or the trigger combination item and the existing item may be the same pharmaceutical item.

Circumstances in which section does not apply to new brands

(1A) This section does not apply in relation to the new brand of the trigger combination item if:

(a) the trigger combination item is in a class of pharmaceutical items to which a 12.5% or 16% administrative price reduction has applied; or

(b) another combination item that has the same drug and manner of administration as the new brand of the trigger combination item is in a class of pharmaceutical items to which a 12.5% or 16% administrative price reduction has applied; or

(c) if the drug in the trigger combination item is in a therapeutic group—a combination item that:

(i) has another drug that is in that group; and

(ii) has the same manner of administration as the new brand of the trigger combination item;

is in a class of pharmaceutical items to which a 12.5% or 16% administrative price reduction has applied.

(2) This section does not apply in relation to the new brand of the trigger combination item if subsection (1) or section 99ACE has applied in relation to:

(a) the new brand, or another listed brand, of the trigger combination item; or

(b) a brand of another combination item that:

(i) has a drug that contains the same component drugs as the new brand of the trigger combination item; and

(ii) has the same manner of administration as the new brand of the trigger combination item; or

(c) if the drug in the trigger combination item is in a therapeutic group—a combination item that:

(i) has another drug that is in that group; and

(ii) has the same manner of administration as the new brand of the trigger combination item.

Note: For the purposes of this subsection, subsection (1) is taken not to have applied in relation to a brand of a pharmaceutical item in some cases: see section 99AEI.

16% price reduction

(4) The Minister:

(a) may, under a price agreement, agree an agreed price for the new brand of the trigger combination item that comes into force on the determination day; and

(b) must not make a determination under section 85B for the new brand of the trigger combination item.

(5) Subject to subsections (6), (6A), (6B) and (7), the agreed price of the new brand of the trigger combination item must not exceed the approved price to pharmacists, on the day before the determination day, of the existing brand of the existing item, reduced by 16%.

Adjustment for prior price reductions to component drugs

(6) If, on a day before the determination day:

(a) one or more of the listed component drugs (the ***component***) contained in the drug in the existing item had been subject to one of the following (the ***prior price reduction of the component***):

(i) a 12.5% price reduction;

(ii) a 16% price reduction; and

(b) because of the prior price reduction of the component, the approved price to pharmacists of the existing brand of the existing item was reduced;

then the reduction referred to in subsection (5) is to be adjusted to reflect:

(c) the percentage (the ***flowed‑on percentage***) of the prior price reduction of the component that was taken into account in working out the amount of the reduction to the approved price to pharmacists of the existing brand of the existing item; and

(d) the quantity of the component contained in the drug in the existing item.

(6A) For the purposes of subsection (6), if:

(a) the prior price reduction of the component was a 12.5% price reduction; and

(b) the flowed‑on percentage was 100%;

then the reduction referred to in subsection (5) is to be adjusted so that there is no further reduction in relation to the component.

(6B) For the purposes of subsection (6), if:

(a) the prior price reduction of the component was a 12.5% price reduction; and

(b) the flowed‑on percentage was less than 100%;

then the reduction referred to in subsection (5) is to be adjusted so that the percentage worked out as follows is taken into account in relation to the component:



Apportioning if quantities different

(7) If:

(a) the approved price to pharmacists, on the day before the determination day, of the existing brand of the existing item is for a particular quantity or number of units of that item; and

(b) the agreed price for the new brand of the trigger combination item is not for the same quantity or number of units;

then, for the purposes of subsection (4), the approved price to pharmacists of the existing brand of the existing item is taken to be adjusted proportionally to what it would have been if the quantity or number of units of the existing brand of the existing item had been the same as the quantity or number of units of the new brand of the new trigger item.

Section does not limit Minister’s powers

(8) This section does not limit the Minister’s powers, after the determination day, to make:

(a) further price agreements; or

(b) determinations under section 85B;

for the new brand of the trigger combination item.

99ACE Flow‑on of 16% price reduction to related brands of combination items

When section applies

(1) This section applies if:

(a) section 99ACD has applied to a brand (the ***new brand***) of a combination item (the ***new combination item***); and

(b) the new agreed price for the new brand of the combination item comes into force on a day (the ***reduction day***); and

(c) on that day, a price agreement or a determination under section 85B is in force in relation to any of the following listed brands (the ***related brand***) of a combination item (the ***related item***):

(i) another listed brand of the new combination item;

(ii) a brand of another combination item that has a drug that contains the same component drugs as the new brand of the new combination item and that has the same manner of administration as the new brand of the new combination item;

(iii) if the drug in the new combination item is in a therapeutic group—a combination item that has another drug that is in that group and has the same manner of administration as the new brand of the new combination item; and

(d) the related item is not an exempt item.

Note: For the purposes of paragraph (c), the new brand and the related brand may be the same brand, or the new combination item and the related item may be the same pharmaceutical item.

16% price reduction

(2) The approved price to pharmacists of the related brand of the related item ceases to be in force at the end of the day before the reduction day. The claimed price (if any) for the related brand of the related item ceases to be in force at the end of the day before the reduction day.

(3) If a price agreement was in force on the day before the reduction day for the related brand of the related item, the Minister may:

(a) in a price agreement, specify an agreed price for the related brand of the related item that:

(i) comes into force on the reduction day; and

(ii) subject to subsections (5), (5A) and (5B), does not exceed the agreed price in force, on the day before that day, for the related brand of the related item, reduced by 16%; or

(b) in a determination under section 85B for the related brand of the related item, specify a determined price that:

(i) comes into force on the reduction day; and

(ii) subject to subsections (5), (5A) and (5B), does not exceed the agreed price in force, on the day before that day, for the related brand of the related item, reduced by 16%.

(4) If a determination under section 85B was in force for the related brand of a related item on the day before the reduction day, the Minister may:

(a) in a determination under section 85B for the related brand of the related item, specify a determined price and a claimed price for the related brand of the related item that:

(i) come into force on the reduction day; and

(ii) subject to subsections (5), (5A) and (5B), do not exceed those respective prices in force on the day before that day, reduced by 16%; or

(b) in a price agreement for the related brand of the related item, specify an agreed price for the related brand of the related item that:

(i) comes into force on the reduction day; and

(ii) subject to subsections (5), (5A) and (5B), does not exceed the determined price in force, on the day before that day, for the related brand, reduced by 16%.

Adjustment for prior price reductions to component drugs

(5) If, on a day before the reduction day:

(a) one or more of the listed component drugs (the ***component***) contained in the related item had been subject to one of the following (the ***prior price reduction of the component***):

(i) a 12.5% price reduction;

(ii) a 16% price reduction; and

(b) because of the prior price reduction of the component, the approved price to pharmacists of the related brand of the related item was reduced;

then the reduction referred to in subsection (3) or (4) is to be adjusted to reflect:

(c) the percentage (the ***flowed‑on percentage***) of the prior price reduction of the component that was taken into account in working out the amount of the reduction to the approved price to pharmacists of the related brand of the related item; and

(d) the quantity of the component contained in the drug in the related item.

(5A) For the purposes of subsection (5), if:

(a) the prior price reduction of the component was a 12.5% price reduction; and

(b) the flowed‑on percentage was 100%;

then the reduction referred to in subsection (3) or (4) is to be adjusted so that there is no further reduction in relation to the component.

(5B) For the purposes of subsection (5), if:

(a) the prior price reduction of the component was a 12.5% price reduction; and

(b) the flowed‑on percentage was less than 100%;

then the reduction referred to in subsection (3) or (4) is to be adjusted so that the percentage worked out as follows is taken into account in relation to the component:



Section does not limit Minister’s powers

(6) This section does not limit the Minister’s powers, after the reduction day, to make:

(a) further price agreements; or

(b) further determinations under section 85B;

for the related brand of the related item.

Subdivision CA—New brands of pharmaceutical items having drugs with outstanding staged reductions

99ACEA Price reduction for new brand of pharmaceutical item having drug with outstanding staged reductions—new brand bioequivalent or biosimilar to existing listed brand

When this section applies

(1) Subject to subsection (2), this section applies to a brand (the ***new brand***) of a pharmaceutical item (the ***trigger item***) on a day (the ***reduction day***) if:

(a) on the reduction day, a determination under subsection 85(6) comes into force in relation to the new brand of the trigger item; and

(b) on the day before the reduction day:

(i) the new brand of the trigger item was not a listed brand of the trigger item; and

(ii) a brand (the ***existing brand***) of a pharmaceutical item (the ***existing item***) was a listed brand of the existing item; and

(c) the new brand of the trigger item is bioequivalent or biosimilar to the existing brand of the existing item; and

(d) the trigger item and existing item have the same drug and manner of administration; and

(e) on the reduction day, either or both of the following are subject to an outstanding staged reduction:

(i) the existing brand of the existing item;

(ii) a brand (the ***related brand***) of a pharmaceutical item (the ***related item***) that has the same drug as the existing item and the trigger item.

Note 1: For the purposes of this subsection, the new brand and the existing brand may be the same brand, or the trigger item and the existing item may be the same pharmaceutical item.

Note 2: For the purposes of this subsection, the new brand and the related brand may be the same brand, or the trigger item and the related item may be the same pharmaceutical item.

Note 3: For the purposes of this subsection, the existing brand and related brand may be the same brand, or the existing item and related item may be the same pharmaceutical item.

When this section does not apply

(2) This section does not apply if, before the reduction day, this section applied to:

(a) the new brand, or another listed brand, of the trigger item; or

(b) a listed brand of another pharmaceutical item that has the same drug as the new brand of the trigger item.

Note: Subsection (1) is taken not to have applied in relation to a brand of a pharmaceutical item in some cases: see section 99AEI.

Price reduction

(3) The Minister:

(a) may, under section 85AD, make a price agreement for the new brand of the trigger item; and

(b) must not make a determination under section 85B in relation to the new brand of the trigger item.

(4) Subject to subsection (5), the agreed price for the new brand of the trigger item that comes into force on the reduction day must not exceed the approved price to pharmacists, on the day before the reduction day, of the existing brand of the existing item, reduced by the same amount that the agreed price or determined price of the existing brand of the existing item is reduced by on the reduction day under item 6 or 7 of the table in section 99ACF.

Apportioning if quantities are different

(5) If:

(a) the approved price to pharmacists, on the day before the reduction day, of the existing brand of the existing item is for a particular quantity or number of units of that item; and

(b) the agreed price for the new brand of the trigger item is not for the same quantity or number of units;

then, for the purposes of subsection (3), the approved price to pharmacists of the existing brand of the existing item is taken to be adjusted proportionally to what it would have been if the quantity or number of units of the existing brand of the existing item had been the same as the quantity or number of units of the new brand of the trigger item.

This section does not limit Minister’s powers

(6) This section does not limit the Minister’s powers, after the reduction day, to make:

(a) further price agreements; or

(b) determinations under section 85B;

for the new brand of the trigger item.

99ACEB New brands of pharmaceutical items having drug with outstanding staged reductions——new brands not bioequivalent or biosimilar to existing listed brand

When this section applies

(1) Subject to subsection (2), if:

(a) on a day (the ***reduction day***), a determination under subsection 85(6) comes into force in relation to 2 or more brands (the ***new brands***) of pharmaceutical items (the ***trigger items***); and

(b) the new brands of the trigger items:

(i) are bioequivalent or biosimilar; and

(ii) have the same drug and manner of administration; and

(c) on the day before the reduction day, the new brands of the trigger items were not listed brands of the trigger items; and

(d) on the day before the reduction day, there was not a listed brand of a pharmaceutical item that:

(i) is bioequivalent or biosimilar to the new brands of the trigger items; and

(ii) has the same drug and manner of administration as the new brands of the trigger items; and

(e) on the reduction day, a listed brand (the ***existing brand***) of a pharmaceutical item (the ***existing item***):

(i) has the same drug as the trigger items; and

(ii) is subject to an outstanding staged reduction;

then this section applies to the new brands of the trigger items.

Note 1: For the purposes of this subsection, the new brands may be the same brand, or the trigger items may be the same pharmaceutical item.

Note 2: For the purposes of this subsection, any of the new brands and the existing brand may be the same brand, or any of the trigger items and the existing item may be the same pharmaceutical item.

When this section does not apply

(2) This section does not apply if, before the reduction day, this section applied to:

(a) the new brands, or another listed brand, of the trigger items; or

(b) a listed brand of another pharmaceutical item that has the same drug as the new brands of the trigger items.

Note: Subsection (1) is taken not to have applied in relation to a brand of a pharmaceutical item in some cases: see section 99AEI.

Price reduction

(3) The Minister:

(a) may, under section 85AD, make a price agreement for the new brands of the trigger items; and

(b) must not make a determination under section 85B in relation to the new brands of the trigger items.

This section does not limit Minister’s powers

(4) This section does not limit the Minister’s powers, after the reduction day, to make:

(a) further price agreements; or

(b) determinations under section 85B;

for the new brands of the trigger items.

Subdivision D—Other statutory price reductions

99ACF Statutory price reductions

Reduction equal to percentage or amount

(1) Subject to section 99ACG, if:

(a) a section referred to in column 2 of the table in this subsection applies to a listed brand of a pharmaceutical item on a day specified in the section (the ***reduction day***); and

(b) subsection (2) does not apply to the listed brand of the pharmaceutical item on the reduction day; and

(c) on the day before the reduction day, an agreed price was, or a determined price and a claimed price were, in force for the listed brand of the pharmaceutical item;

then, the agreed price is, or the determined price and the claimed price are, taken to be reduced, on the reduction day, by the percentage or amount specified in column 3 of the table for the section referred to in column 2.

| **Statutory price reductions table** | | |
| --- | --- | --- |
| **Item** | **Section** | **Percentage or amount for section** |
| 1 | 99ACH | 16% |
| 2 | 99ACI | 2% |
| 2A | 99ACIA | 2% |
| 3 | 99ACJ | 25% |
| 4 | 99ACK | the amount that equals the staged percentage, on the reduction day, of the relevant price for the brand of the pharmaceutical item |
| 5 | 99ACL | the reduction percentage specified in subsection 99ACL(2) |
| 6 | 99ACM | the amount that equals the outstanding staged percentage, on the reduction day, of the relevant price for the brand of the pharmaceutical item |
| 7 | 99ACN | the reduction percentage specified in subsection 99ACN(2) |
| 8 | 99ACO | 5% |
| 9 | 99ACP | the reduction amount specified in subsection 99ACP(2) |
| 10 | 99ACQ | the reduction percentage specified in subsection 99ACQ(2) |

Note: Subsection (1) does not apply if there is no determination under subsection 85(6) in respect of the pharmaceutical item in force on the specified day (whether or not the determination was revoked following a request by the responsible person for the pharmaceutical item).

Reduction more than percentage or amount

(2) This subsection applies if:

(a) a section referred to in column 2 of the table in subsection (1) applies to a listed brand of a pharmaceutical item on a reduction day; and

(b) on the reduction day the approved price to pharmacists of the listed brand of the pharmaceutical item does not exceed the approved price to pharmacists of the brand of the pharmaceutical item in force on the day before the reduction day, reduced by more than:

(i) the percentage specified in column 3 of the table for the section referred to in column 2; or

(ii) if there is a staged percentage for the listed brand of the pharmaceutical item for the reduction day—the amount specified in column 3 of the table for the section referred to in column 2; and

(c) if a determination under section 85B was in force in relation to the listed brand of the pharmaceutical item on the day before the reduction day and on the reduction day—the claimed price for the brand of the pharmaceutical item does not exceed the claimed price for the brand of the pharmaceutical item in force on the day before the reduction day, reduced by more than the percentage or amount specified in column 3 of the table for the section referred to in column 2.

Sequence of application of 2 or more price reductions

(3) If 2 or more items of the table in subsection (1) apply to a listed brand of a pharmaceutical item on the same day:

(a) apply the items in the order they appear in the table; and

(b) apply the second and later items as if the determined price and the claimed price, or the agreed price, (as the case requires) were those prices as affected by the operation of the item or items that have already been applied.

Section does not limit Minister’s powers

(4) This section does not limit the Minister’s powers, after the reduction day, to make:

(a) further price agreements; or

(b) further determinations under section 85B;

for the listed brand of the pharmaceutical item.

(5) In this section:

***outstanding staged percentage*** for a listed brand of a pharmaceutical item on a reduction day, means 25% less each staged percentage that has applied under item 4 of the table in subsection (1) to the brand of the pharmaceutical item on a day before the reduction day.

***relevant price*** of a listed brand of a pharmaceutical item means:

(a) for the agreed price or determined price—the amount that was the agreed price or determined price in force in relation to the brand of the pharmaceutical item on 31 July 2008; and

(b) for the claimed price*—*the amount that was the claimed price in force in relation to the brand of the pharmaceutical item on the day before the reduction day.

***staged percentage*** on a reduction day for a listed brand of a pharmaceutical item, means the percentage that is prescribed for the purposes of paragraph 99ACK(3)(b) for the reduction day.

99ACG Other price reductions do not apply if 12.5% or 16% statutory price reduction or price disclosure reduction applies

2% reduction on 1 August 2008, 2009 or 2010 does not apply if a 12.5% reduction has applied

(1) If:

(a) any of the following applies to a listed brand of a pharmaceutical item on 1 April or 1 August in a year:

(i) section 99ACB;

(ii) section 99ACD or 99ACE;

(iii) subsection 99ACF(1) or (2) because of item 1 of the table in section 99ACF; and

(b) apart from this subsection, item 2 of the table would apply in relation to the brand of the pharmaceutical item, or another listed brand of the pharmaceutical item, on 1 August in that year;

item 2 of the table does not apply on 1 August in that year in relation to the brand of the pharmaceutical item or the other brand of the pharmaceutical item.

2% reduction on 1 February 2011 does not apply if a 12.5% reduction has applied

(1A) If:

(a) on 1 December 2010, a 12.5% administrative price reduction or any of the following applies to a listed brand of a pharmaceutical item:

(i) section 99ACB;

(ii) section 99ACD or 99ACE;

(iii) subsection 99ACF(1) or (2) because of item 1 of the table in section 99ACF; and

(b) apart from this subsection, item 2A of the table would apply in relation to the brand of the pharmaceutical item, or another listed brand of the pharmaceutical item, on 1 February 2011;

then item 2A of the table does not apply on 1 February 2011 in relation to the brand of the pharmaceutical item or the other brand of the pharmaceutical item.

Other price reductions do not apply if a price disclosure reduction has applied

(2) If:

(a) section 99ADH has applied to a listed brand of a pharmaceutical item (the ***first item***) on a day; and

(b) apart from this subsection, any of the following provisions would apply on or after that day to a listed brand of a pharmaceutical item that has the same drug and manner of administration as the first item:

(i) section 99ACB;

(ii) section 99ACD or 99ACE;

(iii) subsection 99ACF(1) or (2) because of any item (other than item 4, 5, 6 or 7) of the table in section 99ACF;

then none of the provisions mentioned in paragraph (b) apply, on or after that day, to:

(c) the first item; or

(d) a listed brand of the pharmaceutical item that has the same drug and manner of administration as the first item.

99ACH 16% statutory price reduction flow‑on to related brands

(1) If:

(a) section 99ACB has applied to the agreed price for a brand (the ***new brand***) of a pharmaceutical item (the ***new item***); and

(b) that price comes into force on a day (the ***reduction day***); and

(c) on the reduction day, a price agreement or a determination under section 85B is in force in relation to any of the listed brands (the ***related brand***) of a pharmaceutical item (the ***related item***) mentioned in subsection (2); and

(d) the related item is not a combination item; and

(e) the related item is not an exempt item;

then this section applies to the related brand of the related item on the reduction day.

(2) For the purposes of paragraph (1)(c), a related brand of a related item is any of the following:

(a) another listed brand of the new item;

(b) a listed brand of another pharmaceutical item that has the same drug and manner of administration as the new item;

(c) if the drug in the new item is in a therapeutic group—a listed brand of a pharmaceutical item that:

(i) has another drug that is in that group; and

(ii) has the same manner of administration as the new brand of the trigger item.

Note: For the purposes of subsection (2), the new brand and the related brand may be the same brand, and the new item and the related item may be the same pharmaceutical item.

99ACI 2% statutory price reduction on 1 August 2008, 2009 and 2010

(1) If:

(a) on the day before a 2% price reduction day, a price agreement or a determination under section 85B is in force in relation to a listed brand of a pharmaceutical item; and

(b) the drug in the pharmaceutical item is in Part A of F2 on the 2% price reduction day; and

(c) the pharmaceutical item is not an exempt item on the 2% price reduction day;

this section applies to the listed brand of the pharmaceutical item on the 2% price reduction day.

Note: Section 99ACG may affect the operation of this section.

(2) In this section, each of the following is a ***2% price reduction day***:

(a) 1 August 2008;

(b) 1 August 2009;

(c) 1 August 2010.

99ACIA 2% statutory price reduction on 1 February 2011

If:

(a) on 31 January 2011, a price agreement or a determination under section 85B is in force in relation to a listed brand of a pharmaceutical item; and

(b) on 11 October 2010, the drug in the pharmaceutical item was in Part A of F2; and

(c) on 1 February 2011, the pharmaceutical item is not an exempt item;

then this section applies to the listed brand of the pharmaceutical item on 1 February 2011.

99ACJ 25% statutory price reduction on single day

(1) If:

(a) on 31 July 2008, a price agreement or a determination under section 85B is in force in relation to a listed brand of a pharmaceutical item that is not a prescribed brand of that item; and

(b) the drug in the pharmaceutical item is in Part T of F2 on 1 August 2008; and

(c) the pharmaceutical item is not an exempt item on 1 August 2008;

this section applies to the listed brand of the pharmaceutical item on 1 August 2008.

(2) In this section:

***prescribed brand*** means a brand of a pharmaceutical item prescribed for the purposes of subsection 99ACK(2).

99ACK 25% statutory price reduction staged over 2 or more days

(1) Subject to subsection (1A), this section applies to a listed brand of a pharmaceutical item on a reduction day if:

(a) on the day before that day, a price agreement or a determination under section 85B is in force in relation to the brand of the pharmaceutical item; and

(b) the drug in the pharmaceutical item is in Part T of F2 on 1 August 2008; and

(c) the pharmaceutical item is not an exempt item on the reduction day.

(1A) This section does not apply to a brand of a pharmaceutical item on a reduction day if, on that day, section 99ACM applies or had previously applied to the brand of the pharmaceutical item.

(2) The regulations may prescribe, for the purposes of this Division, a listed brand of a pharmaceutical item.

(3) For each brand of a pharmaceutical item prescribed under subsection (2), the regulations may prescribe:

(a) 2 or more reduction days; and

(b) for a reduction day:

(i) a percentage of the determined price, or agreed price, in force in relation to the brand of the pharmaceutical item on 31 July 2008; and

(ii) if a determination under section 85B was in force in relation to the brand of the pharmaceutical item on the day before the reduction day concerned and on the reduction day concerned—a percentage of the claimed price in force in relation to the brand of the pharmaceutical item on the day before the reduction day concerned.

(4) The percentages prescribed for each brand of the pharmaceutical item must not total more than 25%.

99ACL Staged price reduction: staged reductions under section 99ACK causing statutory price reductions for other brands of pharmaceutical items having the drug

(1) This section applies to a listed brand (the ***existing brand***) of a pharmaceutical item (the ***existing item***) on a day (the ***reduction day***) if, on the reduction day:

(a) the existing brand of the existing item is not subject to an outstanding staged reduction; and

(b) a listed brand (the ***staged brand***) of a pharmaceutical item (the ***staged item***) is subject to an outstanding staged reduction; and

(c) section 99ACK applies to the staged brand of the staged item; and

(d) the existing item and the staged item have the same drug.

Note: For the purposes of paragraphs (b) and (d), the existing brand and the staged brand may be the same brand, or the existing item and the staged item may be the same pharmaceutical item.

(2) For the purposes of item 5 of the table in section 99ACF, the ***reduction percentage*** for the existing brand of the existing item is the percentage that is worked out as follows:

Method statement

Step 1. See column 3 of item 4 of the table in section 99ACF to work out the amount (the ***staged brand’s reduction amount***) by which the agreed price or determined price of the staged brand of the staged item is reduced on the reduction day.

Step 2. Work out what percentage the staged brand’s reduction amount represents of the agreed price or determined price of the staged brand of the staged item on the day before the reduction day.

The ***reduction percentage*** is the percentage worked out at step 2.

99ACM Staged price reduction: new brand listing bringing forward outstanding staged reductions

This section applies to a listed brand (the ***staged brand***) of a pharmaceutical item (the ***staged item***) on a day (the ***reduction day***) if, on the reduction day:

(a) the staged brand of the staged item is subject to an outstanding staged reduction; and

(b) section 99ACEA or 99ACEB applies to a brand (the ***new brand***) of a pharmaceutical item (the ***trigger item***); and

(c) the staged item and the trigger item have the same drug.

Note: For the purposes of paragraphs (b) and (c), the staged brand and the new brand may be the same brand, or the staged item and the trigger item may be the same pharmaceutical item.

99ACN Staged price reduction: bringing forward outstanding staged reductions causing statutory price reduction for other brands of pharmaceutical items having the drug

(1) This section applies to a listed brand (the ***existing brand***) of a pharmaceutical item (the ***existing item***) on a day (the ***reduction day***) if, on the reduction day:

(a) the existing brand of the existing item is not subject to an outstanding staged reduction; and

(b) section 99ACM applies to a listed brand (the ***staged brand***) of a pharmaceutical item (the ***staged item***) on the reduction day; and

(c) the existing item and the staged item have the same drug.

Note: For the purposes of paragraphs (b) and (c), the existing brand and the staged brand may be the same brand, or the existing item and the staged item may be the same pharmaceutical item.

(2) For the purposes of item 7 of the table in section 99ACF, the ***reduction percentage*** for the existing brand of the existing item is the percentage that is worked out as follows:

Method statement

Step 1. See column 3 of item 6 of the table in section 99ACF to work out the amount (the ***staged brand’s reduction amount***) by which the agreed price or determined price of the staged brand of the staged item is reduced on the reduction day.

Step 2. Work out what percentage the staged brand’s reduction amount represents of the agreed price or determined price of the staged brand of the staged item on the day before the reduction day.

The ***reduction percentage*** is the percentage worked out at step 2.

99ACO 5% statutory price reduction for brands of pharmaceutical items having a drug that is not subject to outstanding staged reductions

If:

(a) on 31 January 2011, a price agreement or a determination under section 85B is in force in relation to a listed brand (the ***relevant brand***) of a pharmaceutical item (the ***relevant item***); and

(b) on 11 October 2010, the drug in the relevant item was in Part T of F2; and

(c) on 1 February 2011, the relevant item is not an exempt item; and

(d) on 1 February 2011, the relevant brand of the relevant item is not subject to an outstanding staged reduction; and

(e) on 1 February 2011, there is not another listed brand of a pharmaceutical item that:

(i) is subject to an outstanding staged reduction; and

(ii) has the same drug as the relevant item;

then this section applies to the relevant brand of the relevant item on 1 February 2011.

99ACP 5% statutory price reduction for brands of pharmaceutical items subject to outstanding staged reductions

(1) If:

(a) on 31 January 2011, a price agreement or a determination under section 85B is in force in relation to a listed brand (the ***relevant brand***) of a pharmaceutical item (the ***relevant item***); and

(b) on 11 October 2010, the drug in the relevant item was in Part T of F2; and

(c) on 1 February 2011, the relevant item is not an exempt item; and

(d) on 1 February 2011, the relevant brand of the relevant item is subject to an outstanding staged reduction;

then this section applies to the relevant brand of the relevant item on 1 February 2011.

(2) For the purposes of item 9 of the table in section 99ACF, the ***reduction amount*** for the relevant brand of the relevant item is the amount that is worked out as follows:

Method statement

Step 1. Work out the relevant price of the relevant brand of the relevant item.

Step 2. Work out the amount (the ***comparison amount***) that equals 25% of the relevant price.

Step 3. Subtract the comparison amount from the relevant price.

The ***reduction amount*** is 5% of the amount worked out at step 3.

99ACQ 5% statutory price reduction for brands of pharmaceutical items having a drug that is subject to outstanding staged reductions

(1) If:

(a) on 31 January 2011, a price agreement or a determination under section 85B is in force in relation to a listed brand (the ***relevant brand***) of a pharmaceutical item (the ***relevant item***); and

(b) on 11 October 2010, the drug in the relevant item was in Part T of F2; and

(c) on 1 February 2011, the relevant item is not an exempt item; and

(d) on 1 February 2011, the relevant brand of the relevant item is not subject to an outstanding staged reduction; and

(e) on 1 February 2011:

(i) another listed brand (the ***staged brand***) of a pharmaceutical item (the ***staged item***) is subject to an outstanding staged reduction; and

(ii) the relevant item and the staged item have the same drug;

then this section applies to the relevant brand of the relevant item on 1 February 2011.

(2) For the purposes of item 10 of the table in section 99ACF, the ***reduction percentage*** for the relevant brand of the relevant item is the percentage that is worked out as follows:

Method statement

Step 1. See column 3 of item 9 of the table in section 99ACF to work out the amount (the ***staged brand’s reduction amount***) by which the agreed price or determined price of the staged brand of the staged item is reduced on the reduction day.

Step 2. Work out what percentage the staged brand’s reduction amount represents of the agreed price or determined price of the staged brand of the staged item on the day before the reduction day.

The ***reduction percentage*** is the percentage worked out at step 2.

Division 3B—Price disclosure

Subdivision A—Preliminary

99AD What this Division is about

This Division requires the responsible person for certain brands of pharmaceutical items to comply with the price disclosure requirements for each supply of those brands of pharmaceutical items.

• Subdivision B has the price disclosure requirements. It provides for regulations to set out the kind of information that is required to be provided for the brand of the pharmaceutical item, the form and manner in which that information is to be provided and when that information is to be provided.

• The price disclosure requirements generally apply in relation to brands of pharmaceutical items that have a drug on F2.

• Subdivision D provides for the consequences of failing to comply with the price disclosure requirements.

In addition, this Division reduces the approved price to pharmacists of the brand of the pharmaceutical item in specified circumstances (see Subdivision E). This reduction happens as a result of the price being adjusted based on information collected about brands of pharmaceutical items.

99ADA Division does not apply to exempt items

This Division does not apply to brands of exempt items.

99ADB Definitions etc.

(1) In this Division:

***adjusted approved ex‑manufacturer price*** of a brand of a pharmaceutical item is:

(a) on 1 April 2012—the amount worked out in accordance with section 99ADJ, if that section so provides; or

(b) otherwise—the amount equal to the amount of the weighted average disclosed price of the brand of the pharmaceutical item.

***adjusted approved price to pharmacists*** of a brand of a pharmaceutical item is the amount worked out in accordance with regulations made under subsection (2).

***agreed quantity***, for a brand of a pharmaceutical item, is the quantity or number of units of the pharmaceutical item by reference to which the appropriate maximum price for sales of the brand of the pharmaceutical item to approved pharmacists has been:

(a) agreed under section 85AD; or

(b) determined under subsection 85B(2).

***applicable approved ex‑manufacturer price*** of a brand of a pharmaceutical item is the approved ex‑manufacturer price of the brand on the last day of the period in respect of which the weighted average disclosed price of the brand of the pharmaceutical item is determined.

***approved ex‑manufacturer price*** of a brand of a pharmaceutical item is the amount worked out in accordance with regulations made under subsection (3).

***price disclosure requirements*** has the meaning given by section 99ADC.

***unadjusted price reduction*** for a brand of a pharmaceutical item is the difference between:

(a) the applicable approved ex‑manufacturer price of the brand of the pharmaceutical item; and

(b) the weighted average disclosed price of the brand of the pharmaceutical item;

expressed as a percentage of that applicable approved ex‑manufacturer price.

***weighted average disclosed price*** of a brand of a pharmaceutical item is the weighted average disclosed price of the brand of the pharmaceutical item determined by the Minister under subsection (4).

Adjusted approved price to pharmacists

(2) For the purposes of the definition of ***adjusted approved price to pharmacists*** in subsection (1), the regulations may, by reference to the adjusted approved ex‑manufacturer price of a brand of a pharmaceutical item, prescribe a method or formula for working out the adjusted approved price to pharmacists of the brand of the pharmaceutical item.

Approved ex‑manufacturer price

(3) For the purposes of the definition of ***approved ex‑manufacturer price*** in subsection (1), the regulations may, by reference to the approved price to pharmacists of a brand of a pharmaceutical item, prescribe a method or formula for working out the approved ex‑manufacturer price of the brand of the pharmaceutical item.

Weighted average disclosed price

(4) The Minister may, by legislative instrument, determine the weighted average disclosed price of a brand of a pharmaceutical item in accordance with the regulations.

(6) Without limiting subsection (4), the regulations may prescribe a method or formula for determining the weighted average disclosed price of a brand of a pharmaceutical item. The method or formula prescribed may take into account information (if any) that has been provided in compliance with the price disclosure requirements, and any other information, about:

(a) the brand of the pharmaceutical item; and

(b) other brands of the pharmaceutical item; and

(c) all brands (including the brand) of all pharmaceutical items that have the same drug and manner of administration as the pharmaceutical item.

(7) A determination made under subsection (4) in relation to a brand of a pharmaceutical item may include:

(a) the adjusted approved ex‑manufacturer price of the brand of the pharmaceutical item; and

(b) the adjusted approved price to pharmacists of the brand of the pharmaceutical item.

Subdivision B—Price disclosure requirements

99ADC The price disclosure requirements

(1) The ***price disclosure requirements*** for a supply of a brand of a pharmaceutical item are:

(a) to provide information prescribed by the regulations in relation to the supply of the brand of the pharmaceutical item by the responsible person to a person or entity prescribed by the regulations; and

(b) to provide that information in the manner and form prescribed by the regulations; and

(c) to provide that information at the times prescribed by the regulations.

(2) Without limiting subsection (1), the regulations may prescribe information relating to:

(a) the price of the brand of the pharmaceutical item supplied, which may be by reference to the quantity or number of units of the pharmaceutical item supplied; and

(b) the volume of the supply; and

(c) the person to whom the supply was made; and

(d) when the supply was made; and

(e) the type and value of any benefit (whether monetary or otherwise) provided to persons by the responsible person in relation to the supply, whether or not the benefit also relates to another supply of a product (the ***related product***) that is:

(i) the brand of the pharmaceutical item; or

(ii) any other pharmaceutical item available in the brand or any other brand; or

(iii) any other product; and

(f) if the benefit referred to in paragraph (e) also relates to a supply of the related product—information relating to the supply of the related product (including the price and volume of the supply); and

(g) any other matter that is relevant in determining the weighted average disclosed price of the brand of the pharmaceutical item.

99ADD When the price disclosure requirements apply

The responsible person for a listed brand of a pharmaceutical item that has a drug on F2 is required to comply with the price disclosure requirements for each supply of the brand of the pharmaceutical item.

Subdivision D—Consequences for failing to comply with the price disclosure requirements

99ADF Offence for failing to comply with the price disclosure requirements

(1) A person commits an offence if:

(a) the person is required to comply with the price disclosure requirements for a supply of a brand of a pharmaceutical item; and

(b) the person fails to comply with those requirements for the supply of the brand of the pharmaceutical item.

Penalty: 60 penalty units.

(2) Subsection 4K(2) of the *Crimes Act 1914*, which creates daily or continuing offences, does not apply to an offence against subsection (1).

99ADG Other consequences for failing to comply with the price disclosure requirements

(1) This section applies if:

(a) a responsible person is required to comply with the price disclosure requirements for a supply of a brand (the ***disclosure brand***) of a pharmaceutical item (the ***disclosure item***); and

(b) the responsible person does not comply with those requirements for the supply of the disclosure brand of the disclosure item.

(2) Without limiting any power the Minister may otherwise have under this Part, the Minister may do any or all of the following:

(a) by legislative instrument, revoke or vary a determination under subsection 85(6) in relation to the disclosure brand of the disclosure item;

(b) by legislative instrument, revoke or vary a determination under subsection 85(6) in relation to any brand of any pharmaceutical item of the responsible person;

(c) refuse to make a determination under subsection 85(6) in relation to any brand of any pharmaceutical item of the responsible person;

(d) if the only listed brand of a pharmaceutical item would be a brand of the pharmaceutical item of the responsible person—refuse to make:

(i) a declaration under subsection 85(2) in relation to the drug in the pharmaceutical item; or

(ii) a determination under subsection 85(3) in relation to the form of the pharmaceutical item; or

(iii) a determination under subsection 85(5) in relation to the manner of administration of the pharmaceutical item.

Note: For the purposes of paragraphs (b), (c) and (d), a brand mentioned in those paragraphs may be the disclosure brand, or a pharmaceutical item mentioned in those paragraphs may be the disclosure item.

(3) Without limiting the powers of the Minister under subsection (2), in exercising a power under that subsection, the Minister may have regard to:

(a) the number of times the responsible person did not comply with the price disclosure requirements for:

(i) the disclosure brand of the disclosure item; and

(ii) if, in addition to the disclosure brand of the disclosure item, the person was also required to comply with the price disclosure requirements for a brand of a pharmaceutical item—the brand of the pharmaceutical item; and

(b) the period in which the non‑compliances occurred; and

(c) the duration of each non‑compliance; and

(d) the reasons for the non‑compliances; and

(e) whether those reasons are, in the Minister’s opinion, reasonable; and

(f) any other matter the Minister thinks is relevant.

Note: For the purposes of subparagraph (a)(ii), a brand mentioned in that subparagraph may be the disclosure brand, or a pharmaceutical item mentioned in that subparagraph may be the disclosure item.

(4) The refusals referred to in paragraphs (2)(c) and (d) are not legislative instruments.

Subdivision E—Price reduction

99ADH Price reduction based on information provided under the price disclosure requirements

When this section applies

(1) This section applies if:

(a) under section 99ADB, the Minister determines the weighted average disclosed price of a brand of a pharmaceutical item; and

(aa) the Minister, by legislative instrument, determines a day (the ***reduction day***) for the purposes of this section in relation to the brand of the pharmaceutical item; and

(b) a price agreement or price determination is in force in relation to the brand of the pharmaceutical item on the reduction day; and

(c) the unadjusted price reduction for the brand of the pharmaceutical item is at least 10%.

(2) For the purposes of paragraph 99ADH(1)(aa), the reduction day must be a prescribed day.

Price reduction

(3) If, on the reduction day, the approved price to pharmacists of the brand of the pharmaceutical item would, apart from this section, be higher than the adjusted approved price to pharmacists of the brand of the pharmaceutical item, then, on the reduction day, the amount of the approved price to pharmacists is taken to be reduced to the amount of the adjusted approved price to pharmacists for the purposes of the price agreement or price determination.

Claimed price reduction

(4) If, on the reduction day:

(a) a determination under subsection 85B(3) is in force in relation to the brand of the pharmaceutical item; and

(b) the approved price to pharmacists of the brand of the pharmaceutical item is reduced because of subsection (3);

then, for the purposes of that determination, on the reduction day the claimed price for the brand of the pharmaceutical item is taken to be reduced by the percentage worked out as follows:



where:

***AAAP*** means the adjusted approved price to pharmacists of the brand of the pharmaceutical item.

***AAP*** means the approved price to pharmacists of the brand of the pharmaceutical item.

Section not to limit Minister’s powers

(5) This section does not limit the Minister’s powers, after the reduction day, to make:

(a) other price agreements; or

(b) further determinations under section 85B;

for the brand of the pharmaceutical item.

99ADJ Minimum average 23% price reduction for some brands of pharmaceutical items

(1) If:

(a) this section applies to a brand of a pharmaceutical item; and

(b) the average unadjusted price reduction, worked out under subsection (3), for all the brands of pharmaceutical items to which this section applies is less than 23%;

the adjusted approved ex‑manufacturer price of the brand of the pharmaceutical item, on 1 April 2012, is the amount worked out under subsection (6).

Brands of pharmaceutical items to which this section applies

(2) This section applies to a brand of a pharmaceutical item (the ***relevant brand***) if:

(a) the drug in the pharmaceutical item is on F2 on 1 December 2010; and

(b) no requirement to comply with price disclosure requirements has arisen under former subsection 99ADD(1) before 1 December 2010 in relation to:

(i) the relevant brand; or

(ii) any other brand of any pharmaceutical item having that drug and having the same manner of administration as the relevant brand.

The average unadjusted price reduction

(3) The ***average unadjusted price reduction*** for all the brands of pharmaceutical items to which this section applies is the percentage worked out as follows:

*Method statement*

Step 1. For each brand of a pharmaceutical item to which this section applies, multiply:

(a) the applicable approved ex‑manufacturer price of the brand; by

(b) the total number of the supplies of the agreed quantity for the brand that were supplies in respect of which the Commonwealth provided benefits under section 85, during the period of 10 months starting on 1 December 2010.

Step 2. For each amount worked out under step 1, work out the amount of that step 1 amount that represents a percentage equal to the unadjusted price reduction for the brand.

Step 3. Divide:

(a) the sum of all the amounts worked out under step 2 for all of the brands of pharmaceutical items to which this section applies; by

(b) the sum of all the amounts worked out under step 1 for all of those brands.

Step 4. The amount worked out under step 3, multiplied by 100 and expressed as a percentage, is the ***average unadjusted price reduction*** for all the brands of pharmaceutical items to which this section applies.

(4) For the purposes only of subsection (3), if:

(a) a combination item has a drug to which subsection 85AB(5) applies; and

(b) there is only one listed brand (the ***single brand***) of the combination item; and

(c) a pharmaceutical item has a drug that is a listed drug (the ***component drug***) that the drug referred to in paragraph (a) contains; and

(d) a brand of the pharmaceutical item (a ***related brand***):

(i) is a brand to which this section applies; and

(ii) has the same manner of administration as the single brand;

then:

(e) the single brand is taken to be a brand of a pharmaceutical item to which this section applies; and

(f) subject to subsection (5), the unadjusted price reduction for the single brand is taken to be the percentage by which the approved ex‑manufacturer price of the single brand would be reduced if the approved price to pharmacists of the brand were to be reduced under section 99ACC to take account of:

(i) the unadjusted price reduction for the related brand being applied to the component drug; and

(ii) in a case where the single brand contains one or more other component drugs in relation to which there are one or more other related brands of pharmaceutical items—the unadjusted price reductions for the other related brands being applied to the other component drugs.

(5) The unadjusted price reduction for the single brand is taken to be 0% if the single brand is a brand of a combination item in relation to which the Pharmaceutical Benefits Advisory Committee has advised the Minister under subsection 101(4AC).

Working out the adjusted approved ex‑manufacturer price

(6) If subsection (1) applies in relation to a brand of a pharmaceutical item, the adjusted approved ex‑manufacturer price of the brand is worked out as follows:

*Method statement*

Step 1. Divide 23% by the average unadjusted price reduction, worked out under subsection (3), for all the brands of pharmaceutical items to which this section applies. The result is the ***guaranteed adjustment proportion***.

Step 2. For each of those brands of pharmaceutical items, multiply the guaranteed adjustment proportion by the unadjusted price reduction for the brand of the pharmaceutical item.

Step 3. For each of those brands, reduce the applicable approved ex‑manufacturer price of the brand by the percentage worked out under step 2.

Step 4. If the lowest price disclosed, in compliance with price disclosure requirements under section 99ADD, for the pharmaceutical item during the period of 10 months starting on 1 December 2010, is higher than the amount worked out under step 3, work out the difference between:

(a) the applicable approved ex‑manufacturer price of the brand; and

(b) that lowest price;

expressed as a percentage of that applicable approved ex‑manufacturer price.

Step 5. The ***GAP‑adjusted reduction*** for the brand is:

(a) unless step 4 applies—the percentage worked out under step 2; or

(b) if step 4 applies—the percentage worked out under step 4.

Step 6. Work out, under subsection (3), the average unadjusted price reduction for all the brands of pharmaceutical items to which this section applies, as if the unadjusted price reduction for each brand were the GAP‑adjusted reduction for the brand.

Step 7. If the average unadjusted price reduction worked out under step 6 is at least 23%, reduce the applicable approved ex‑manufacturer price of the brand by a percentage of that price equal to the GAP‑adjusted reduction for the brand. The result is the ***GAP‑adjusted approved ex‑manufacturer price*** of the brand.

Step 8. If step 7 applies, the ***adjusted approved ex‑manufacturer price*** of a brand to which this section applies is the GAP‑adjusted approved ex‑manufacturer price of the brand.

Step 9. If the average unadjusted price reduction worked out under step 6 is less than 23%, repeat steps 1 to 6, as many times as necessary until step 7 is satisfied, as if:

(a) the reference in step 1 to the average unadjusted price reduction were a reference to the average unadjusted price reduction last worked out under step 6; and

(b) the reference in step 2 to the unadjusted price reduction for a brand of a pharmaceutical item were a reference to the GAP‑adjusted reduction for the brand last worked out under step 5.

(7) However, if, in applying or repeating steps 1 to 6 of the method statement in subsection (6), step 4 of the method statement applies in relation to all the brands of pharmaceutical items to which this section applies:

(a) steps 6 to 9 of the method statement cease to apply; and

(b) the ***adjusted approved ex‑manufacturer price*** of a brand to which this section applies is worked out by reducing the applicable approved ex‑manufacturer price of the brand by a percentage of that price equal to the GAP‑adjusted reduction for the brand last worked out under step 5 of the method statement.

Effect of the unadjusted price reduction for a brand being less than 10%

(8) If, but for this subsection, the unadjusted price reduction for a brand of a pharmaceutical item would be less than 10%, the unadjusted price reduction for the brand is taken to be 0% for the purposes of:

(a) working out under subsection (3) the average unadjusted price reduction for all the brands of pharmaceutical items to which this section applies; and

(b) working out under subsection (6) the adjusted approved ex‑manufacturer price of the brand.

The weighted average disclosed price of a brand

(9) Until the Minister determines the weighted average disclosed price of a brand of a pharmaceutical item in respect of the period of 10 months ending on 30 September 2011, that weighted average disclosed price is taken, for the purposes of any reference in this section to:

(a) the applicable approved ex‑manufacturer price of the brand; or

(b) the unadjusted price reduction for the brand;

to be the price worked out in accordance with the regulations made for the purposes of subsection 99ADB(6).

Division 3C—Guarantee of supply

Subdivision A—Preliminary

99AE What this Division is about

This Division is about guaranteeing the supply of certain brands of pharmaceutical items.

Subdivision B requires the responsible person for certain brands of pharmaceutical items to supply those brands of pharmaceutical items during a specified period.

Subdivision C sets out which brands of pharmaceutical items are required to be supplied, and the period in which they are required to be supplied.

Subdivision D provides for when the responsible person is considered to have failed to supply, or been unable to supply, the brand of the pharmaceutical item.

Subdivision E requires the responsible person to notify the Minister if the person will fail or be unable to supply, or has failed or been unable to supply, the brand of the pharmaceutical item.

Subdivision F sets out the possible consequences for the responsible person if the person fails, or is unable, to supply the brand of the pharmaceutical item.

Subdivision G sets out the possible consequences for other brands of pharmaceutical items that were affected by the brand of the pharmaceutical item, if the brand of the pharmaceutical item is delisted under Subdivision F.

99AEA Definitions

In this Division:

***fails to supply*** has the meaning given by section 99AEE.

***guaranteed brand*** ***of a guaranteed item*** has the meaning given by sections 99AEC and 99AED.

***guaranteed period***, for a guaranteed brand of a guaranteed item, has the meaning given by:

(a) if the guaranteed brand of the guaranteed item is a brand of a pharmaceutical item to which subsection 99AEC(2) applies—subsection 99AEC(3); or

(b) if the guaranteed brand of the guaranteed item is a brand of a pharmaceutical item to which subsection 99AED(2) applies—subsection 99AED(3).

***unable to supply*** has the meaning given by section 99AEF.

Subdivision B—Guarantee of supply

99AEB Guarantee of supply

The responsible person for a guaranteed brand of a guaranteed item must supply the guaranteed brand of the guaranteed item during the guaranteed period for the guaranteed brand of the guaranteed item.

Note 1: For the circumstances when a responsible person fails to supply, or is unable to supply, in the guaranteed period, see sections 99AEE and 99AEF.

Note 2: For the consequences for the responsible person for failing to supply, or being unable to supply, in the guaranteed period, see Subdivision F.

Subdivision C—Brands that are guaranteed brands

99AEC Guaranteed brand: new brand

(1) A brand of a pharmaceutical item is a ***guaranteed brand of a guaranteed item*** for the purposes of this Division (other than section 99AED) if subsection (2) applies to the brand of the pharmaceutical item.

(2) This subsection applies to a brand (the ***guaranteed brand***) of a pharmaceutical item (the ***guaranteed item***) if:

(a) a determination under subsection 85(6) comes into force in relation to the guaranteed brand of the guaranteed item on a day (the ***determination day***); and

(b) on the day before the determination day, the guaranteed brand was not a listed brand of the guaranteed item; and

(c) on the determination day, or on the day before that day:

(i) a brand (the ***existing brand***) of a pharmaceutical item (the ***existing item***) is a listed brand of the existing item; and

(ii) the guaranteed brand of the guaranteed item is bioequivalent or biosimilar to the existing brand of the existing item; and

(iii) the guaranteed item and the existing item have the same drug and manner of administration.

Note: For the purposes of paragraph (c), the guaranteed brand and the existing brand may be the same brand, or the guaranteed item and the existing item may be the same pharmaceutical item.

Guaranteed period

(3) The ***guaranteed period*** for the guaranteed brand of the guaranteed item is the period that commences on the determination day and ends on the earliest of the following days:

(a) the last day of the 24 month period beginning on the determination day;

(b) if, after the determination day:

(i) a determination under subsection 85(6) comes into force on a day (the ***later determination day***) in relation to a brand (the ***later brand***) of a pharmaceutical item (the ***later item***); and

(ii) the later brand of the later item is bioequivalent or biosimilar to the guaranteed brand of the guaranteed item; and

(iii) on the day before the later determination day, the later brand was not a listed brand of the later item;

the later determination day;

(c) if, after the determination day, subsection 99AED(2) applies to:

(i) a brand of the guaranteed item; or

(ii) a brand of a pharmaceutical item that is bioequivalent or biosimilar to the guaranteed brand of the guaranteed item;

the new price day referred to in paragraph 99AED(2)(d);

(d) the day that is the first whole day on which the guaranteed brand is not a listed brand of the guaranteed item.

Note 1: For the purposes of paragraph (b), the later brand and the guaranteed brand may be the same brand, or the later item and the guaranteed item may be the same item.

Note 2: For the purposes of paragraph (c), the brand mentioned in that paragraph and the guaranteed brand may be the same brand, or the pharmaceutical item mentioned in that paragraph and the guaranteed item may be the same pharmaceutical item.

99AED Guaranteed brand: first brand to offer a lower price

(1) A brand of a pharmaceutical item is a ***guaranteed brand of a guaranteed item*** for the purposes of this Division (other than section 99AEC) if subsection (2) applies to the brand of the pharmaceutical item.

(2) This subsection applies to a brand (the ***guaranteed brand***) of a pharmaceutical item (the ***guaranteed item***) if:

(a) the drug in the guaranteed item is on F2; and

(b) the guaranteed brand is a listed brand of the guaranteed item; and

(c) the Minister and the responsible person for the guaranteed brand of the guaranteed item agree, in a price agreement, an agreed price (the ***new price***) of the guaranteed brand of the guaranteed item; and

(d) on the day (the ***new price day***) the new price comes into force, the new price is less than what the approved price to pharmacists of the guaranteed brand of the guaranteed item would have been on that day if the new price had not come into force; and

(e) the responsible person was the first responsible person for a brand of the guaranteed item to offer the Minister the new price.

Guaranteed period

(3) The ***guaranteed period*** for the guaranteed brand of the guaranteed item is the period that commences on the new price day and ends on the earliest of the following days:

(a) the last day of the 24 month period beginning on the new price day;

(b) if, after the new price day:

(i) a determination under subsection 85(6) comes into force on a day (the ***later determination day***) in relation to a brand (the ***later brand***) of a pharmaceutical item (the ***later item***); and

(ii) the later brand of the later item is bioequivalent or biosimilar to the guaranteed brand of the guaranteed item; and

(iii) on the day before the later determination day, the later brand was not a listed brand of the later item;

the later determination day;

(c) if, after the new price day, subsection (2) applies, in another application of that subsection, to:

(i) a brand of the guaranteed item; or

(ii) a brand of a pharmaceutical item that is bioequivalent or biosimilar to the guaranteed brand of the guaranteed item;

the day the new price referred to in that subsection under the other application comes into force;

(d) the day that is the first whole day on which the guaranteed brand is not a listed brand of the guaranteed item.

Note 1: For the purposes of paragraph (b), the later brand and the guaranteed brand may be the same brand, or the later item and the guaranteed item may be the same item.

Note 2: For the purposes of paragraph (c), the brand mentioned in that paragraph and the guaranteed brand may be the same brand, or the pharmaceutical item mentioned in that paragraph and the guaranteed item may be the same pharmaceutical item.

Subdivision D—Meaning of fails to supply and unable to supply

99AEE Meaning of *fails to supply*

(1) A responsible person for a guaranteed brand of a guaranteed item ***fails to supply*** the guaranteed brand of the guaranteed item if:

(a) a wholesaler or an approved pharmacist requests the responsible person to supply the wholesaler or pharmacist with an amount of the guaranteed brand of the guaranteed item; and

(b) the responsible person fails to supply that amount to the wholesaler or pharmacist within:

(i) a reasonable period; or

(ii) if the regulations prescribe a period—that period;

after receiving the request.

(2) The responsible person fails to supply the guaranteed brand of the guaranteed item on the day after the end of that period.

99AEF Meaning of *unable to supply*

A responsible person for a guaranteed brand of the guaranteed item is ***unable to supply*** the guaranteed brand of the guaranteed item on a day if the responsible person would be unable to supply any amount of the guaranteed brand of the guaranteed item within a reasonable period of being requested by a wholesaler or an approved pharmacist, on that day, to supply the guaranteed brand of the guaranteed item.

Subdivision E—Requirement to notify Minister of failure or inability to supply etc.

99AEG Requirement to notify Minister of failure to supply etc.

Notification of belief that responsible person will fail to supply or be unable to supply

(1) If, during the guaranteed period for a guaranteed brand of a guaranteed item, the responsible person for the guaranteed brand of the guaranteed item forms the belief that the person will fail to supply, or will be unable to supply, the guaranteed brand of the guaranteed item in the period, then, as soon as practicable after the person forms the belief, the person must notify the Minister, in writing, of that belief.

Notification of failure to supply or inability to supply

(2) If, during the guaranteed period for a guaranteed brand of a guaranteed item, the responsible person for the guaranteed brand of the guaranteed item fails to supply, or is unable to supply, the guaranteed brand of the guaranteed item, then, as soon as practicable after the failure or inability occurs, the person must notify the Minister, in writing, of that failure or inability unless the person notified the Minister about that supply under subsection (1).

Offence

(3) A person commits an offence if:

(a) the person is required to notify the Minister under subsection (1) or (2); and

(b) the person fails to do so.

Penalty: 60 penalty units.

(4) Subsection 4K(2) of the *Crimes Act 1914*, which creates daily or continuing offences, does not apply to an offence against subsection (3).

Subdivision F—Consequences for guaranteed brands of failure or inability to supply

99AEH Minister’s powers if responsible person fails to supply, or is unable to supply, guaranteed brand

(1) This section applies if, during the guaranteed period for a guaranteed brand of a guaranteed item, the responsible person for the guaranteed brand of the guaranteed item fails to supply, or is unable to supply, the guaranteed brand of the guaranteed item on one or more occasions.

(2) Without limiting any power the Minister may otherwise have under this Part, the Minister may do any or all of the following:

(a) by legislative instrument, revoke or vary a determination under subsection 85(6) in relation to the guaranteed brand of the guaranteed item;

(b) by legislative instrument, revoke or vary a determination under subsection 85(6) in relation to any brand of any pharmaceutical item of the responsible person;

(c) refuse to make a determination under subsection 85(6) in relation to any brand of any pharmaceutical item of the responsible person;

(d) if the only listed brand of a pharmaceutical item would be a brand of the pharmaceutical item of the responsible person—refuse to make:

(i) a declaration under subsection 85(2) in relation to the drug in the pharmaceutical item; or

(ii) a determination under subsection 85(3) in relation to the form of the pharmaceutical item; or

(iii) a determination under subsection 85(5) in relation to the manner of administration of the pharmaceutical item.

Note: For the purposes of paragraphs (b), (c) and (d), a brand mentioned in those paragraphs may be the guaranteed brand, or a pharmaceutical item mentioned in those paragraphs may be the guaranteed item.

(3) Without limiting the powers of the Minister under subsection (2), in exercising a power under that subsection, the Minister may have regard to:

(a) the number of times the responsible person failed to supply, or was unable to supply:

(i) the guaranteed brand of the guaranteed item; and

(ii) if, in addition to the guaranteed brand of the guaranteed item, the person was also required to supply other guaranteed brands of guaranteed items—those other guaranteed brands of guaranteed items; and

(b) the period in which those failures or inabilities occurred; and

(c) the duration of those failures or inabilities; and

(d) the reasons for those failures or inabilities; and

(e) whether those reasons are, in the Minister’s opinion, reasonable; and

(f) any other matter the Minister thinks is relevant.

(4) The refusals referred to in paragraphs (2)(c) and (d) are not legislative instruments.

Subdivision G—Consequences for other brands

99AEI Minister may increase approved price to pharmacists etc. if guaranteed brand delisted

(1) This section applies if, under section 99AEH, the Minister revokes or varies a determination under subsection 85(6) in relation to a brand (the ***delisted brand***) of a pharmaceutical item (the ***existing item***).

(2) Without limiting any power the Minister may otherwise have under this Part, the Minister may:

(a) under section 85AD, make or vary a price agreement to increase the agreed price; or

(b) under section 85B, make or vary a determination to increase the determined price and the claimed price;

for a brand of a pharmaceutical item that has an approved price to pharmacists that was reduced because the delisted brand of the existing item was:

(c) the new brand of the trigger item referred to in section 99ACB; or

(d) the new brand of the trigger combination item referred to in section 99ACD; or

(da) the new brand of the trigger item referred to in section 99ACEA; or

(db) one of the new brands of the triggers items referred to in section 99ACEB; or

(e) the guaranteed brand of the guaranteed item under subsection 99AED(2).

(3) If the Minister exercises the power referred to in subsection (2), then the Minister may, by legislative instrument, determine that:

(a) if subsection 99ACB(1) applied to the delisted brand of the existing item—for the purposes of subsection 99ACB(3), subsection 99ACB(1) is taken not to have applied to the delisted brand of the existing item; or

(b) if subsection 99ACD(1) applied to the delisted brand of the existing item—for the purposes of subsection 99ACD(2), subsection 99ACD(1) is taken not to have applied to the delisted brand of the existing item; or

(c) if subsection 99ACEA(1) applied to the delisted brand of the existing item—for the purposes of subsection 99ACEA(2), subsection 99ACEA(1) is taken not to have applied to the delisted brand of the existing item; or

(d) if subsection 99ACEB(1) applied to the delisted brand of the existing item—for the purposes of subsection 99ACEB(2), subsection 99ACEB(1) is taken not to have applied to the delisted brand of the existing item.

(4) If the Minister makes a determination under subsection (3), the determination has effect on the day specified in the determination, being a day on or after the determination comes into force.

99AEJ Minister may determine drug is on F1 if guaranteed brand delisted

The Minister may, by legislative instrument, determine that a listed drug is on F1 if:

(a) under section 99AEH, the Minister revokes or varies a determination under subsection 85(6) in relation to a brand (the ***delisted brand***) of a pharmaceutical item (the ***existing item***); and

(b) before the revocation or variation came into force, subsection 99AEC(2) applied to the delisted brand of the existing item; and

(c) after the revocation or variation comes into force, there is only one listed brand of a pharmaceutical item (the ***remaining item***) that is bioequivalent or biosimilar to the delisted brand of the existing item; and

(d) apart from paragraph 85AB(4)(c), the drug in the remaining item satisfies the criteria for F1 referred to in subsection 85AB(4); and

(e) the drug in the remaining item was on F1 on the day before subsection 99AEC(2) began to apply to the delisted brand of the existing item.

99AEK Minister may revoke or vary formulary determination if guaranteed brand delisted

Without limiting the power of the Minister under section 85AB, the Minister may, by legislative instrument, revoke or vary a determination under section 85AB if:

(a) under section 99AEH, the Minister revokes or varies a determination under subsection 85(6) in relation to a brand (the ***delisted brand***) of a pharmaceutical item (the ***existing item***); and

(b) before the revocation or variation came into force, subsection 99AEC(2) applied to the delisted brand of the existing item; and

(c) after the revocation or variation comes into force, there is only one listed brand of a pharmaceutical item (the ***remaining item***) that is bioequivalent or biosimilar to the delisted brand of the existing item; and

(d) the remaining item is a combination item; and

(e) the drug in the remaining item was not on F1 or F2 on the day before subsection 99AEC(2) began to apply to the delisted brand of the existing item.

Division 4—Provisions relating to members of the Pharmaceutical Benefits Remuneration Tribunal

99A Terms and conditions of appointment

(1) Subject to this Part, a member holds office for such period (not exceeding 3 years) as is, and on such terms and conditions as are, specified in the instrument of his or her appointment, but is eligible for re‑appointment.

(2) If the holder of the office of Chairperson ceases to be a Deputy President of Fair Work Australia he or she ceases to hold the office of Chairperson.

99B Remuneration and allowances

(1) The Chairperson shall not be paid remuneration or allowances in his or her capacity as Chairperson but, for the purposes of the payment of travelling expenses to him or her, his or her duties as Deputy President of Fair Work Australia shall be deemed to include his or her duties as Chairperson of the Tribunal.

(2) An additional member shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by that Tribunal is in operation, the additional member shall be paid such remuneration as is prescribed.

(3) An additional member shall be paid such allowances as are prescribed.

(4) Subsections (2) and (3) have effect subject to the *Remuneration Tribunal Act 1973*.

99C Resignation and removal from office

(1) A member may resign office by writing signed by the member and delivered:

(a) in the case of the Chairperson—to the Governor‑General; or

(b) in any other case—to the Minister.

(2) The Governor‑General may remove the Chairperson from office for misbehaviour or physical or mental incapacity.

(3) The Minister may remove an additional member from office for misbehaviour or physical or mental incapacity.

(4) If an additional member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, the Minister shall remove the member from office.

99D Acting Chairperson

(1) The Governor‑General may appoint a person who holds office as a Deputy President of Fair Work Australia to act as Chairperson of the Tribunal:

(a) during a vacancy in the office of Chairperson; or

(b) during any period, or during all periods, when the Chairperson is unavailable to perform the duties of Chairperson;

but a person appointed so to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) A person acting in the place of the Chairperson has all the powers, and shall perform all the functions and duties, conferred or imposed by this Act on the Chairperson.

(4) Where the Tribunal as constituted for the purpose of a proceeding includes a person acting or purporting to be appointed under this section, or a person so acting or purporting to be appointed has done any act, the validity of any decision of, or of any direction given or other act done by, the Tribunal as so constituted, or of the act done by the person so acting or purporting to be appointed, shall not be called in question in any proceeding on the ground that the occasion for the person to act or for the appointment of the person had not arisen or that the occasion for the person’s appointment had passed or the person’s appointment had ceased to have effect.

(5) A person who is appointed under this section may resign that appointment by writing signed by the person delivered to the Governor‑General.

(6) The Governor‑General may:

(a) subject to this Division, determine the terms and conditions (including terms and conditions relating to remuneration and allowances) of appointment of a person appointed under this section; and

(b) at any time terminate such an appointment.

(7) Where, by virtue of an appointment under subsection (1), a person is acting as Chairperson during the unavailability of the Chairperson, the Governor‑General may, by reason of the pending consideration of a matter by the Tribunal or other special circumstances, direct that the person so acting shall continue so to act until otherwise directed by the Governor‑General notwithstanding that the Chairperson has ceased to be unavailable.

(8) Where a person is acting as Chairperson by virtue of a direction under subsection (7), the Chairperson shall take no part in the operations of the Tribunal.

(9) A person shall not continue to act as Chairperson by virtue of a direction under subsection (7) for a period of more than 12 months.

(10) The appointment of a person under subsection (1) and a direction in relation to a person under subsection (7) cease to have effect if the person ceases to hold office as a Deputy President of Fair Work Australia.

99E Acting additional member

(1) The Minister may appoint a person to act as an additional member of the Tribunal:

(a) during a vacancy in an office of an additional member; or

(b) during any period, or during all periods, when an additional member is unavailable to perform his or her duties;

but a person appointed so to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) A person acting in the place of an additional member has all the powers, and shall perform all the functions and duties, conferred or imposed by this Act on an additional member.

(4) Where the Tribunal as constituted for the purpose of a proceeding includes a person acting or purporting to be appointed under this section, or a person so acting or purporting to be appointed has done any act, the validity of any decision of, or of any direction given or other act done by, the Tribunal as so constituted, or of the act done by the person so acting or purporting to be appointed, shall not be called in question in any proceeding on the ground that the occasion for the person to act or for the appointment of the person had not arisen or that the occasion for the person’s appointment had passed or the person’s appointment had ceased to have effect.

(5) A person who is appointed under this section may resign that appointment by writing signed by the person delivered to the Minister.

(6) The Minister may:

(a) subject to this Division, determine the terms and conditions (including terms and conditions relating to remuneration and allowances) of appointment of a person appointed under this section; and

(b) at any time terminate such an appointment.

Division 4A—Indexation

99F Definitions

In this Division, unless the contrary intention appears:

***concessional beneficiary charge*** means each amount of $4.60 referred to in paragraph 84C(4)(d), section 84CA, paragraph 87(2)(a) or subsection 99(2B).

***concessional beneficiary safety net*** means the amount worked out by multiplying the concessional beneficiary charge by 60.

***general patient charge*** means each amount of $28.60 referred to in paragraph 84C(4)(c) or 87(2)(e) or subsection 99(2A).

***general patient reduced charge*** means each amount of $4.60 referred to in paragraph 87(2)(b), or (c) or subsection 99(2AB).

***general patient safety net*** means the amount that was the general patient safety net immediately before 31 December 2009.

***index number***, in relation to a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician in respect of that quarter.

99G Indexation

(1) An amount referred to in an item in the CPI Indexation Table below is to be indexed under this section in each year after 2005 on the indexation day in that item, using the reference quarter in that item and rounding to the nearest multiple of 10 cents. However, if the amount is not a multiple of 10 cents but it is a multiple of 5 cents, the amount is to be increased by 5 cents.

| **CPI INDEXATION TABLE** | | | |
| --- | --- | --- | --- |
| **Item** | **Amount** | **Indexation day** | **Reference quarter** |
| 1. | General patient charge | 1 January | September |
| 2. | General patient reduced charge | 1 January | September |
| 3. | Concessional beneficiary charge | 1 January | September |
| 4. | General patient safety net | 1 January | September |

(2) Where an amount is to be indexed on an indexation day, this Act has effect as if the indexed amount were substituted for that amount on that day.

Note: The Department can tell you what the current indexed amounts are.

(3) Subject to this section, the indexed amount for an amount to be indexed is worked out using the formula:



where:

***Current figure***, as at a particular time in relation to an amount to be indexed, means:

(a) if the amount has not yet been indexed under this section before that time—the amount; and

(b) if the amount has been indexed under this section before that time—the amount most recently substituted for the amount under this section before that time.

***Indexation factor*** means the figure worked out under subsection (4).

(4) Subject to subsections (5) and (6), the indexation factor for an amount to be indexed on an indexation day is worked out using the formula:



where:

***Most recent index number*** means the index number for the most recent reference quarter for the amount ending before the indexation day.

***Previous index number*** means the index number for the reference quarter for the amount immediately preceding the most recent reference quarter for the amount ending before the indexation day.

(5) Subject to subsections (6) and (7), an indexation factor is to be worked out to 3 decimal places.

(6) If an indexation factor worked out under subsection (5) would, if it were worked out to 4 decimal places, end in a number that is greater than 4, the indexation factor is to be increased by 0.001.

(7) If an indexation factor worked out under subsections (4), (5) and (6) would be less than 1, the indexation factor is to be increased to 1.

(8) Subject to subsection (9), if at any time (whether before or after the commencement of this section), the Australian Statistician publishes an index number for a quarter in substitution for an index number previously published by the Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of this section.

(9) If at any time (whether before or after the commencement of this section) the Australian Statistician changes the reference base for the Consumer Price Index, regard is to be had, for the purposes of applying this section after the change takes place, only to index numbers published in terms of the new reference base.

Division 4B—Australian Community Pharmacy Authority

99H Interpretation

In this Division:

***Chairperson*** means the Chairperson of the Authority.

***member*** means a member of the Authority.

99J Establishment of Authority

(1) An Authority is established.

(2) The name of the Authority is the ***Australian Community Pharmacy Authority***.

99K Functions

(1) The functions of the Authority are:

(a) to consider applications under section 90; and

(b) to make, in respect of an application under section 90:

(i) a recommendation whether or not the applicant should be approved under that section in respect of particular premises; and

(ii) if an approval is recommended—recommendations as to the conditions (if any) to which the approval should be subject; and

(2) In making a recommendation under subsection (1), the Authority must comply with the relevant rules determined by the Minister under section 99L.

(3) All recommendations of the Authority under subsection (1) are to be made to the Secretary.

99L Determination of rules by Minister

(1) The Minister must, by writing, determine the rules subject to which the Authority is to make recommendations under subsection 99K(1).

(2) A determination under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

99M Powers

The Authority has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

99N Membership

(1) The Authority consists of the following part‑time members:

(a) a Chairperson;

(b) 2 pharmacists who are to be chosen from 4 pharmacists nominated by the Pharmacy Guild of Australia;

(c) one pharmacist who is to be chosen from 2 pharmacists nominated by the Pharmaceutical Society of Australia;

(d) an officer of the Department;

(e) a person who, in the Minister’s opinion, is an appropriate person to represent the interests of consumers.

(2) The member referred to in paragraph (1)(d) is to be appointed by the Secretary.

(3) The other members are to be appointed by the Minister.

(4) The member referred to in paragraph (1)(d) holds office, subject to this Division, during the pleasure of the Secretary.

(5) Each member referred to in paragraph (1)(a), (b), (c) or (e) holds office, subject to this Division, for the period of 2 years from the date of his or her appointment, but is eligible for re‑appointment.

99P Terms and conditions not provided for by this Act

A member holds office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined in writing by the Minister.

99Q Defective appointment not invalid

The appointment of a person as a member is not invalid because of a defect or irregularity in connection with the appointment.

99R Remuneration and allowances

(1) A member is to be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, a member is to be paid such remuneration as is prescribed.

(2) A member is to be paid such allowances as are prescribed.

(3) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973*.

(4) In this section:

***member*** means a member other than the member referred to in paragraph 99N(1)(d).

99S Leave of absence

The Minister may grant to a member appointed by the Minister leave of absence on such terms and conditions as to remuneration or otherwise as the Minister determines.

99T Disclosure of interests

(1) A member who has a direct or indirect pecuniary interest in a matter being considered by the Authority must, as soon as possible after the relevant facts have come to the member’s knowledge, disclose the nature of the interest at a meeting of the Authority.

(2) A disclosure under subsection (1) must be recorded in the minutes of the meeting of the Authority and the member may not, unless the Minister otherwise determines:

(a) be present during any deliberation of the Authority with respect to that matter; or

(b) take any part in any decision of the Authority with respect to that matter.

99U Resignation

A member may resign by writing signed and delivered:

(a) if the member was appointed by the Secretary—to the Secretary; or

(b) otherwise—to the Minister.

99V Termination of appointment

(1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

(2) If a member:

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for the benefit of those creditors;

(b) fails, without reasonable excuse, to comply with an obligation imposed by section 99T; or

(c) is absent, except on leave of absence granted under section 99S, from 3 consecutive meetings of the Authority;

the Minister may terminate the appointment of the member.

(3) In this section:

***member*** means a member appointed by the Minister.

99W Meetings

(1) The Chairperson may convene such meetings of the Authority as the Chairperson considers necessary for the efficient performance of the Authority’s functions.

(2) Meetings are to be held at such places as the Chairperson determines.

(3) The Chairperson presides at all meetings at which he or she is present.

(4) Where the Chairperson is not present at a meeting, the members present must appoint one of their number to preside at the meeting.

(5) Subject to this Act, the person presiding at a meeting may give directions regarding the procedure to be followed at or in connection with that meeting.

(6) At a meeting:

(a) 3 members constitute a quorum; and

(b) all questions are to be decided by a majority of votes of the members present and voting; and

(c) the person presiding has a deliberative vote and, if necessary, also has a casting vote.

(7) The Authority must keep records of its meetings.

99X Committees

(1) The Authority:

(a) may, with the approval in writing of the Minister, establish committees to assist it in performing its functions; and

(b) must, if the Minister so requires in writing, establish a committee to assist it in advising the Minister on a particular matter referred to it by the Minister.

(2) A committee consists of the persons (whether or not members of the Authority) appointed by the Minister to be its members.

(3) An appointment under subsection (2) is on a part‑time basis.

(4) For the purposes of section 99R, the members of a committee who are not members of the Authority are taken to be members of the Authority.

99Y Cessation of operation [*see* Note 1]

Unless sooner repealed, this Division ceases to have effect at the end of 30 June 2015.

Division 4C—Cost recovery

Subdivision A—Preliminary

99YB What this Division is about

This Division enables fees to be charged for certain services provided by the Commonwealth in order to recover the cost to the Commonwealth of providing those services. Those services relate to the exercise of certain powers of the Minister under this Act.

Subdivision B provides for regulations to set out the fees that are payable for those services, as well as other matters relating to the payment of those fees and the provision of those services (including some consequences of failing to pay a fee).

Subdivision C sets out another possible consequence of failing to pay a fee by providing for the Minister to refuse to exercise certain powers until the fee is paid.

Subdivision D provides that the Minister must cause a review to be undertaken of the impact of cost‑recovery measures provided for under this Division and any regulations made under this Division, and must table an annual report on related processes.

Subdivision B—Payment of fees etc. for certain services

99YBA Payment of fees etc. for certain services

(1) The regulations may make provision in relation to services provided by the Commonwealth in relation to the exercise of a power by the Minister under any of the following:

(a) section 9B;

(b) a provision in Part VII (other than a provision in that Part prescribed by the regulations).

(2) Without limiting subsection (1), the regulations may make provision in relation to the following:

(a) the making of applications for those services;

(b) prescribing fees for those services;

(c) the time that prescribed fees are due and payable (including extending the time for payment of the fees);

(d) the manner of payment of prescribed fees (including payment by instalments);

(e) the payment of penalties in respect of late payment of prescribed fees;

(f) exemptions from prescribed fees;

(g) the waiver, remission or refund of prescribed fees;

(h) the refusal to provide those services until a prescribed fee is paid;

(i) the review of decisions made under the regulations.

(3) A prescribed fee must not be such as to amount to taxation.

(4) A prescribed fee is payable to the Commonwealth.

(5) A prescribed fee that is due and payable may be recovered by the Commonwealth as a debt due to the Commonwealth.

Subdivision C—Consequences if fees not paid

99YBB Minister may refuse to exercise certain powers if prescribed fees not paid

(1) If:

(a) a person applies for a service referred to in subsection 99YBA(1) in relation to the exercise of a power by the Minister; and

(b) either:

(i) a fee prescribed under paragraph 99YBA(2)(b) is payable by the person for the service; or

(ii) a fee prescribed under paragraph 99YBA(2)(b) is payable by the person for another service referred to in subsection 99YBA(1) that the person has applied for;

then, without limiting any power the Minister may otherwise have under section 9B or this Part, the Minister may refuse to exercise the power until the prescribed fee is paid.

(2) A refusal referred to in subsection (1) is not a legislative instrument.

Subdivision D—Review of cost‑recovery measures

99YBC Review of impact of cost‑recovery measures

Review

(1) The Minister must cause an independent review of the impact of cost‑recovery measures provided for under this Division and any regulations made under this Division to be undertaken as soon as possible after the second anniversary of the commencement of this Division and completed within 4 months of that anniversary.

(2) The review must report on:

(a) the average number of times a submission is presented before gaining approval and the reasons provided for requiring applicants to resubmit;

(b) the average fee for submissions by type of submission (major/minor/generic according to Department of Health and Ageing classifications);

(c) the number of applications where the population is likely to be small and utilisation of the drug, medicinal preparation or vaccine is likely to be highly targeted;

(d) the number of reviews requested by applicants;

(e) the number of fee waivers given to applicants and the reasons why waivers were given;

(f) the length of time taken for submissions to be approved;

(g) the number of applications that fail to gain a listing, the reasons why and the types of drugs concerned;

(h) any increase in operating costs of the Pharmaceutical Benefits Advisory Committee;

(i) any increase in the cost of pharmaceutical benefits scheme medications to patients;

(j) any other matters considered relevant.

(3) The review must be conducted by a panel which must comprise not less than five persons, including:

(a) a medical professional nominated by the Minister;

(b) a nominee of the Consumers Health Forum of Australia;

(c) three other persons nominated by the Minister, each of whom must have relevant professional qualifications and must not be employed within the pharmaceuticals industry.

(4) The panel must give the Minister a written report of the review, and the Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of receiving the report.

Annual report on processes

(5) The Secretary must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report on processes leading up to the Pharmaceutical Benefits Advisory Committee consideration, including:

(a) the extent and timeliness with which responsible persons are provided copies of documents relevant to their submission to the Pharmaceutical Benefits Advisory Committee;

(b) the extent to which responsible persons exercise their right to comment on these documents, including appearing at hearings before the Pharmaceutical Benefits Advisory Committee;

(c) the number of responsible persons seeking a review of a Pharmaceutical Benefits Advisory Committee recommendation.

(6) The Minister must cause a copy of each report prepared under subsection (5) to be tabled in each House of the Parliament within 15 sitting days of receiving the report.

Division 4D—Export restriction

99ZH Definitions

(1) In this Division, unless the contrary intention appears:

***CEO of Customs*** means the Chief Executive Officer of Customs.

***Commonwealth benefit*** means benefit paid or payable by the Commonwealth to an approved supplier of substances to which this Part applies.

***consign for export***, in relation to an article containing drug like substances, means the initial act of placement of that article by one person in the physical possession of another person with the intention that the other person will, either directly or indirectly, arrange for the export of that article from Australia to a place outside Australia.

***Customs declaration***, in relation to an article that is consigned for export and that contains drug like substances, means:

(a) an export entry within the meaning of the *Customs Act 1901*; or

(b) a declaration that is attached to the article in accordance with the requirements of section 99ZK.

***Customs documentation purposes*** means the purposes of enabling Customs to deal with any complaint made, or proceeding taken, against Customs officers in respect of their activities under this Division.

***Customs officer*** means an officer of Customs within the meaning of subsection 4(1) of the *Customs Act 1901*.

***drug like substance*** means a substance:

(a) that is in the form of a tablet, capsule, or other similar preparation apparently suitable for taking by mouth; or

(b) that is apparently suitable for introduction into the nose or throat as an aerosol; or

(c) that is contained in an ampoule or vial apparently suitable for injection; or

(d) that is a cream, suppository, pessary, foam or other preparation apparently suitable for insertion in the rectum or vagina; or

(e) that is contained in a patch or other vehicle apparently suitable for the introduction of a medication through the skin;

and includes the packaging (if any) in which the substance, or the ampoule, vial, patch or other vehicle containing the substance, is contained.

***exporter***, in relation to drug like substances, means a person who:

(a) leaves Australia or attempts to leave Australia, carrying such substances; or

(b) consigns an article containing such substances for exportation.

***PBS monitoring purposes*** means monitoring by the Medicare Australia CEO of the operation of the pharmaceutical benefits scheme.

***PBS regulatory purposes*** means:

(a) the purpose of enabling the Medicare Australia CEO to perform his or her functions in relation to drug like substances detained under this Division; and

(b) PBS monitoring purposes.

***pharmaceutical benefits scheme*** means the scheme for the supply of pharmaceutical benefits established under this Part.

***prescription drug***means a substance for the supply of which the prescription of a medical or dental practitioner is required:

(a) if the State or Territory in which the substance was supplied is known—under the law of that State or Territory relating to drugs or poisons; or

(b) in any other case—under the law of any State, of the Australian Capital Territory, or of the Northern Territory, relating to drugs or poisons.

***prohibited export*** means a thing the exportation of which from Australia is prohibited under the *Customs Act 1901* or under any other law of the Commonwealth.

(2) In this Division, a reference to the making of a copy of a document means, in relation to a document that is in electronic form, the making of a hard copy of the text of the original document.

99ZI Restrictions on carriage or consignment of drug like substances

(1) A person must not leave Australia carrying drug like substances unless they:

(a) are not prescription drugs; or

(b) are prescription drugs but no Commonwealth benefit has been paid or is payable in respect of those drugs; or

(c) are prescription drugs but for the personal use of the person, of another person travelling in the company of the person or of a person covered by paragraph 86A(2)(a), (b) or (c).

(2) A person must not consign for export an article that contains drug like substances unless the substances:

(a) are not prescription drugs; or

(b) are prescription drugs but no Commonwealth benefit has been paid or is payable in respect of those drugs; or

(c) are prescription drugs but for the personal use of the person, of another person accompanying the person or of a person covered by paragraph 86A(2)(a), (b) or (c).

(3) For the purposes of subsection (1), a person who attempts to leave Australia is taken to be carrying drug like substances if the substances are in baggage to which the person’s documents for travel relate, whether or not that baggage is under the person’s immediate physical control.

(4) The restriction imposed by subsections (1) and (2) on the carriage or consignment of drug like substances are in addition to, and not in derogation from, any other prohibition or restriction imposed on such activities, in relation to those substances, under any other law of the Commonwealth or any law of a State or Territory.

(5) The reference in subsection (3) to a person’s documents for travel that relate to the person’s baggage includes a reference to any document relating to the person’s travel that contains information for use by the person in reclaiming that baggage.

99ZJ Detention of certain drug like substances being carried out of Australia and retention of related documents

(1) If:

(a) a person is attempting to leave Australia; and

(b) a Customs officer finds that the person is carrying drug like substances in the person’s baggage; and

(c) the person cannot satisfy the officer of a matter referred to in paragraph 99ZI(1)(a), (b) or (c) in relation to the substances;

the officer may, in accordance with guidelines issued under section 99ZS, detain the substances for transfer to the Medicare Australia CEO for PBS regulatory purposes.

(2) If the drug like substances are claimed by the exporter not to be prescription drugs, the exporter may satisfy a Customs officer of that claim by providing to the officer:

(a) a signed declaration by the exporter to that effect; or

(b) any other evidence sufficient to satisfy the officer to that effect.

(3) If the drug like substances are claimed by the exporter to be prescription drugs, the exporter may satisfy a Customs officer that no Commonwealth benefit has been paid or is payable in respect of the substances by providing to the officer:

(a) an approved supplier’s letter to that effect; or

(b) a signed declaration by the exporter to that effect; or

(c) any other evidence sufficient to satisfy the officer to that effect.

(4) If the drug like substances are claimed by the exporter to be prescription drugs, the exporter may satisfy a Customs officer that they are for the personal use of the exporter (the ***applicable person***), of another person (the ***applicable person***) accompanying the exporter or of a person (the ***applicable person***) covered by paragraph 86A(2)(a), (b) or (c), by providing to the officer:

(a) a medical or dental practitioner’s letter to that effect; or

(aa) an optometrist’s letter signed on or after 1 January 2008 to that effect; or

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

(b) a signed declaration by the exporter:

(i) stating that the substances are for the personal use of the applicable person; and

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

(iii) setting out the name and address of the approved supplier of the substances; and

(iv) stating the quantity of the substances intended for export; and

(v) setting out the daily dosage of the substances for the applicable person and the time the applicable person is expected to be outside Australia; or

(c) any other evidence sufficient to satisfy the officer that the substances are for the personal use of the applicable person.

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

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

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

(5) Nothing in subsection (2), (3) or (4) is intended to imply that the tendering to a Customs officer of a document of the kind described in paragraph (2)(a), (3)(a) or (b) or (4)(a), (aa), (ab) or (b) will necessarily be sufficient to satisfy the officer as required by that subsection.

(6) If drug like substances are detained by a Customs officer under subsection (1), the officer must:

(a) if a signed declaration is given to the officer under subsection (2), (3) or (4):

(i) make 2 copies of the declaration; and

(ii) retain the original declaration for transfer to the Medicare Australia CEO for PBS regulatory purposes; and

(iii) retain one copy of the declaration for Customs documentation purposes; and

(iv) return the other copy of the declaration to the exporter; and

(b) if any other document is given to the officer under that subsection:

(i) make 2 copies of that document; and

(ii) retain one copy for transfer to the Medicare Australia CEO for PBS regulatory purposes; and

(iii) retain the other copy for Customs documentation purposes; and

(iv) return the original document to the exporter.

(7) Subject to subsection (8), if a drug like substance is not detained by a Customs officer under subsection (1), the officer must return to the exporter any document, including any signed declaration, given to the officer.

(8) If, on examination of a document, if any, given to a Customs officer under subsection (2), (3) or (4), the officer decides not to detain the drug like substances, but, having regard to:

(a) the quantity of the substances; or

(b) the manner of packaging or carrying of the substances; or

(c) any other circumstances relating to the carriage of the substances;

the officer considers it appropriate to retain information relating to the substances for transfer to the Medicare Australia CEO for PBS monitoring purposes, the officer must:

(d) if a signed declaration is given to the officer under that subsection:

(i) make 2 copies of the declaration; and

(ii) retain the original declaration for transfer to the Medicare Australia CEO for those monitoring purposes; and

(iii) retain one copy of the declaration for Customs documentation purposes; and

(iv) return the other copy of the declaration to the exporter; and

(e) if any other document is given to the officer under that subsection:

(i) make 2 copies of that document; and

(ii) retain one copy for transfer to the Medicare Australia CEO for those monitoring purposes; and

(iii) retain the other copy for Customs documentation purposes; and

(iv) return the original document to the exporter.

Note: The manner of dealing with documents, and copies of documents, retained under subsection (6) or (8) is dealt with in section 99ZN.

99ZK Detention of certain drug like substances consigned for export and retention of related documents

(1) If:

(a) a person consigns an article for export; and

(b) a Customs officer finds drug like substances in the article; and

(c) the article:

(i) is not covered by a Customs declaration that discloses the substances; or

(ii) is covered by a Customs declaration disclosing the substances but the declaration is not sufficient to satisfy the officer of a matter referred to in paragraph 99ZI(2)(a), (b) or (c) in relation to the substances;

the officer may, in accordance with guidelines issued under section 99ZS, detain the substances for transfer to the Medicare Australia CEO for PBS regulatory purposes.

(2) If a person consigns an article containing drug like substances for export and the person is not required, under subsection 113(1) of the *Customs Act 1901*, to enter the goods for export, the exporter must attach to the article in which the substances are consigned a signed declaration stating:

(a) his or her name and address; and

(b) any one of the following:

(i) that the substances are not prescription drugs;

(ii) that they are prescription drugs but no Commonwealth benefit has been paid or is payable in respect of them;

(iii) that they are prescription drugs but for the personal use, outside Australia, of the exporter, of a person who travels from Australia in the company of the exporter or of a person covered by paragraph 86A(2)(a), (b) or (c).

(3) To satisfy a Customs officer of a matter referred to in paragraph (2)(b), the exporter may:

(a) in the case of a statement under subparagraph (2)(b)(i)—include in the article any documentary evidence in support of that statement; or

(b) in the case of a statement under subparagraph (2)(b)(ii)—include in the article an approved supplier’s letter or other evidence to support that statement; or

(c) in the case of a statement under subparagraph (2)(b)(iii)—include in the article:

(i) a medical practitioner’s letter; or

(ii) a dental practitioner’s letter; or

(iii) an optometrist’s letter signed on or after 1 January 2008; or

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

(iv) any other documentary evidence to support that statement.

(4) Nothing in subsection (3) is intended to imply that the inclusion within the article of a document of the kind described in paragraph (3)(a), (b) or (c) will necessarily be sufficient to satisfy the officer as required by that subsection.

(5) If drug like substances contained within an article consigned for export are detained by a Customs officer under subsection (1), the officer must:

(a) make a copy of the Customs declaration relating to that article; and

(b) retain that copy for transfer to the Medicare Australia CEO for PBS regulatory purposes; and

(c) retain the original declaration for Customs documentation purposes; and

(d) if the article is found to contain a document in support of a statement relating to the substances in the Customs declaration:

(i) make 2 copies of the document; and

(ii) retain one copy for transfer to the Medicare Australia CEO for PBS regulatory purposes; and

(iii) retain the other copy for Customs documentation purposes; and

(iv) return the original document to the article.

(6) If, on examination of a declaration referred to in subsection (2) or any other document referred to in subsection (3), the Customs officer decides not to detain the drug like substances, but having regard to:

(a) the quantity of the substances; or

(b) the manner of packaging the substances; or

(c) any other circumstances in which the substances are being exported;

the officer considers it appropriate to retain information relating to the substances for transfer to the Medicare Australia CEO for PBS monitoring purposes, the officer must:

(d) make a copy of the Customs declaration relating to that article; and

(e) retain the copy for transfer to the Medicare Australia CEO for those monitoring purposes; and

(f) retain the original declaration for Customs documentation purposes; and

(g) if the article is found to contain a document in support of a statement relating to the substances in the Customs declaration:

(i) make 2 copies of the document; and

(ii) retain one copy for transfer to the Medicare Australia CEO for those monitoring purposes; and

(iii) retain the other copy for Customs documentation purposes; and

(iv) return the original document to the article.

Note: The manner of dealing with documents, and copies of documents, retained under subsection (5) or (6) is dealt with in section 99ZN.

99ZL Examination and inspection powers

(1) A Customs officer may, in an examination place and with such assistance and using such force as is reasonable and necessary in the circumstances, examine, and inspect the contents of:

(a) any item of baggage, in that place, that is carried, or taken to be carried, by an exporter; or

(b) any article, in that place, that is consigned for export;

in order to determine, for the purposes of section 99ZJ or 99ZK:

(c) whether or not the baggage or article contains drug like substances; or

(d) if the presence of drug like substances in the baggage or article has been disclosed by the exporter—whether or not the drug like substances in the baggage or article are as so disclosed.

(2) A Customs officer must, in exercising the powers of examination and inspection referred to in subsection (1), act in accordance with guidelines issued under section 99ZS.

(3) In this section:

***examination place*** means:

(a) a port, airport, wharf or boarding station appointed under section 15 of the *Customs Act 1901*; or

(b) a place that is the subject of a permission under section 58 of that Act; or

(c) an international mail centre approved for the purposes of subsection 77F(1) of that Act; or

(d) a place appointed under section 77G of that Act.

99ZM Customs may detain some drug like substances and not others

The power in section 99ZJ or 99ZK to detain drug like substances contained in an item of baggage, or in an article consigned for export, includes a power to detain some such substances while not detaining others, including others of the same kind as the substances that are detained.

99ZN Customs treatment of detained substances and retained documents

(1) Drug like substances detained under section 99ZJ or 99ZK must, pending their transfer to the Medicare Australia CEO, be taken to a place of security specified by the CEO of Customs.

(2) If a Customs officer detains drug like substances under section 99ZJ or 99ZK, the officer must:

(a) give to the exporter a notice of such detention in accordance with subsections (4) and (5); and

(b) give to the Medicare Australia CEO a copy of that notice; and

(c) in accordance with the guidelines issued under section 99ZS, transfer to the Medicare Australia CEO, for PBS regulatory purposes:

(i) the substances so detained; and

(ii) any documents that relate to the substances and that were retained by the officer under subsection 99ZJ(6) or 99ZK(5) for such transfer; and

(d) in accordance with the guidelines issued under section 99ZS, transfer to a place of security specified by the CEO of Customs, for Customs documentation purposes, any documents relating to the substances that were retained by the officer under subsection 99ZJ(6) or 99ZK(5) for such purposes.

(3) If a Customs officer does not detain drug like substances under section 99ZJ or 99ZK but retains information relating to the substances under that section, the officer must, in accordance with the guidelines issued under section 99ZS:

(a) transfer to the Medicare Australia CEO, for PBS regulatory purposes, any documents that relate to the substances and that were retained by the officer under subsection 99ZJ(8) or 99ZK(6) for such transfer, accompanied by a brief statement of the circumstances in which the substances were being exported; and

(b) transfer to such place of security as the CEO of Customs directs, for Customs documentation purposes, any documents relating to the substances that were retained by the officer under subsection 99ZJ(8) or 99ZK(6) for such purposes, accompanied by a copy of the statement referred to in paragraph (a).

(4) For the purposes of this Division, a notice of detention of drug like substances is taken to have been duly given to the exporter if the notice is:

(a) given to the exporter, if the exporter is present at the time of the detention; or

(b) if the exporter is not present but a postal address of the exporter is known—sent by post to the last known such address; or

(c) if the postal address of the exporter of a consignment is not known but the address of the consignee is known—sent by post to the address of the consignee; or

(d) in any other situation—published in the *Gazette*.

(5) The notice of detention of drug like substances must:

(a) set out a description of the substances detained; and

(b) provide a brief statement of the reasons for detention; and

(c) inform the exporter that the Medicare Australia CEO will examine the substances, and:

(i) if the Medicare Australia CEO is satisfied that they are not prescription drugs and not prohibited exports—return the substances to the exporter or reconsign them for export, as the case requires; and

(ii) if the Medicare Australia CEO is satisfied that they are prohibited exports—pass the substances to the agency nominated in the guidelines issued under section 99ZS to deal with prohibited exports of that kind; and

(iii) if the Medicare Australia CEO is satisfied that they are prescription drugs but not prohibited exports—notify the exporter in writing to that effect and invite the exporter to apply in writing to the Medicare Australia CEO, within 60 days after the notification, for their return on the basis that paragraph 99ZI(1)(b) or (c) or (2)(b) or (c) applies in relation to the substances; and

(d) inform the exporter that, if the exporter is notified by the Medicare Australia CEO in accordance with subparagraph (c)(iii) but no application for the return of the substances is received within 60 days after the notification, then, in accordance with subsection 99ZO(5), the Medicare Australia CEO will be taken to have seized the substances and the substances will have been taken to have been condemned as forfeited to the Commonwealth; and

(e) inform the exporter that, if the exporter is notified by the Medicare Australia CEO in accordance with subparagraph (c)(iii) and an application for the return of the substances is made within 60 days after the notification, the Medicare Australia CEO will consider the application and, within 120 days after the notification, will either:

(i) return the substances to the exporter or reconsign them for export; or

(ii) seize the substances and then seek an order of a magistrates court for their condemnation as forfeited to the Commonwealth; and

(f) inform the exporter of the possible implications of a criminal prosecution of the exporter in relation to the substances.

(6) If a copy of a document or statement is transferred by a Customs officer under subsection (3) to a place of security, Customs must ensure:

(a) that the copy is not used for any other purposes than the purposes for which it was retained; and

(b) that, at the end of 12 months, or on completion of any complaint or proceeding initiated against Customs officers, whichever last occurs, the copy is destroyed.

99ZO Treatment by the Medicare Australia CEO of detained substances and retained documents

(1) As soon as practicable after the Medicare Australia CEO takes possession of detained substances, they must, pending their return, reconsignment or disposal, be taken to a place of security specified by the Medicare Australia CEO.

(2) If the Medicare Australia CEO establishes, on examining detained substances, that they are not prescription drugs and not prohibited exports, the Medicare Australia CEO must, as soon as practicable:

(a) return the substances and any documents relating to the substances to the exporter; or

(b) reconsign the substances, and those related documents, for export;

as the case requires.

(3) If the Medicare Australia CEO establishes, on examining detained substances, that they are prohibited exports, the Medicare Australia CEO must forthwith pass the substances, and any documents relating to the substances, to the agency nominated in the guidelines issued under section 99ZS to deal with prohibited exports of that kind.

(4) If the Medicare Australia CEO establishes, on examining detained substances, that they are prescription drugs but not prohibited exports, the Medicare Australia CEO must:

(a) notify the exporter, in writing, to that effect; and

(b) invite the exporter to apply in writing to the Medicare Australia CEO, within 60 days after the notification, for the return of the substances on the basis that paragraph 99ZI(1)(b) or (c) or (2)(b) or (c) applies in relation to them.

(5) If the exporter does not make an application for their return within that period, then, at the end of that period and subject to subsection (6):

(a) the Medicare Australia CEO is taken to have seized the substances; and

(b) the substances are taken to have been condemned as forfeited to the Commonwealth.

(6) If, before the day when substances would be taken to have been condemned as forfeited to the Commonwealth under subsection (5), proceedings for an offence involving those substances have been commenced, the substances are not to be taken to have been so condemned.

(7) If:

(a) the Medicare Australia CEO establishes, on examining detained substances, that they are prescription drugs but not prohibited exports; and

(b) within 60 days after notification to that effect was given to the exporter, an application is made for the return of the substances;

the Medicare Australia CEO must consider the application and, not later than 120 days after the notification was so given:

(c) if the Medicare Australia CEO decides that he or she is satisfied that paragraph 99ZI(1)(b) or (c) or (2)(b) or (c) applies to the substances—must return the substances to the exporter or reconsign them for export; and

(d) if the Medicare Australia CEO decides that he or she is not so satisfied—must seize the substances as forfeited to the Commonwealth.

(8) Despite the fact that substances are seized under subsection (7) as forfeited to the Commonwealth, the Medicare Australia CEO must, subject to subsection (9) and to any other law of the Commonwealth requiring their retention, destruction or disposal, return the substances to the exporter or reconsign them for export unless:

(a) not later than 60 days after the seizure, proceedings are commenced in a magistrates court for the condemnation of the substances as forfeited goods; and

(b) on completion of the proceedings, that court makes an order that the substances are condemned as forfeited to the Commonwealth.

(9) A court must not make an order for condemnation of substances under subsection (8) if proceedings for an offence involving the substances have been commenced.

(10) In any proceeding for the condemnation of substances as forfeited to the Commonwealth, a certificate by the Medicare Australia CEO to the effect that the substances are prescription drugs within the meaning of this Division is prima facie evidence of that matter.

99ZP Right of compensation in certain circumstances for substances destroyed

(1) Despite the destruction of drug like substances that are taken to be condemned as forfeited to the Commonwealth under subsection 99ZO(5) because no application for their return was made, a person may apply to a court of competent jurisdiction under this section for compensation in respect of those substances.

(2) A right to compensation exists if:

(a) the substances are not prohibited exports; and

(b) the substances were not used or otherwise involved in the commission of an offence; and

(c) the person establishes, to the satisfaction of the court:

(i) that he or she would have had an entitlement to the return of the substances; and

(ii) that there were circumstances providing a reasonable cause for the failure to apply for that return within 60 days after the notice was given to the exporter.

(3) If a right to compensation exists under subsection (2), the court must order the payment by the Commonwealth to the person of an amount equal to the market value of the substances at the time of their destruction.

99ZQ Disposal of forfeited substances

(1) If drug like substances:

(a) are taken to have been seized and condemned as forfeited to the Commonwealth under subsection 99ZO(5); or

(b) are actually seized under subsection 99ZO(7) and condemned as forfeited to the Commonwealth under subsection 99ZO(8);

the title to the substances vests in the Commonwealth to the exclusion of all other interests and cannot be called into question.

(2) Substances to which subsection (1) applies must be destroyed in accordance with the guidelines issued under section 99ZS.

99ZR Liability for acts done in good faith

(1) Subject to subsection (2), neither the Commonwealth, the Medicare Australia CEO nor any person performing duty as a Customs officer or as a member of the staff of Medicare Australia is liable for any act done in good faith by such a Customs officer, by the Medicare Australia CEO, or by such a member of the staff of Medicare Australia in the performance of functions or duties, or the exercise of powers, under this Division.

(2) If drug like substances that the Medicare Australia CEO would, but for the operation of this subsection, be obliged under subsection 99ZO(2) or (7) to return or reconsign:

(a) have ceased to be usable because of effluxion of time or otherwise; or

(b) have been lost;

the Medicare Australia CEO is not required to return or reconsign the substances but, if the exporter seeks compensation under this subsection, must pay the exporter such amount as is agreed between the exporter and the Medicare Australia CEO, or, failing agreement, as is determined by a court of competent jurisdiction, to cover the cost to the exporter:

(c) of replacing the substances; and

(d) if the substances would, but for their detention, have been carried or sent by the exporter to a place outside Australia and the exporter continues to require that the substances are sent to that place—of sending the substances to that place.

99ZS Guidelines for detention of, dealing with, and disposal of, substances

(1) The CEO of Customs may, by notice in writing, issue guidelines for the performance of functions and duties, and for the exercise of powers, by Customs officers, in relation to matters arising under this Division including, in particular, matters relating to:

(a) the examination and inspection of items of baggage, and articles consigned for export, in the circumstances, and for the purposes, set out in subsection 99ZL(1); and

(b) the detention of some or all of the drug like substances found in the exercise of those powers of examination and inspection; and

(c) the transfer of detained drug like substances to the Medicare Australia CEO; and

(d) copying, retaining, transferring and otherwise dealing with, documents (including Customs declarations) provided in respect of drug like substances or in respect of items of baggage, or articles consigned for export, that are found to contain such substances.

(2) The Medicare Australia CEO may, by notice in writing, issue guidelines for the performance of functions and duties, and for the exercise of powers, by the Medicare Australia CEO, or by members of the staff of Medicare Australia, in relation to matters arising under this Division including, in particular, matters relating to:

(a) dealing with drug like substances transferred to the Medicare Australia CEO by Customs officers; and

(b) dealing with claims for the return of such substances; and

(c) if it is required to dispose of such substances—the manner of their disposal; and

(d) if such substances are found on examination to be prohibited exports—the transfer of those substances, and any documents relating to them, to the agency nominated in the guidelines to deal with prohibited exports of that kind.

(3) At any time, the CEO of Customs or the Medicare Australia CEO may, by written notice, issue further guidelines that vary or revoke the existing guidelines.

(4) Guidelines are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(5) Despite section 46A and paragraph 48(1)(b) of the *Acts Interpretation Act 1901*, guidelines take effect from:

(a) the first day on which they are no longer liable to be disallowed; or

(b) if the guidelines provide for their commencement after that day—in accordance with that provision.

99ZT Forfeiture of substances detained under section 99ZJ or 99ZK

All drug like substances that are transferred to the Medicare Australia CEO under section 99ZJ or 99ZK following their detention are forfeited to the Commonwealth unless:

(a) the substances are not prescription drugs; or

(b) the substances are prescription drugs and the exporter establishes:

(i) that no Commonwealth benefit has been paid or is payable; or

(ii) that the substances are for the personal use of the exporter, of a person accompanying the exporter or of a person covered by paragraph 86A(2)(a), (b) or (c).

Division 5—General

100 Special arrangements

(1) The Minister may make special arrangements for, or in relation to, providing that an adequate supply of pharmaceutical benefits will be available to persons:

(a) who are living in isolated areas; or

(b) who are receiving treatment in circumstances in which pharmaceutical benefits (other than those to which subsection (1A) applies) are inadequate for that treatment; or

(c) if the pharmaceutical benefits covered by the arrangements can be more conveniently or efficiently supplied under the arrangements.

(1A) This subsection applies to:

(a) pharmaceutical benefits to which subsection 85AA(1) or (2) applies; and

(b) pharmaceutical benefits supplied in the circumstances referred to in subsection 85AA(3).

(2) The Minister may vary or revoke a special arrangement made under subsection (1).

(3) This Part, and regulations or other instruments made for the purposes of this Part, have effect subject to a special arrangement made under subsection (1).

Note: For example, for a drug declared under subsection 85(2), it does not matter if a special arrangement for its supply is inconsistent with a determination made under subsection 85(3) or section 85A for the drug.

100A Establishment and membership of the Pharmaceutical Benefits Advisory Committee

(1) There is to be a Committee called the Pharmaceutical Benefits Advisory Committee.

(2) The Committee is to consist of the Chairperson and at least 11, but not more than 17, other members.

(3) Members forming at least 2/3 of the total membership of the Committee are to be selected from the following:

(a) consumers;

(b) health economists;

(c) practising community pharmacists;

(d) general practitioners;

(e) clinical pharmacologists;

(f) specialists;

with at least one member selected from each of the interests or professions mentioned in paragraphs (a) to (f).

(4) The remaining members (if any) of the Committee are to be persons whom the Minister is satisfied have qualifications or experience:

(a) in a field relevant to the functions of the Committee; and

(b) that would enable them to contribute meaningfully to the deliberations of the Committee.

(5) The Chairperson is a member of the Committee.

(5A) The Chairperson holds office on a full‑time basis.

(6) The members of the Committee (other than the Chairperson) hold office on a part‑time basis.

100B Appointment etc. of members of the Pharmaceutical Benefits Advisory Committee

(1) The members of the Pharmaceutical Benefits Advisory Committee are to be appointed by the Minister by written instrument.

(1A) A person appointed under subsection 100A(3) must be appointed from nominations made by the following bodies:

(a) in respect of paragraph 100A(3)(a)—consumer organisations;

(b) in respect of paragraph 100A(3)(b)—professional associations of health economists;

(c) in respect of paragraph 100A(3)(c)—professional associations of pharmacists;

(d) in respect of paragraph 100A(3)(d)—professional associations of medical practitioners;

(e) in respect of paragraph 100A(3)(e)—professional associations of clinical pharmacologists;

(f) in respect of paragraph 100A(3)(f)—professional associations of specialists;

prescribed by the regulations for the purposes of this subsection.

(1B) The regulations may prescribe matters relating to nominations, including (but not limited to) the number of nominations to be considered by the Minister before making an appointment.

(2) A member of the Committee is eligible for reappointment.

(3) The performance of the functions and the exercise of the powers of the Committee are not affected merely because the number of members of the Committee falls below 12 for a period of not more than 6 months.

(4) The names and qualifications of the members of the Committee must be published in the *Gazette.*

100C Termination of appointment

A member of the Pharmaceutical Benefits Advisory Committee holds office during the Minister’s pleasure.

100D Remuneration

(1) A member of the Pharmaceutical Benefits Advisory Committee is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed.

(2) A member is to be paid the allowances that are prescribed.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

101 Functions of Pharmaceutical Benefits Advisory Committee

Functions relating to drugs and medicinal preparations

(3) The Pharmaceutical Benefits Advisory Committee shall make recommendations to the Minister from time to time as to the drugs and medicinal preparations which it considers should be made available as pharmaceutical benefits under this Part and shall advise the Minister upon any other matter concerning the operation of this Part referred to it by the Minister.

(3AA) The Pharmaceutical Benefits Advisory Committee must make recommendations to the Minister from time to time about what should be specified in a determination under subsection 84AAA(2).

(3AB) Subsection (3AA) does not limit subsection (3).

(3A) For the purpose of deciding whether to recommend to the Minister that a drug or medicinal preparation, or a class of drugs and medicinal preparations, be made available as pharmaceutical benefits under this Part, the Committee shall give consideration to the effectiveness and cost of therapy involving the use of the drug, preparation or class, including by comparing the effectiveness and cost of that therapy with that of alternative therapies, whether or not involving the use of other drugs or preparations.

(3B) Without limiting the generality of subsection (3A), where therapy involving the use of a particular drug or medicinal preparation, or a class of drugs and medicinal preparations, is substantially more costly than an alternative therapy or alternative therapies, whether or not involving the use of other drugs or preparations, the Committee:

(a) shall not recommend to the Minister that the drug, preparation or class be made available as pharmaceutical benefits under this Part unless the Committee is satisfied that the first‑mentioned therapy, for some patients, provides a significant improvement in efficacy or reduction of toxicity over the alternative therapy or therapies; and

(b) if the Committee does recommend to the Minister that the drug, preparation or class be made available as pharmaceutical benefits under this Part, the Committee shall include in its recommendation a statement that the Committee is satisfied as mentioned in paragraph (a).

(3BA) If the Committee is of the opinion that a drug or medicinal preparation should be made available as a pharmaceutical benefit under this Part, the Committee must, in its recommendation under subsection (3), specify whether the drug or medicinal preparation and another drug or medicinal preparation should be treated as interchangeable on an individual patient basis.

(3C) Where the Committee is of the opinion that a drug or medicinal preparation, or a class of drugs and medicinal preparations, should be made available as pharmaceutical benefits under this Part, but only in certain circumstances, the Committee shall, in its recommendation under subsection (3), specify those circumstances.

Functions relating to declarations under subsection 85(2)

(4) A drug or medicinal preparation shall not be declared, pursuant to paragraph 85(2)(a), to be a drug or medicinal preparation in relation to which this Part applies unless:

(a) the drug or medicinal preparation was, immediately before the commencement of this subsection, a pharmaceutical benefit; or

(b) the Committee has recommended to the Minister that it be so declared.

(4A) A class of drugs or medicinal preparations, or of drugs and medicinal preparations, shall not be declared, pursuant to paragraph 85(2)(a), to be a class of drugs or medicinal preparations, or of drugs and medicinal preparations, in relation to which this Part applies unless:

(a) each member of that class was, immediately before the commencement of this subsection, a pharmaceutical benefit; or

(b) the Committee has recommended to the Minister that the class be so declared.

(4AAA) The Minister may, by legislative instrument, revoke or vary a declaration under subsection 85(2) in relation to a drug or medicinal preparation.

(4AAB) If:

(a) under subsection (4AAA), the Minister proposes to revoke or vary a declaration under subsection 85(2) in relation to a drug or medicinal preparation; and

(b) on and after the day the revocation or variation comes into force, the drug or medicinal preparation would cease to be a listed drug;

then, before making the revocation or variation, the Minister must obtain the advice in writing of the Pharmaceutical Benefits Advisory Committee in relation to the proposed revocation or variation.

(4AAC) An advice under subsection (4AAB) must be laid before each House of the Parliament with the declaration under subsection (4AAA) to which the advice relates.

Functions relating to declarations under subsection 85(2A)

(4AAD) The Pharmaceutical Benefits Advisory Committee must make recommendations to the Minister from time to time as to the drugs and medicinal preparations which it considers should be made available only under special arrangements under section 100.

(4AAE) The Minister may, by legislative instrument, revoke or vary a declaration under subsection 85(2A) in relation to a drug or medicinal preparation.

(4AAF) If:

(a) under subsection (4AAE), the Minister proposes to revoke or vary a declaration under subsection 85(2A) in relation to a drug or medicinal preparation (the ***drug***); and

(b) on and after the day the revocation or variation comes into force, the drug could be supplied under this Part otherwise than under special arrangements under section 100;

then the Minister can only make the revocation or variation if:

(c) the Minister also revokes or varies the declaration under subsection 85(2), in accordance with subsections (4AAA), (4AAB) and (4AAC) of this section, so that the drug ceases to be a listed drug on and after the day the revocation or variation of the subsection 85(2) declaration comes into force; or

(d) the Pharmaceutical Benefits Advisory Committee recommends against the Minister taking the action in paragraph (c).

Function relating to Minister’s determination of therapeutic groups

(4AA) If the Committee is of the opinion that the Minister should, or should not, determine a therapeutic group, the Committee must advise the Minister accordingly.

Function relating to Minister’s determination about exempt items

(4AB) If the Committee is of the opinion that the following circumstances exist in relation to a pharmaceutical item:

(a) the listed drug in the pharmaceutical item represents suitable therapy for a particular patient population;

(b) the pharmaceutical item is suitable for use by a particular subgroup of that population because of either or both of the form and manner of administration of the drug in the item;

(c) no other pharmaceutical item that has that drug is suitable for use by that subgroup because of either or both of the form and manner of administration of the drug in that other item;

the Committee must advise the Minister that those circumstances exist in relation to the pharmaceutical item.

Function relating to Minister’s decisions about prices of combination items

(4AC) If the Committee is satisfied that therapy involving a combination item provides, for some patients:

(a) a significant improvement in patient compliance with the therapy; or

(b) a significant improvement in efficacy or reduction in toxicity;

over alternative therapies, then the Committee must advise the Minister accordingly.

Functions relating to vaccines

(4B) The Pharmaceutical Benefits Advisory Committee must:

(a) make recommendations to the Minister from time to time about the vaccines it considers should be designated vaccines (see section 9B); and

(b) advise the Minister about any other matter concerning the operation of section 9B referred to it by the Minister.

(4C) For the purpose of deciding whether to recommend to the Minister that a vaccine be a designated vaccine, the Committee must give consideration to the effectiveness and cost of immunisation involving the use of the vaccine, including by comparing the effectiveness and cost of immunisation involving the use of the vaccine with the effectiveness and cost of alternative options, whether or not involving the use of other vaccines.

(4D) If immunisation involving the use of a particular vaccine (the ***first vaccine***) is substantially more costly than an alternative vaccine:

(a) the Committee must not recommend to the Minister that the first vaccine be a designated vaccine unless the Committee is satisfied that the first vaccine, for some individuals, provides a significant improvement in efficacy or reduction of toxicity over the alternative vaccine; and

(b) if the Committee recommends to the Minister that the first vaccine be a designated vaccine—the Committee must include in its recommendation a statement that the Committee is satisfied as mentioned in paragraph (a).

(4E) Subsection (4D) does not limit subsection (4C).

(4F) If the Committee is of the opinion that a vaccine should be a designated vaccine, but should only be provided under subsection 9B(1) in certain circumstances, the Committee must, in its recommendation under subsection (4B), specify those circumstances.

Procedure

(5) The regulations may make provision for and in relation to the procedure of the Committee.

101A Sub‑committees of the Pharmaceutical Benefits Advisory Committee

(1) The Pharmaceutical Benefits Advisory Committee:

(a) may establish such sub‑committees as it thinks fit to assist it in performing its functions; and

(b) shall, if the Minister so requires in writing, establish a sub‑committee to assist the Committee in advising the Minister on a particular matter referred to it by the Minister under subsection 101(3) or (4B).

(2) A sub‑committee shall consist of the following persons (whether or not members of the Committee):

(a) persons appointed by the Committee as members of the sub‑committee;

(b) persons nominated by the Minister as members of the sub‑committee.

(3) A person shall not be appointed by the Committee, or nominated by the Minister, as a member of a sub‑committee unless the person has special qualifications or experience in relation to the matter referred to the sub‑committee.

(4) For the purposes of section 140, a sub‑committee shall be taken to be a committee established under this Act.

102 Testing of drugs

The Secretary may make such arrangements as the Secretary considers necessary for the testing or analysis of pharmaceutical benefits or of drugs which may be used as pharmaceutical benefits.

103 Offences

(1) An approved pharmacist shall not give, promise or offer a gift, rebate or reward as an inducement to a person to present, or in consideration of a person’s presenting, a prescription for the supply of a pharmaceutical benefit.

Penalty: $1,000.

(2) Except as prescribed, a pharmacist to whom a prescription is presented shall not:

(a) supply, in purported pursuance of this Part, anything other than the pharmaceutical benefit that is directed to be supplied in the prescription; or

(b) in exchange for the prescription make a payment in money or give any other consideration to the person presenting the prescription.

Penalty: $2,000 or imprisonment for 12 months, or both.

(2A) Paragraph (2)(a) does not prohibit a pharmacist from supplying, instead of the pharmaceutical benefit that is directed to be supplied in a prescription (the ***specified benefit***), another pharmaceutical benefit (the ***substitute benefit***) if:

(a) the person who prescribed the specified benefit did not indicate on the prescription that only that benefit was to be supplied; and

(b) the Schedule of Pharmaceutical Benefits issued by the Department states that the specified benefit and the substitute benefit are equivalent; and

(c) the substitute benefit is a listed brand of a pharmaceutical item; and

(d) the supply of the substitute benefit is not prohibited by a law of the State or Territory in which the substitute benefit is supplied.

(3) An approved pharmacist, approved medical practitioner or approved hospital authority shall not permit a person other than a medical practitioner or pharmacist to dispense a pharmaceutical benefit except under the direct supervision of a medical practitioner or pharmacist.

Penalty: $2,000 or imprisonment for 12 months, or both.

(4) A person for whom a prescription for the supply of a pharmaceutical benefit is written or to whom a pharmaceutical benefit is supplied shall not use, dispose of or otherwise deal with the pharmaceutical benefit supplied in a way other than that for which the prescription was written or the pharmaceutical benefit supplied.

Penalty: $5,000 or imprisonment for 2 years, or both.

(4AA) A person must not have in his or her possession, or consign for export, a quantity of a pharmaceutical benefit or pharmaceutical item that exceeds the designated quantity of that pharmaceutical benefit or pharmaceutical item unless:

(a) that first‑mentioned quantity was supplied to the person (whether on prescription or otherwise) by an approved supplier for the medical, dental, optometrical or midwifery treatment, or the nurse practitioner treatment by an authorised nurse practitioner, of the person or of a person covered by paragraph 86A(2)(a), (b) or (c); or

(b) the person has some other reasonable excuse for possessing or consigning for export that first‑mentioned quantity.

Penalty: Imprisonment for 2 years.

(4AB) In a prosecution for an offence against subsection (4AA), the defendant bears the evidential burden of proving the exception set out in paragraph (a) or (b) of that subsection.

(4AC) For the purposes of subsection (4AA), the designated quantity of a pharmaceutical benefit or pharmaceutical item is the quantity of that pharmaceutical benefit or pharmaceutical item worked out using the formula:



where:

***MQ*** is the quantity or number of units of that pharmaceutical benefit or pharmaceutical item that is determined by the Minister, under paragraph 85A(2)(a), to be the maximum quantity, or the maximum number of units, of that pharmaceutical benefit or pharmaceutical item that may, in one prescription, be directed to be supplied on any one occasion.

***RA*** is the number (if any) that is determined by the Minister, under paragraph 85A(2)(b), to be the maximum number of occasions on which the supply of the pharmaceutical benefit, or a pharmaceutical benefit that has the pharmaceutical item, may, in one prescription, be directed to be repeated.

(4AD) In proceedings for an offence against subsection (4AA), a certificate by the Medicare Australia CEO to the effect that:

(a) a substance specified in the certificate is a particular pharmaceutical benefit or pharmaceutical item; and

(b) the quantity of the substance to which the offence relates exceeds the designated quantity in relation to a pharmaceutical benefit or pharmaceutical item of that kind;

is prima facie evidence of those matters.

(4AE) A person is not liable to be convicted of an offence against subsection (4) and subsection (4AA) in respect of the same action.

(4A) A person shall not, in purported compliance with the requirements of regulations made by virtue of subsection 84AA(1) or (1A), include, or cause or permit to be included, on a prescription written by a PBS prescriber any information connected with the status of the person to whom the prescription relates that is, to his or her knowledge, false or misleading in a material particular.

Penalty: $5,000 or imprisonment for 2 years, or both.

(4B) A person shall not, in purported compliance with the requirements of regulations made under subsection 84AA(2) or (3), in so far as those regulations relate to a prescription communicated to an approved pharmacist, communicate to that pharmacist any information connected with the status of the person to whom the prescription relates that is, to his or her knowledge, false or misleading in a material particular.

Penalty: $5,000 or imprisonment for 2 years, or both.

(5) A person shall not:

(b) obtain a pharmaceutical benefit to which the person is not entitled;

(ba) obtain the issue of a concession card or entitlement card to which the person is not entitled;

(d) not being a PBS prescriber, write a prescription for the purposes of this Part;

(f) supply as a pharmaceutical benefit a substance that does not conform to the standards of composition or purity prescribed in the regulations or that has as an ingredient a substance that does not conform to those standards;

(g) by means of impersonation, a false or misleading statement or a fraudulent device, obtain, or by any of those means aid or abet another person to obtain, a pharmaceutical benefit or a payment in respect of the supply of a pharmaceutical benefit; or

(h) contravene or fail to comply with a provision of this Part which is applicable to the person.

Penalty for contravention of this subsection: $5,000 or imprisonment for 2 years, or both.

104A Pharmacists to furnish statement of stocks

(1) The Secretary may require an approved pharmacist to furnish to the Secretary, within a time specified by the Secretary and in accordance with a form supplied by the Secretary and with any directions contained in the form, a statement, signed by or on behalf of the approved pharmacist, setting out particulars of stocks of drugs or medicinal preparations in the approved pharmacist’s possession or under the approved pharmacist’s control immediately before the date on which the statement is signed, being drugs or medicinal preparations that are, or are capable of being used as ingredients in pharmaceutical benefits.

(2) An approved pharmacist shall not:

(a) refuse or fail to comply with a requirement under this section; or

(b) in a statement under this section, furnish information that is false or misleading in a material particular.

104B Report on impact of *National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007*

(1) The Minister must prepare a report on:

(a) the impact of the reforms made by the *National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007*; and

(b) the impact on the cost of pharmaceutical benefits to patients as a consequence of the reforms.

(2) The preparation of the report must be completed by 31 December 2009.

(3) The Minister must cause a copy of the report to be laid before each House of the Parliament within 5 sitting days of that House after the day of the completion of the preparation of the report.

105 Regulations

The regulations may:

(a) prescribe the terms and conditions subject to which pharmaceutical benefits shall be supplied;

(b) make provision for or in relation to the writing of prescriptions; and

(c) prescribe the standards of composition or purity of drugs, medicines or substances which may be supplied as pharmaceutical benefits or may be ingredients of pharmaceutical benefits.

Part VIIA—Reviews by Administrative Appeals Tribunal

105AA Interpretation

In this Part:

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

***Tribunal*** means the Administrative Appeals Tribunal.

105AAB Applications for review by Tribunal of certain decisions under Part V

(1) In this section, ***reviewable decision*** means a decision of the Minister, or of a delegate of the Minister, under section 39BA, or 39BB, subsection 40AA(8), section 40AB or 40AC, subsection 40AD(1A) or 43A(4), section 44, subsection 44A(1A) or (4), section 45A, subsection 45E(4A) or section 45EA or subsection (2) of this section or a decision of the Minister, or of a delegate of the Minister, under section 39AC refusing to vary a statement of conditions of the kind referred to in that section.

(1A) This section applies in relation to a decision of the Secretary under section 45DB or 45DC as if:

(a) a reference in this section to a reviewable decision included a reference to such a decision of the Secretary; and

(b) a reference in this section to the Minister were a reference to the Secretary.

(2) A person affected by a reviewable decision who is dissatisfied with the decision may, by notice in writing given to the Minister within the period of 28 days after the day on which the decision first comes to the notice of the person, or within such further period as the Minister (either before or after the expiration of that period), by notice in writing served on the person, allows, request the Minister to reconsider the decision.

(3) There shall be set out in the request the reasons for making the request.

(4) Upon the receipt of the request, the Minister shall reconsider the decision and may affirm or revoke the decision or vary the decision in such manner as the Minister thinks fit.

(5) Where the Minister does not affirm, revoke or vary a decision before the expiration of the period of 42 days after the day on which the Minister received the request under subsection (2) to reconsider the decision, the Minister shall, upon the expiration of that period, be deemed to have affirmed the decision under subsection (4).

(6) Where the Minister affirms, revokes or varies a decision in accordance with subsection (4), the Minister shall, by notice in writing served on the person who made the request, inform the person of the result of the reconsideration and give reasons for affirming, revoking or varying the decision, as the case may be.

(7) Applications may be made to the Tribunal for review of:

(a) reviewable decisions that have been affirmed or varied under subsection (4); or

(b) a decision under subsection (4) to revoke a reviewable decision.

(9) Without prejudice to the effect of the repeal of section 39AC, 39BA, 39BB, 40AD, 44A, 45E or 45EA, or subsection 40AA(8), on a decision of the Minister, or a delegate of the Minister, of a kind referred to in subsection (1) of this section, that repeal does not affect:

(a) a reconsideration of that decision under this section; or

(b) any review by the Administrative Appeals Tribunal following an application under subsection (7) of this section.

105AB Application for review by Tribunal

(1AA) An application may be made to the Tribunal for the review of a decision by the Minister under subsection 46D(8) or section 65GI.

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

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

(6A) An application may be made to the Tribunal for review of a decision of the Secretary:

(a) under subsection 84DA(1) refusing to issue a concession card to a person; or

(b) under subsection 84E(1) refusing to issue an entitlement card to a person.

(6B) An application may be made to the Tribunal for review of a decision of the Secretary to give a notice under section 84K.

(7) An application may be made to the Tribunal for review of a decision of the Secretary under section 90 rejecting an application under that section.

Note: In certain circumstances, the Minister may substitute for a decision of the Secretary rejecting an application for approval under section 90 (including a decision that has been affirmed by the Administrative Appeals Tribunal), a decision granting the approval (see section 90A).

(7AA) An application may be made to the Tribunal for review of a decision of the Secretary:

(a) under subsection 91(1) granting or refusing an application under section 91; or

(b) under subsection 91(5) treating an application under section 91 as having been withdrawn; or

(c) under subsection 91(12) revoking a permission granted under section 91.

(7A) An application may be made to the Tribunal for review of a decision of the Secretary under section 92.

(7B) An application may be made to the Tribunal for review of a decision of the Minister under section 94.

(8) An application may be made to the Tribunal for review of a decision of the Minister under section 95 suspending, further suspending or revoking the approval or authority of a medical practitioner or a pharmacist or the approval of a dental practitioner as a participating dental practitioner.

(8A) An application may be made to the Tribunal for a review of a decision of the Secretary under subsection 98(3) or (3A) to revoke an approval.

(8B) An application may be made to the Tribunal for a review of a decision of the Minister under subsection 98AA(3) to revoke an approval.

(9) An application may be made to the Tribunal for review of a decision of the Minister under paragraph 68A(b).

(12) An application may be made to the Tribunal for the review of a decision of the Secretary under subsection 99AAA(6) not to approve a claim for payment made under subsection 99AAA(2).

(13) An application may be made to the Tribunal for the review of a decision of the Secretary under subsection 99AAC(4).

(14) An application may be made to the Tribunal for the review of a decision of the Minister refusing to make a determination under clause 10 of Schedule 2.

105AC Statements to accompany notification of decisions

(1) Where the Minister, a delegate of the Minister, the Secretary or a delegate of the Secretary makes a decision of the kind referred to in section 105AB and gives, or causes to be given, to the person or persons whose interests are affected by the decision notification in writing of the decision, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of the person or persons whose interests are affected by the decision.

(1A) Where a reviewable decision within the meaning of section 105AAB is made and notice in writing of the decision is given to a person affected by the decision, that notice shall include a statement to the effect that:

(a) the person may, if dissatisfied with the decision, seek a reconsideration of the decision by the Minister or the Secretary, as the case may be, in accordance with subsection 105AAB(2); and

(b) a person whose interests are affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if dissatisfied with a decision made by the Minister or the Secretary, as the case may be, upon that reconsideration affirming, revoking or varying the first‑mentioned decision, make application to the Administrative Appeals Tribunal for review of the decision so affirmed or varied or of the decision so to revoke.

(1B) Where:

(b) the Minister or the Secretary affirms, revokes or varies a decision under subsection 105AAB(4) and gives to a person notice in writing of the affirmation, revocation or variation of the decision;

that notice shall include a statement to the effect that a person whose interests are affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if dissatisfied with the decision so affirmed or varied, or the decision so to revoke, as the case may be, make application to the Administrative Appeals Tribunal for review of the decision.

(2) Any failure to comply with the requirements of subsection (1), (1A) or (1B) in relation to a decision does not affect the validity of the decision.

105AD Application for review by Tribunal of decisions of the Australian Community Pharmacy Authority

(1) In this section:

***Authority*** means the Australian Community Pharmacy Authority.

***reviewable recommendation*** means a recommendation of the Authority referred to in paragraph (2)(a) or (aa).

(2) An application may be made to the Tribunal for review of the following recommendations of the Authority:

(a) a recommendation made under subparagraph 99K(1)(b)(i) that an applicant under section 90 not be approved under that section in respect of particular premises;

(aa) a recommendation made under subparagraph 99K(1)(b)(ii) as to the conditions (if any) to which an approval under section 90 should be subject.

(3) If:

(a) a person (in this section called the ***applicant***) applies under section 90; and

(b) the Authority makes a reviewable recommendation in respect of that application;

the Chairperson of the Authority must, within 28 days after the Authority makes the recommendation, cause a notice to be given to the applicant containing the following material:

(c) the terms of the recommendation;

(d) a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Tribunal for review of that recommendation;

(e) a statement that, except where subsection 28(4) of that Act applies, the applicant may request a statement under section 28 of that Act.

(4) Failure to comply with subsection (3) does not affect the validity of the Authority’s recommendation.

105AE Time limits

(1) This section applies if:

(a) section 90A applies to a decision of the Secretary under section 90 rejecting an application by a pharmacist; and

(b) the pharmacist makes a request under section 90B that the Minister exercise the Minister’s power under subsection 90A(2) in respect of the Secretary’s decision; and

(c) the Minister:

(i) decides, or is taken to have decided, not to consider the request; or

(ii) decides, or is taken to have decided, not to exercise the Minister’s power under subsection 90A(2) in respect of the Secretary’s decision.

(2) For the purpose of making an application to the Administrative Appeals Tribunal or a federal court in respect of the Secretary’s decision, the Secretary’s decision is taken to have been made on the day on which notice of the Minister’s decision is given to the pharmacist under subsection 90B(6).

Part VIII—Committees of Inquiry

Division 1—Preliminary

107 Interpretation

(1A) In this Part, ***approved pharmacist*** and ***PBS prescriber*** have the same respective meanings as in Part VII.

(2) For the purposes of this Part:

(a) the Australian Capital Territory shall be deemed to be part of the State of New South Wales; and

(b) the Northern Territory of Australia shall be deemed to be part of the State of South Australia.

Division 3—Pharmaceutical Services Committees of Inquiry

113 Pharmaceutical Services Federal Committee of Inquiry

(1) The Minister may establish a committee, called the Pharmaceutical Services Federal Committee of Inquiry, which shall consist of the Secretary and 4 pharmacists appointed by the Minister.

(2) The Secretary may, from time to time, by writing signed by the Secretary, appoint an officer of the Department who is a medical practitioner or pharmacist to be a member of the Committee in his or her stead, and the person so appointed shall, until his or her appointment is revoked, be a member of the Committee.

114 Functions of Federal Committee

The Pharmaceutical Services Federal Committee of Inquiry shall inquire into and report to the Minister or the Secretary on any matter referred to the Committee by the Minister or the Secretary in respect of or arising out of the services or conduct of approved pharmacists in connection with the supply of pharmaceutical benefits under Part VII.

115 Pharmaceutical Services State Committees of Inquiry

(1) The Minister may establish in each State a committee, called the Pharmaceutical Services Committee of Inquiry for the State in which it is established, which shall consist of 4 pharmacists appointed by the Minister.

116 Functions of State Committee

A State Committee of Inquiry established under section 115 shall inquire into and report to the Minister or the Secretary on any matter referred to the Committee by the Minister or the Secretary in respect of or arising out of the services or conduct of approved pharmacists in connection with the supply in the State of pharmaceutical benefits under Part VII.

117 Reports not to relate to conduct of PBS prescribers

(1) Subject to subsection (2), nothing in the preceding provisions of this Division authorizes a Committee to report on the conduct of a PBS prescriber in relation to a matter upon which the Committee makes inquiry.

(2) Subsection (1) does not prevent a Committee from referring in a report to the conduct of a PBS prescriber where that reference is incidental to a report by the Committee on the conduct of an approved pharmacist.

(3) In this section, ***Committee*** means a Committee established under this Division.

Division 3A—Nursing Homes Fees Review Committees of Inquiry

117A Nursing Homes Fees Review Committees of Inquiry

(1) The Minister may establish in each State one or, where appropriate, more than one committee, each called a Nursing Homes Fees Review Committee of Inquiry for the State in which it is established.

(2) A committee consists of 3 persons appointed by the Minister.

117B Functions of State Committees

A Committee of Inquiry established under section 117A shall inquire into and report to the Minister on any matter referred to the Committee by the Minister under subsection 40AEC(1).

Division 4—Provisions applicable to Committees generally

118 Interpretation

In this Division, unless the contrary intention appears:

***Chairperson***, in relation to a Committee, includes a person elected to preside at a meeting of the Committee.

***Committee*** means a Committee established under this Part.

119 Membership of Committees

(1) A member of a Committee appointed by the Minister shall hold office during the Minister’s pleasure.

(2) A qualified person may be appointed to be a member of both a Federal Committee and a State Committee, and a person so appointed may hold both appointments at the same time.

119A Acting Member

If the Minister becomes aware that a member of a Committee will be unable to attend a meeting or meetings of the Committee, the Minister may appoint a qualified person to act in the stead of that member at the meeting or meetings from which the member will be absent, and the person so appointed shall, while so acting, be deemed to be a member of the Committee.

120 Chairperson

(1) A Committee shall elect one of its members to be Chairperson of the Committee.

(2) In the event of the absence of the Chairperson of a Committee from a meeting of the Committee, the members present shall elect one of their number to preside at the meeting during the absence of the Chairperson, and the member so elected shall have and may exercise and perform, during the absence of the Chairperson, all the powers and functions of the Chairperson.

120A Vacancies in Committees

The exercise or performance of the powers or functions of a Committee is not affected by reason only of there being a vacancy in the office of a member of the Committee.

121 Procedure of Committees

The regulations may make provision for and in relation to the procedure of Committees.

122 Evidence

A Committee is not bound by legal rules of evidence but may inform itself on a matter referred to it under this Part in such manner as it thinks fit.

123 Proceedings in private

The proceedings of a Committee shall be held in private.

124 Determination of questions at meetings

(1) All questions before a meeting of a Committee shall be decided by a majority of votes.

(2) The Chairperson of a Committee shall have a deliberative vote only.

(3) A member shall not have a vote on a question before a Committee unless the member has been present for the whole of the time for which the Committee received evidence on the matter concerning which the question arose.

(4) In the event of an equality of votes on a question before a meeting of a Committee, the question shall be deemed to be unresolved and the Chairperson may direct that the question be reconsidered at a time and place fixed by the Chairperson.

125 PBS prescriber or pharmacist affected by inquiry to be given notice

(1) Where a matter referred to a Committee concerns the conduct of a PBS prescriber or an approved pharmacist, as the case may be, the Chairperson of the Committee shall cause notice in writing of the matter so referred, and of the time and place at which the Committee intends to hold an inquiry into the matter, to be given to that PBS prescriber or an approved pharmacist at least 10 days before the date of the inquiry.

(2) For the purposes of ascertaining whether a matter referred to a Committee concerns the conduct of a PBS prescriber or an approved pharmacist, the Committee may, before causing notice to be given to any person, meet and examine any written evidence or allegation referred to the Committee by the Minister or the Secretary in relation to the matter.

(4) Subject to subsection (5), the Committee shall afford a PBS prescriber or an approved pharmacist to whom notice has been given in pursuance of subsection (1) an opportunity of examining witnesses, giving evidence and calling witnesses and of addressing the Committee.

(5) Where a PBS prescriber or an approved pharmacist to whom notice has been given in pursuance of subsection (1) fails to attend at the time and place specified in the notice, the Committee may, unless it is satisfied that the PBS prescriber or approved pharmacist is prevented by illness or other unavoidable cause from so attending, proceed to hold the inquiry in the absence of the PBS prescriber or approved pharmacist.

(6) For the purposes of this section, ***inquiry*** includes a reconsideration of a question by a Committee in pursuance of subsection 124(4) where that reconsideration involves the rehearing of evidence or the hearing of further evidence.

(7) When a matter referred to a Federal Committee of Inquiry concerns a course of conduct of PBS prescribers or approved pharmacists generally or in a class of cases, the matter shall, for the purposes of this section, be deemed not to concern the conduct of a PBS prescriber or an approved pharmacist, as the case may be.

126 Summoning of witnesses

(1) The Chairperson of a Committee may cause a notice in writing signed by the Chairperson to be served on a person summoning the person to attend the Committee at a time and place specified in the summons and to give evidence and to produce books, documents and writings in the person’s custody or control which the person is required by the summons to produce.

(3) A Committee may inspect books, documents or writings before it, and may retain them for such reasonable period as it thinks fit, and may make copies of such portions of them as are relevant to the inquiry.

127 Committee may examine upon oath or affirmation

(1) A Committee may examine on oath a person appearing as a witness before the Committee, whether the witness has been summoned or appears without being summoned, and for this purpose a member of the Committee may administer an oath to the witness.

(2) Where a witness conscientiously objects to take an oath, the witness may make an affirmation instead of taking an oath.

128 Failure to attend or produce documents

(1) A person served with a summons to attend a Committee shall not, after payment to the person of reasonable expenses fail to attend the Committee or to produce the books, documents or writings in the person’s custody or control which the person is required by summons to produce.

Penalty: $1,000 or imprisonment for 6 months, or both.

(1A) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (1A). See subsection 13.3(3) of the *Criminal Code*.

(2) Subsection (1) does not apply if the book, document or writing was not relevant to the matter that is the subject of the Committee’s proceedings.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

(3) An offence under subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

129 Refusal to be sworn or give evidence

(1) A person appearing as a witness before a Committee shall not refuse to be sworn or to make an affirmation or to answer a question relevant to the proceedings put to the person by a member of the Committee.

Penalty: $1,000 or imprisonment for 6 months, or both.

(2) A statement or disclosure made by a witness to a Committee is not admissible in evidence against the witness in civil or criminal proceedings in a court except in a prosecution for giving false testimony in the Committee’s proceedings.

130 Protection of witnesses

A witness before a Committee has the same protection as a witness in a matter before the High Court.

131 Allowances to witnesses

A witness summoned to attend before a Committee shall be paid fees in accordance with the scales of fees payable in respect of attendance before the Supreme Court of the State or Territory in which the witness is required to attend or, in special circumstances, such fees as the Committee directs.

132 Protection of members

(1) An action or proceeding, civil or criminal, does not lie against a member of a Committee for or in respect of an act or thing done, or report made, in good faith by the member or the Committee in pursuance of the powers and duties conferred on the member or the Committee by this Part.

(2) An act or thing shall be deemed to have been done, or a report shall be deemed to have been made in good faith, if the member or Committee by whom the act or thing was done or the report was made was not actuated by ill will to the person affected or by any other improper motive.

Part IX—Miscellaneous

133 Effect of prosecution for offence

(1) Where a medical practitioner, other PBS prescriber or an approved pharmacist (a ***defendant***) is charged before a court with having committed an offence against this Act or the regulations or against another law of the Commonwealth, of a State, of an internal Territory, of the Territory of Cocos (Keeling) Islands or of the Territory of Christmas Island, being an offence that arises out of or is connected with the supply of pharmaceutical benefits under Part VII, the Secretary may, if the Secretary thinks fit, by notice in writing:

(a) in the case of a defendant who is a medical practitioner—suspend:

(i) the authority to write a prescription for the supply of pharmaceutical benefits conferred upon that medical practitioner by section 88;

(ii) any approval of that medical practitioner under section 92; or

(iii) the authority to supply prescribed pharmaceutical benefits conferred upon that medical practitioner by section 93;

(b) in the case of a defendant who is a participating dental practitioner—suspend the approval of that dental practitioner as a participating dental practitioner under section 84A; or

(ba) in the case of a defendant who is an authorised optometrist—suspend the approval of that person under section 84AAB; or

(bb) in the case of a defendant who is an authorised midwife—suspend:

(i) the approval of that person under section 84AAF; or

(ii) the authority to supply prescribed pharmaceutical benefits conferred upon that person by section 93AA; or

(bc) in the case of a defendant who is an authorised nurse practitioner—suspend:

(i) the approval of that person under section 84AAJ; or

(ii) the authority to supply prescribed pharmaceutical benefits conferred upon that person by section 93AA; or

(c) in the case of a defendant who is an approved pharmacist—suspend the approval of that pharmacist under section 90.

(2) If a person is convicted of an offence referred to in subsection (1), the Minister may, by notice in writing:

(a) where the Secretary has, under subsection (1), suspended an authority or approval that relates to the person—remove that suspension; and

(b) suspend, or further suspend, for such period as the Minister specifies in the notice, or revoke, any authority or approval referred to in a paragraph of subsection (1), being an authority or approval that relates to the person.

(3) For the purposes of subsection (2), a person shall be deemed to have been convicted of an offence if the court concerned thought that the charge in relation to the offence was proved but, without proceeding to conviction, discharged the person conditionally on the person’s entering into a recognizance.

(4) The Minister may, at any time, by notice in writing:

(a) remove a suspension, or further suspension, imposed under subsection (2); or

(b) restore any approval or authority revoked under subsection (2).

(5) If, upon the hearing of a charge for an offence referred to in subsection (1), the person is acquitted, any suspension under subsection (1) in relation to him or her ceases to have effect.

(6) If a medical practitioner, a dental practitioner, an optometrist, a midwife, a nurse practitioner or a pharmacist is charged before a court with an offence referred to in subsection (1):

(a) any act or conduct to which the charge relates shall not be referred for investigation or report by a Committee of Inquiry; and

(b) any investigation by a Committee of Inquiry into any such act or conduct shall cease.

(7) In this section:

***approved pharmacist*** has the same meaning as in Part VII.

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

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

***authorised optometrist*** has the same meaning as in Part VII.

***PBS prescriber*** has the same meaning as in Part VII.

***pharmacist*** includes a person to whom subsection 90(6) applies.

133A Territories

There are payable towards the maintenance of a public hospital in a Territory such sums as are agreed upon between the Minister for Finance and the Minister.

134 Effect of suspension or cancellation of approval or authority

(1) Where:

(a) the authority conferred upon a medical practitioner by section 88 is suspended or revoked; or

(b) the approval of a dental practitioner as a participating dental practitioner under section 84A is suspended or revoked; or

(c) the approval of an optometrist as an authorised optometrist under section 84AAB is suspended or revoked; or

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

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

the person to whom the authority or approval relates shall not, during the period of suspension or after the revocation takes effect, write a prescription for the purposes of Part VII, and an approved pharmacist, approved medical practitioner or approved hospital authority shall not supply for the purposes of that Part a pharmaceutical benefit on a prescription written by the person to whom the authority or approval relates.

(2) Where the approval of a medical practitioner under section 92 is suspended or revoked, that medical practitioner shall not, during the period of suspension or after the revocation takes effect, supply a pharmaceutical benefit for the purposes of Part VII.

(3) Upon the revocation of an authority or approval referred to in subsection (4), the person to whom the authority or approval relates must deliver to a person specified by the Secretary all drugs and medicinal preparations in the first‑mentioned person’s possession which he or she has obtained for the purposes of Part VII.

(4) The authorities and approvals are as follows:

(a) an authority conferred upon a medical practitioner by section 88 or 93;

(b) an approval of a person as an authorised midwife under section 84AAF;

(c) an approval of a person as an authorised nurse practitioner under section 84AAJ;

(d) an authority conferred upon an authorised midwife or an authorised nurse practitioner by section 93AA.

Penalty: $5,000 or imprisonment for 2 years, or both.

134A Publication of particulars of certain action taken under this Act

(1) The Minister may, if the Minister thinks fit, cause to be published in the *Gazette* particulars of or relating to any action that the Minister or the Secretary has taken under section 34, 35, 95 or 133, including a statement of the reason for that action, which may take the form of, or include, a reference to, or an abstract from, any relevant report by a Committee of Inquiry.

(2) A publication in the *Gazette* shall not be made in pursuance of subsection (1) until:

(a) the period within which an appeal may be brought against the action referred to in that subsection has expired; and

(b) if such an appeal is brought, judgment has been given on that appeal.

(3) The Minister or the Secretary may, in any report or statement on or relating to the administration of this Act or the operation of this Act or a part of this Act, publish such particulars of, or comments on, cases or matters referred to in subsection (1) as he or she considers necessary or desirable in the public interest, and for that purpose the public interest shall be taken to extend to the prevention or discouragement of conduct that involves contravention of any provision of this Act or the regulations or an abuse of those provisions or failure to discharge conscientiously duties or obligations under those provisions.

(4) An action or proceeding, civil or criminal, does not lie against a person for publishing in good faith a copy of, or a fair extract from, or a fair abstract of, a publication made in accordance with the preceding provisions of this section.

(5) A publication shall be deemed to be made in good faith if the person by whom it is made is not actuated by ill will to the person affected by the publication or by any other improper motive.

(6) Nothing in this section authorizes publication of the name of a patient or particulars that would enable a patient to be identified.

134B Time for commencing prosecutions

A prosecution in respect of an offence against this Act or the regulations, other than an offence against subsection 42(2) or section 61A or 62, may be commenced at any time within 3 years after the commission of the offence.

134C Defence in certain prosecutions

In a prosecution under this Act of a person for making a statement, or issuing or presenting a document, that is false or misleading in a material particular it is a defence if the person did not know and had no reason to suspect that the statement or document was false or misleading, as the case may be.

Note: The defendant bears an evidential burden in relation to the matter in this section. See subsection 13.3(3) of the *Criminal Code*.

134E Conduct by directors, servants or agents

(1) Where it is necessary, for the purposes of this Act, to establish the state of mind of a body corporate in respect of conduct engaged in, or deemed by subsection (2) to have been engaged in, by the body corporate, it is sufficient to show that a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

(2) Any conduct engaged in on behalf of a body corporate:

(a) by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;

shall be deemed, for the purposes of this Act, to have been engaged in also by the body corporate.

(3) Where it is necessary, for the purposes of this Act, to establish the state of mind of a person in relation to conduct deemed by subsection (4) to have been engaged in by the person, it is sufficient to show that a servant or agent of the person, being a servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

(4) Conduct engaged in on behalf of a person other than a body corporate:

(a) by a servant or agent of the person within the scope of his or her actual or apparent authority; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the first‑mentioned person, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent;

shall be deemed for the purposes of this Act to have been engaged in also by the first‑mentioned person.

(5) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person’s reasons for the person’s intention, opinion, belief or purpose.

(6) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

135 Right of Commonwealth officers to practise

(1) An employee of the Commonwealth who is registered as a medical practitioner, dentist, nurse, pharmaceutical chemist, pharmacist, physiotherapist or optometrist under the law of a State or Territory is entitled to perform, on behalf of the Commonwealth, the duties of the employee’s profession in any other State or Territory notwithstanding that the employee is not registered in that other State or Territory.

(2) In subsection (1), ***Territory*** includes the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island.

135A Officers to observe secrecy

(1) A person shall not, directly or indirectly, except in the performance of duties, or in the exercise of powers or functions, under this Act or for the purpose of enabling a person to perform functions under the *Medicare Australia Act 1973* or the indemnity legislation, and while the person is, or after the person ceases to be, an officer, divulge or communicate to any person, any information with respect to the affairs of a third person acquired by the first‑mentioned person in the performance of duties, or in the exercise of powers or functions, under this Act.

Penalty: $5,000 or imprisonment for 2 years, or both.

(2) Where the third person mentioned in subsection (1) is a party to an action or proceeding before a court, nothing in that subsection precludes the disclosure to the court of information with respect to the affairs of the third person.

(3) Notwithstanding anything in subsection (1), the Secretary may:

(a) if the Minister certifies, by instrument in writing, that it is necessary in the public interest that any information acquired by an officer in the performance of duties, or in the exercise of powers or functions, under this Act, should be divulged, divulge that information to such person as the Minister directs;

(b) divulge any such information to an authority or person if:

(i) the authority or person is a prescribed authority or person for the purposes of this paragraph; and

(ii) the information is information of a kind that may, in accordance with the regulations, be provided to the authority or person; or

(c) divulge any such information to a person who, in the opinion of the Minister, is expressly or impliedly authorized by the person to whom the information relates to obtain it.

(4) An authority or person to whom information is divulged under subsection (3), and any person under the control of that authority or person, shall, in respect of that information, be subject to the same obligations and liabilities under subsection (1) as if the authority or the person, as the case may be, were a person performing duties under this Act and had acquired the information in the performance of those duties.

(5) Nothing in the preceding provisions of this section prohibits the publication of statistics by the Commonwealth or by the Australian Statistician but, subject to subsection (5A), such statistics shall not be published in a manner that enables the identification of a particular person or private health insurer.

(5A) Statistics relating to the supply of pharmaceutical benefits may be published in spite of the fact that the manufacturer of any of those benefits may be identified through those statistics.

(5B) Nothing in this section prohibits the divulging to a temporary operator of a nursing home or an appointed nursing home adviser information concerning:

(a) the financial affairs of the nursing home (including any money held by the proprietor of the nursing home on behalf of patients); or

(b) the maximum fees that, under conditions imposed under subsection 40AA(6), may be charged in respect of nursing home care in the nursing home, and any impending variations of those maximum fees; or

(c) the extent to which the provision of nursing home care in the nursing home has complied with standards determined under section 45D; or

(d) complaints (if any) made about the provision of nursing home care in the nursing home.

(5C) This section does not prohibit:

(a) the provision to a person of a document that was provided to the Secretary by the person in relation to a claim for a pharmaceutical benefit; or

(b) the divulging or communicating to a person of information relating to the person; or

(c) information that:

(i) has been provided to a prescribed professional disciplinary body or a prescribed professional regulatory body; and

(ii) was contained in a claim for a pharmaceutical benefit;

from being used by the body for the purpose of any investigation or inquiry being conducted by the body in the performance of its functions or the exercise of its powers.

(6) Notwithstanding anything contained in subsection (1), where:

(a) a person has been convicted of:

(i) an offence against this Act; or

(ii) an offence against section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*, that relates to an offence against this Act; or

(b) an order has been made in relation to a person under section 19B of the *Crimes Act 1914* in relation to an offence referred to in subparagraph (a)(i) or (ii); or

(c) a Committee of Inquiry reports adversely on the conduct of a practitioner or pharmacist in relation to a matter upon which the Committee makes inquiry;

the Secretary may divulge any information acquired by an officer in the performance of duties, or in the exercise of powers or functions, under this Act that concerns a matter referred to in paragraph (a), (b) or (c) to:

(d) the Secretary to the Department of Social Security; or

(e) the Secretary to the Department of Veterans’ Affairs; or

(ea) the CEO or an employee of the Services Delivery Agency; or

(f) a person or persons who, under a law of a State or Territory that provides for the registration or licensing of hospitals, nursing homes or similar institutions, is or are, responsible for the administration of that law or who is, or are, empowered to investigate persons in connection with contraventions of that law; or

(g) a person or persons who, under a law of a State or Territory that provides for the registration or licensing of practitioners, pharmacists or pharmaceutical chemists is, or are, empowered to take disciplinary action with respect to practitioners, pharmacists or pharmaceutical chemists or to investigate practitioners, pharmacists or pharmaceutical chemists in connection with the taking of such disciplinary action; or

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

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

(ii) investigate midwives in connection with the taking of such disciplinary action; or

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

(i) take disciplinary action with respect to nurse practitioners; or

(ii) investigate nurse practitioners in connection with the taking of such disciplinary action; or

(h) a person or persons who, under a law of the Commonwealth, a State or a Territory relating to drugs or poisons, is, or are, responsible for the administration of that law or who is, or are, empowered to investigate persons in connection with contraventions of that law; or

(j) a director, secretary or employee of a private health insurer who is authorized by the Secretary, by instrument in writing, for the purposes of this subsection.

(7) Notwithstanding anything contained in subsection (1), where the Minister, by instrument in writing, certifies that it is desirable for such of the following purposes as the Minister specifies in the certificate, that is to say:

(a) the administration of an Act administered by the Minister for Social Security;

(b) the administration of an Act administered by the Minister for Veterans’ Affairs;

(c) the administration of a specified law of a State or Territory, being a law that provides for the registration or licensing of hospitals, nursing homes or similar institutions;

(d) the administration of a specified law of a State or Territory, being a law that provides for the registration or licensing of practitioners or pharmacists;

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

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

(e) the administration of a specified law of the Commonwealth, a State or a Territory relating to drugs or poisons; or

(f) the carrying on of the business of a specified private health insurer or a private health insurer included in a specified class of private health insurers;

that information of a kind referred to in the certificate, being information acquired by an officer in the performance of duties, or in the exercise of powers or functions, under this Act, should be divulged, the Secretary may divulge information of that kind:

(g) if the certificate specifies a purpose of the kind referred to in paragraph (a)—to the Secretary to the Department of Social Security, the CEO or an employee of the Services Delivery Agency;

(h) if the certificate specifies a purpose of the kind referred to in paragraph (b)—to the Secretary to the Department of Veterans’ Affairs;

(j) if the certificate specifies a purpose in relation to a specified law of the kind referred to in paragraph (c) or (e)—to the person or persons who, under that law is, or are, responsible for the administration of that law or is, or are, empowered to investigate persons in connection with contraventions of that law;

(k) if the certificate specifies a purpose in relation to a specified law of the kind referred to in paragraph (d)—to the person or persons who, under that law is, or are, empowered to take disciplinary action with respect to practitioners or pharmacists or to investigate practitioners or pharmacists in connection with the taking of such disciplinary action; or

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

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

(ii) investigate midwives in connection with the taking of such disciplinary action; or

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

(i) take disciplinary action with respect to nurse practitioners; or

(ii) investigate nurse practitioners in connection with the taking of such disciplinary action; or

(m) if the certificate specifies a purpose of the kind referred to in paragraph (f)—to a director, secretary or employee of each private health insurer to which the certificate relates, being a director, secretary or employee who is authorized by the Secretary, by instrument in writing, for the purposes of this subsection.

(8) Information relating to the rendering of a medical service, a dental service, an optometrical service, the provision of hospital treatment or nursing home care or the supply of a pharmaceutical benefit must not be divulged in pursuance of subsection (6) or (7) in a manner that is likely to enable the identification of the person to whom that service was rendered, that treatment or care was provided or that benefit was supplied (in this subsection referred to as the ***patient***) unless:

(a) the patient:

(i) is a person referred to in paragraph (6)(a) or (b); or

(ii) consents in writing to the disclosure of the information; or

(b) the Minister certifies that there are reasonable grounds for suspecting that the patient has committed, or is committing, an offence of the kind referred to in subparagraph (6)(a)(i) or (ii).

(9) A person to whom information is divulged under subsection (6) or (7) and any person under the control of the first‑mentioned person shall not, directly or indirectly, except:

(a) in the case of the Secretary to the Department of Social Security or a person under the control of the Secretary to the Department of Social Security—in the performance of duties, or in the exercise of powers or functions, under an Act administered by the Minister for Social Security; or

(aa) in the case of the CEO or an employee of the Services Delivery Agency—in the performance of duties, or in the exercise of powers or functions, under an Act administered by the Minister for Social Security; or

(b) in the case of the Secretary to the Department of Veterans’ Affairs or a person under the control of the Secretary—in the performance of duties, or in the exercise of powers or functions, under an Act administered by the Minister for Veterans’ Affairs; or

(c) in the case of a person or persons referred to in paragraph (6)(f), (g), (ga), (gb) or (h), or (7)(j), (k) (l) or (la), or a person under the control of such a person or persons—in the performance of duties, or in the exercise of powers or functions, under the law referred to in that paragraph; or

(d) in the case of a director, secretary or employee of a private health insurer or a person under the control of such a person—in the performance of duties, or in the exercise of powers or functions, in relation to the carrying on of the business of the insurer;

and while the person is, or after the person ceases to be, such a person, divulge or communicate to any person, any information so divulged.

Penalty: $5,000 or imprisonment for 2 years, or both.

(10) The powers conferred by subsections (6) and (7) are in addition to, and not in derogation of, the powers conferred by subsection (3).

(11) The powers conferred by subsection (6) are in addition to, and not in derogation of, the powers conferred by subsection (7).

(12) Nothing in subsection (3), (6) or (7) shall be taken to limit the generality of subsection (2) or the exception referred to in subsection (1).

(13) Where:

(a) a person solicits the disclosure of protected information from an officer or another person; and

(b) the disclosure would be in contravention of this section; and

(c) the first‑mentioned person knows or ought reasonably to know that the information is protected information;

the first‑mentioned person is guilty of an offence, whether or not any protected information is actually disclosed.

(14) Where protected information is disclosed to a person in contravention of this section, the person is guilty of an offence if he or she knows or ought reasonably to know that the disclosure is in contravention of this section and:

(a) he or she in any way solicited the disclosure of the information; or

(b) he or she discloses the information to another person; or

(c) he or she uses the information otherwise than by disclosing it to another person.

(16) Where:

(a) a person is convicted of an offence under subsection (13); and

(b) the person acted as an employee or agent of another person in soliciting the disclosure of the information;

the other person is guilty of an offence.

(16A) An offence under subsection (16) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(17) It is a defence to a prosecution for an offence against subsection (16) if the employee or agent was acting outside the scope of his or her authority as an employee or agent in soliciting the disclosure of the information.

Note: The defendant bears an evidential burden in relation to the matter in subsection (17). See subsection 13.3(3) of the *Criminal Code*.

(18) Where:

(a) a person is convicted of an offence under subsection (14); and

(b) the person acted as an employee or agent of another person in obtaining the information;

the other person is guilty of an offence.

(18A) An offence under subsection (18) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(19) It is a defence to a prosecution for an offence against subsection (18) if the employee or agent’s action described in subsection (14) was outside the scope of his or her authority as an employee or agent.

Note: The defendant bears an evidential burden in relation to the matter in subsection (19). See subsection 13.3(3) of the *Criminal Code*.

(20) A person who:

(a) offers to supply (whether to a particular person or otherwise) information about another person; and

(b) knows that the information is protected information;

is guilty of an offence.

(21) A person who:

(a) holds himself or herself out as being able to supply (whether to a particular person or otherwise) information about another person; and

(b) knows that the information is protected information;

is guilty of an offence.

(22) The penalty for an offence against subsection (13), (14), (16), (18), (20) or (21) is imprisonment for a period not exceeding 2 years.

(23) Nothing in this section has the effect that an officer exercising or performing his or her duties, functions or powers under, or in relation to, this Act is guilty of an offence.

(24) In this section:

***appointed nursing home adviser*** means a nursing home adviser who holds an appointment, as such an adviser, in respect of an approved nursing home.

***CEO*** means the Chief Executive Officer of the Services Delivery Agency.

***court*** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

***employee***, in relation to the Services Delivery Agency, has the same meaning as in the *Commonwealth Services Delivery Agency Act 1997*.

***indemnity legislation*** means:

(a) the *Medical Indemnity Act 2002*; and

(b) the *Medical Indemnity (Competitive Advantage Payment) Act 2005*; and

(c) the *Medical Indemnity (Run‑off Cover Support Payment) Act 2004*; and

(d) the *Medical Indemnity (UMP Support Payment) Act 2002*; and

(e) the *Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2010*; and

(f) the *Midwife Professional Indemnity (Run‑off Cover Support Payment) Act 2010*.

***officer*** means a person performing duties, or exercising powers or functions under, or in relation to, this Act.

***pharmaceutical benefit*** has the same meaning as in Part VII.

***protected information*** means information about a person that is held in the records of the Department.

***Services Delivery Agency*** means the Commonwealth Services Delivery Agency established by the *Commonwealth Services Delivery Agency Act 1997*.

135AAA Prescribers and approved suppliers must observe secrecy in relation to medicare numbers and expiry dates provided for pharmaceutical benefit scheme purposes

(1) If:

(a) a medicare number, or a medicare number and the expiry date in relation to that number, are provided, as a result of a request under section 88, or under section 88AA, to a person who is a PBS prescriber; and

(b) that number, or number and date, are provided solely for either or both of the following purposes:

(i) enabling the person to write or communicate a prescription for the supply of a pharmaceutical benefit;

(ii) enabling the person to record and retain that number, or number and date, to facilitate the writing of future prescriptions for the supply of pharmaceutical benefits;

the person is guilty of an offence if, while the person is, or after the person ceases to be, a PBS prescriber, the person directly or indirectly makes an unauthorised disclosure or an unauthorised use of that number or that date.

Penalty: 50 penalty units or imprisonment for 2 years, or both.

(2) For the purposes of subsection (1):

(a) the disclosure by a person referred to in that subsection of a medicare number, or of the expiry date in relation to a medicare number, to another person is an unauthorised disclosure of that number or that date; and

(b) the use by a person referred to in that subsection of a medicare number, or of the expiry date in relation to a medicare number, is an unauthorised use of that number or that date;

if that disclosure or use is not made or undertaken:

(c) in the performance of the duties, or in the exercise of the powers or functions, of that person as a PBS prescriber under this Act in relation to the Pharmaceutical Benefits Scheme; or

(d) for the purpose of enabling a person to perform functions under the *Medicare Australia Act 1973* in relation to that Scheme.

(3) If:

(a) a medicare number, or a medicare number and the expiry date in relation to that number, are provided, as a result of a request under section 86B or 86C, or under section 86D, to a person or body that is an approved supplier; and

(b) that number, or number and date, are provided solely for one or more of the following purposes:

(i) enabling the person or body to supply a pharmaceutical benefit;

(ii) enabling the person or body to record and retain that number, or number and date, in order to facilitate the supply of pharmaceutical benefits at a later time or times;

(iii) enabling the person or body to record and retain that number, or number and date, in order to complete the written version of a prescription that has been previously communicated;

the person or body is guilty of an offence if, while the person or body is, or after the person or body ceases to be, such an approved supplier, the person or body directly or indirectly makes an unauthorised disclosure or an unauthorised use of that number or that date.

Penalty: 50 penalty units or imprisonment for 2 years, or both.

(4) For the purposes of subsection (3):

(a) the disclosure by a person or body referred to in that subsection of a medicare number, or of the expiry date in relation to a medicare number, to another person is an unauthorised disclosure of that number or that date; and

(b) the use by a person or body referred to in that subsection of a medicare number or of the expiry date in relation to a medicare number is an unauthorised use of that number or that date;

if that disclosure or use is not made or undertaken:

(c) in the performance of the duties, or in the exercise of the powers or functions, of the person or body as an approved supplier under this Act in relation to the Pharmaceutical Benefits Scheme; or

(d) for the purpose of enabling a person to perform functions under the *Medicare Australia Act 1973* in relation to that Scheme.

(5) If a medicare number, or a medicare number and the expiry date in relation to that number, are provided:

(a) to a person who is employed or engaged by:

(i) a PBS prescriber; or

(ii) a company that provides services in support of a PBS prescriber;

solely for a purpose or purposes referred to in paragraph (1)(b); or

(b) to a person who is employed or engaged by:

(i) an approved supplier; or

(ii) a company that provides services in support of an approved supplier;

solely for a purpose or purposes referred to in paragraph (3)(b);

that person is, while the person is, and after the person ceases to be, so employed or engaged, subject to the same obligations and liabilities as apply under subsection (1) or (3), as the case requires, in relation to the person or body by whom the person is or was so employed or engaged.

(6) A person to whom a medicare number, or a medicare number and the expiry date in relation to that number, are disclosed in contravention of subsection (1), (3) or (5) is guilty of an offence if:

(a) the person knows or ought reasonably to know that the disclosure of the number, or number and date, was in contravention of that subsection; and

(b) the person directly or indirectly discloses that number or that date to any person, or otherwise makes use of that number or that date.

Penalty: 50 penalty units or imprisonment for 2 years, or both.

(7) Despite subsection (1), (3) or (5), a person or body to whom a medicare number, or a medicare number and the expiry date in relation to that number, are provided solely for a purpose set out or referred to in that subsection may disclose that number or expiry date to another person for another specified purpose with the express authority of:

(a) the person in respect of whom that number was provided; or

(b) the legal guardian of that person; or

(c) another person identified in a determination made by the Minister under section 86D or 88AA as capable of authorising the recording and retention of such number or number and date, on behalf of the person to whom the number applies.

(8) A person to whom a medicare number, or a medicare number and the expiry date in relation to that number, are disclosed in accordance with an express authority under subsection (7) is guilty of an offence if the person:

(a) directly or indirectly discloses that number or that date to another person; or

(b) makes use of that number or that date;

other than for the purpose specified by the person giving the authority.

Penalty: 50 penalty units or imprisonment for 2 years, or both.

(9) Nothing in subsection (1), (3), (5), (6) or (8) prevents a medicare number or an expiry date in relation to such a number from being communicated to a court for the purpose of proceedings under this section.

(10) In this section:

***approved supplier*** has the same meaning as in Part VII.

***expiry date***,in relation to a medicare number,has the same meaning as in Part VII.

***medicare number***, in relation to a person, has the same meaning as in Part VII.

***PBS prescriber*** has the same meaning as in Part VII.

(11) A reference in this section to a number, or number and date, provided to an approved supplier or to a person engaged or employed by an approved supplier, includes a reference to such a number, or number and date, that are informed under section 86D to the approved supplier by a PBS prescriber communicating a prescription to the supplier.

135AA Privacy guidelines

Information to which this section applies

(1) Subject to subsection (2), this section applies to information that:

(a) is information relating to an individual; and

(b) is held by an agency (whether or not the information was obtained by that agency or any other agency after the commencement of this section); and

(c) was obtained by that agency or any other agency in connection with a claim for payment of a benefit under the Medicare Benefits Program or the Pharmaceutical Benefits Program.

Information to which this section does not apply

(2) This section does not apply to such information:

(a) so far as it identifies:

(i) a person who provided the service or goods in connection with which the claim for payment is made; or

(ii) a person who, in his or her capacity as the provider of services, made a referral or request to another person to provide the service or goods; or

(b) so far as it is contained in a database that:

(i) is maintained for the purpose of identifying persons who are eligible to be paid benefits under the Medicare Benefits Program or the Pharmaceutical Benefits Program; and

(ii) does not contain information relating to claims for payment of such benefits; or

(c) so far as it is not stored in a database.

Issuing guidelines

(3) The Information Commissioner must, by legislative instrument, issue guidelines relating to information to which this section applies.

(3A) The issuing of guidelines under this section is a privacy function for the purposes of the *Australian Information Commissioner Act 2010*.

Replacing or varying guidelines

(4) At any time, the Information Commissioner may, by legislative instrument, issue further guidelines that vary the existing guidelines*.*

Content of guidelines

(5) So far as practicable, the guidelines must:

(a) specify the ways in which information may be stored and, in particular, specify the circumstances in which creating copies of information in paper or similar form is prohibited; and

(b) specify the uses to which agencies may put information; and

(c) specify the circumstances in which agencies may disclose information; and

(d) prohibit agencies from storing in the same database:

(i) information that was obtained under the Medicare Benefits Program; and

(ii) information that was obtained under the Pharmaceutical Benefits Program; and

(e) prohibit linkage of:

(i) information that is held in a database maintained for the purposes of the Medicare Benefits Program; and

(ii) information that is held in a database maintained for the purposes of the Pharmaceutical Benefits Program;

unless the linkage is authorised in the way specified in the guidelines; and

(f) specify the requirements with which agencies must comply in relation to old information, in particular requirements that:

(i) require the information to be stored in such a way that the personal identification components of the information are not linked with the rest of the information; and

(ii) provide for the longer term storage and retrieval of the information; and

(iii) specify the circumstances in which, and the conditions subject to which, the personal identification components of the information may later be re‑linked with the rest of the information.

(5A) Nothing in this section, or in the guidelines issued by the Information Commissioner, precludes the inclusion, in a database of information held by the Medicare Australia CEO and relating to claims for benefits under the Pharmaceutical Benefits Program, of the pharmaceutical entitlements number applicable to the person to whom each such claim relates:

(a) as a person covered by a benefit entitlement card; or

(b) as a person included within a class identified by the Minister in a determination under subsection 86E(1).

Consultation

(6) Before issuing guidelines, the Information Commissioner must take reasonable steps to consult with organisations (including agencies) whose interests would be affected by the guidelines*.*

When guidelines take effect

(8) Despite section 12 of the *Legislative Instruments Act 2003*, guidelines take effect from:

(a) the first day on which they are no longer liable to be disallowed; or

(b) if the guidelines provide for their commencement after that day—in accordance with that provision.

Definitions

(11) In this section:

***agency*** has the same meaning as in the *Privacy Act 1988*.

***benefit entitlement card*** means:

(a) a medicare card within the meaning of subsection 84(1); and

(b) a card that evidences the person’s status as a concessional beneficiary within the meaning of subsection 84(1).

***database*** means a discrete body of information stored by means of a computer.

***Medicare Benefits Program*** means the program for providing Medicare benefits under the *Health Insurance Act 1973*.

***old information*** means information to which this section applies that has been held by one or more agencies for at least the preceding 5 years.

***personal identification components***, in relation to information, means so much of the information as includes any of the following:

(a) the name of the person to whom the information relates;

(b) the person’s address;

(c) the person’s Medicare card number;

(d) the person’s Pharmaceutical entitlements number.

***Pharmaceutical Benefits Program*** means the program for supplying pharmaceutical benefits under Part VII of this Act.

***pharmaceutical entitlements number***, in relation to a person, means:

(a) if the person is covered by a medicare card—a medicare number within the meaning of subsection 84(1) that is applicable to the person as a person covered by that card; and

(b) if the person is covered by a cardthat evidences the person’s status as a concessional beneficiary within the meaning of subsection 84(1)—the number applicable to that person as a person covered by that card.

135AB Breaches of the privacy guidelines

(1) A breach of the guidelines issued under section 135AA constitutes an act or practice involving interference with the privacy of an individual for the purposes of section 13 of the *Privacy Act 1988*.

(2) An individual may complain to the Information Commissioner about an act or practice in relation to the operation of guidelines issued under section 135AA of this Act which may be an interference with the privacy of an individual.

(3) If a complaint is made, Part V of the *Privacy Act 1988* applies, with such modifications as the circumstances require, as if the complaint were an IPP complaint (within the meaning of that Act) made under section 36 of that Act.

135AC Authorisation of collection of particular health information

(1) If:

(a) particular health information is disclosed to an organisation; and

(b) the disclosure is authorised by or under a health law;

then the collection of the information by the organisation to whom the information is disclosed is taken to be authorised by or under law for the purposes of subparagraph 10.2(b)(i) of National Privacy Principle 10 in Schedule 3 to the *Privacy Act 1988*.

(2) In this section:

***health law*** means any of the following:

(a) an Act administered by the Minister;

(b) the *Medicare Australia Act 1973*.

***organisation*** has the same meaning as in the *Privacy Act 1988*.

135B Prosecution of offences

(1) Subject to subsection (2), an offence against section 61A, 62, 82, 84L, 103, 134 or 135A is an indictable offence.

(2) A court of summary jurisdiction may hear and determine proceedings in respect of an offence referred to in subsection (1) if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(3) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence referred to in that subsection, the penalty that the court may impose is:

(a) in the case of an offence against section 62 or 82—imprisonment for a period not exceeding 12 months; or

(b) in the case of an offence against section 61A, 84L, 103, 134 or 135A—imprisonment for a period not exceeding 6 months.

136 Committees

(1) In addition to the committees for the establishment of which express provision is made in the preceding provisions of this Act, the Minister may establish such other committees as the Minister thinks fit for the purposes of this Act, of the *Health Insurance Act 1973* or of both this Act and that Act.

(2) The regulations may make provision for and in relation to the constitution, powers, functions, duties and procedure of committees established in pursuance of subsection (1).

136A Filling of vacancies on committees

(1) Whenever a vacancy occurs in the office of a member of a Committee who was appointed by the Minister from among persons of a specified description nominated by a specified body, the Minister may request the appropriate body to nominate a specified number of persons of that description and may fill the vacancy by appointing a person from among the persons so nominated.

(2) In this section, ***Committee*** means a committee constituted under this Act.

137 Moneys from which payments under this Act are to be made

(1) Subject to this section and section 57, payments for the purposes of this Act shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

(2) Expenditure of a capital nature (other than expenditure incurred under section 9A or paragraph 9C(2)(a)) and expenditure in respect of administrative expenses (including the remuneration of members of committees established under this Act) incurred by or on behalf of the Commonwealth for the purposes of this Act shall be paid out of moneys from time to time appropriated by the Parliament for the purpose.

138 Exercise of Secretary’s powers subject to directions of Minister

The exercise of a power by the Secretary, or a delegate of the Secretary, under this Act is subject to the directions (if any) of the Minister.

138A Telephone access to offices

The Minister shall direct the Secretary to make provision for the development of a service which will enable a person to make a telephone call to an office that is under the general control of the Secretary, at no greater cost than the cost of a local telephone call.

139 Judicial notice of signature of Secretary

(1) For the purposes of any proceeding under this Act or a prosecution for an offence against a law of the Commonwealth, every Australian court is to take judicial notice of the signature of the person who holds or a person who has held the office of Secretary and of the fact that that person holds or has held that office.

(2) In this section:

***Australian court*** has the same meaning as in the *Evidence Act 1995*.

139A Evidence

(1) The Secretary may, by writing signed by the Secretary, certify that, during a period or on a date specified in the certificate:

(a) any premises were or were not an approved hospital or an approved nursing home for the purposes of this Act;

(d) a medical practitioner was or was not authorized under section 88 to write a prescription for the supply of pharmaceutical benefits or was or was not authorized under section 93 to supply pharmaceutical benefits specified in the certificate;

(da) a dental practitioner was or was not approved as a participating dental practitioner under section 84A;

(db) a person was or was not an authorised optometrist under section 84AAB;

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

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

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

(e) a person was or was not approved under section 90 for the purpose of supplying pharmaceutical benefits at premises specified in the certificate;

(f) a medical practitioner was or was not approved under section 92 for the purpose of supplying pharmaceutical benefits to persons in an area specified in the certificate;

(g) a hospital authority was or was not approved under section 94 for the purpose of its supplying pharmaceutical benefits to patients receiving treatment in or at a hospital specified in the certificate.

(1A) The Secretary may, by writing signed by the Secretary, certify:

(a) that a document annexed to the certificate is a true copy of a determination by the Minister under this Act or of any other document made or issued under this Act;

(b) that:

(i) a document annexed to the certificate is a true copy of a determination by the Minister under this Act or of any other document made or issued under this Act; and

(ii) the determination or other document of which the annexed document is certified to be a true copy had effect during a period or on a date specified in the certificate; or

(c) that:

(i) the document annexed to the certificate is a true copy of an approval, determination, certificate or variation that has or had effect as if it were given or made under this Act; and

(ii) the approval, determination, certificate or variation had such effect during the period or on a date specified in the certificate.

(2) In proceedings under this Act, in a prosecution for an offence against a law of the Commonwealth and in an investigation or inquiry conducted or made under this Act, a certificate purporting to have been given under this section:

(a) is evidence of the facts stated in the certificate; and

(b) shall, unless the contrary is proved, be deemed to have been given by the person purporting to give the certificate.

139B Certain instruments subject to disallowance

(1) In this section, ***instrument under this Act*** means:

(a) a notice under the definition of ***nursing home for disabled people*** in subsection 4(1);

(aa) a determination under paragraph (e) of the definition of ***official appointee*** in subsection 4(1);

(ab) an instrument formulating or establishing principles for the purposes of subsection 39A(6), 39AB(4) or (9D), 39AC(3), 39B(6B), 40AA(3C) or (7), 40AD(1BE), 48B(1), 48C(1), 48D(1), 48E(1) or 54(1);

(ac) a notice under the definition of ***Government nursing home*** in subsection 4(1);

(b) an instrument for the purpose of paragraph 40AA(6)(ce);

(c) a determination of principles under subsection 40AFA(3);

(d) a declaration of principles under subsection 40AFB(4) or 40AG(9);

(e) a notice under subsection 40AG(8), section 40AH or 45D, subsection 47(2B) or section 49;

(eb) a setting out of principles under subsection 52B(1) or 52D(6);

(ec) a setting out of principles under section 58A or 58CD or under subsection 58C(1) or 58CB(6);

(f) rules under subsection 99AAA(4) or 99AAB(3); or

(g) a determination under paragraph 98C(1)(b).

(2) An instrument under this Act is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

139C Information with respect to concessional beneficiaries

In spite of sections 202 to 210 of the *Social Security (Administration) Act 1999*, the Secretary of the Department of Family and Community Services or an officer authorised by him or her for the purpose may communicate to the Secretary of the Department of Health and Aged Care or an officer authorised by him or her any information with respect to the operation of Part 2A.1 of the *Social Security Act 1991*.

140 Regulations

The Governor‑General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, for prescribing:

(a) the fees and allowances payable to members of a committee established under this Act, other than members who are officers of the Public Service of the Commonwealth or of a State; and

(b) penalties not exceeding a fine of $2,000 for offences against the regulations.

Schedule 4—Nursing Homes whose approvals as Nursing Homes for disabled people are to be revoked

Section 45

| Column 1 | Column 2 | Column 3 | Column 4 |
| --- | --- | --- | --- |
| Item No. | Name and Address of Nursing Home | State in which situated | Approval No. |
| 1. | Beverly Park Nursing Home Beverly Road CAMPBELLTOWN | New South Wales | 1465G |
| 2. | The Hall for Children Nursing Home The Oaks Road  HAZELBROOK | New South Wales | 2264E |
| 3. | McCall Gardens Nursing Home  Terry Road  RIVERSTONE | New South Wales | 2220C |
| 4. | O’Connor House Nursing Home  Hardy Avenue  WAGGA WAGGA | New South Wales | 1493G |
| 5. | Royal Ryde Rehabilitation Hospital (Weemala Home)  Morrison Road  RYDE | New South Wales | 1480G |
| 6. | St Judes Nursing Home  Newton Street  CHADSTONE | Victoria | 4106E |
| 7. | Bald Hills Hospital (Young and Disabled Living Unit)  Hoyland Street  BALD HILLS | Queensland | 5450G |
| 8. | Halwyn Intellectually Handicapped Persons Centre  Waterworks Road  RED HILL | Queensland | 5441G |
| 9. | Rockhampton Base Hospital (Intellectually Handicapped Unit)  Canning Street  ROCKHAMPTON | Queensland | 5433G |
| 10. | Heathcote Hospital  Duncraig Road  APPLECROSS | Western Australia | 7411G |
| 11. | Lady Lawley Cottage Hospital  Gibney Street  MOSMAN PARK | Western Australia | 7416G |
| 12. | Quadriplegic Centre  Selby Street  SHENTON PARK | Western Australia | 7427G |

Notes to the National Health Act 1953

Note 1

The *National Health Act 1953* as shown in this compilation comprises Act No. 95, 1953 amended as indicated in the Tables below.

The *National Health Act 1953* was amended by the National Health Regulations (Statutory Rules 1991 No. 310). The amendment is incorporated in this compilation.

The *National Health Act 1953* was amended by the *National Health Act 1953* (Amendment) Regulations (Statutory Rules 1993 No. 274). The amendment is incorporated in this compilation.

The *National Health Act 1953* was amended by the *Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1)* (SLI 2006 No. 50). The amendment is incorporated in this compilation.

For cessation details of subsections 90(3A), (3AA), (3AB), (3AC), (3AD), (3AE), (3AF) and (3B) *see* subsection 90(3C).

For cessation details of Division 4B of Part VII *see* section 99Y.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, *see* Act No. 55, 2001.

For application, saving or transitional provisions made by the *Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007*, *see* Act No. 32, 2007.

For application, saving or transitional provisions made by the *Freedom of Information Amendment (Reform) Act 2010*, *see* Act No. 51, 2010.

All relevant information pertaining to application, saving or transitional provisions prior to 7 July 1997 is not included in this compilation. For subsequent information *see* Table A.

The *National Health Act 1953* was modified by the National Health Regulations (1954 No. 35 as amended), the National Health (Nursing Home Respite Care) Regulations (1989 No. 173 as amended) and the National Health Regulations 1998 No. 262 (as amended). The modifications are not incorporated in this compilation.

| Act | Number  and year | Date  of Assent | Date of commencement | Application, saving or transitional provisions |
| --- | --- | --- | --- | --- |
| National Health Act 1953 | 95, 1953 | 18 Dec 1953 | Parts I and II (ss. 1–11): Royal Assent  Part VII (ss.  83–105): 12 May 1954 (*see Gazette* 1954, p. 1179)  Remainder: 14 Apr 1954 (*see Gazette* 1954, p. 1055) |  |
| National Health Act 1955 | 68, 1955 | 4 Nov 1955 | S. 13: 14 Apr 1954  Ss. 22, 24 and 28: 12 May 1954  Ss. 23, 25–27 and 32: 1 July 1956 (*see Gazette* 1956, p. 1835)  S. 44: 1 Jan 1956 (*see Gazette* 1955, p. 4237)  Remainder: Royal Assent | S. 36(2) |
| National Health Act 1956 | 55, 1956 | 30 June 1956 | S. 4: 14 Apr 1954  Remainder: Royal Assent | — |
| National Health Act (No. 2) 1956 | 95, 1956 | 15 Nov 1956 | 1 Sept 1957 (*see* s. 2 and *Gazette* 1957, p. 2631) | — |
| National Health Act 1957 | 92, 1957 | 12 Dec 1957 | 1 Jan 1958 (*see Gazette* 1957,  p. 4105) | — |
| National Health Act 1958 | 68, 1958 | 8 Oct 1958 | S. 6: 11 Sept 1958  Remainder: Royal Assent | — |
| National Health Act 1959 | 72, 1959 | 1 Dec 1959 | Ss. 3–6, 10, 23 and 24: 1 Jan 1960  S. 8(1): 1 Jan 1959  Ss. 12–22: 1 Mar 1960 (*see Gazette* 1960, p. 785)  Remainder: Royal Assent | Ss. 2(2), 8(2) and 25  S. 3 (rep. by 16, 1961, s. 10) |
| as amended by |  |  |  |  |
| National Health Act 1961 | 16, 1961 | 11 May 1961 | Ss. 3, 6, 7 and 10: 1 July 1961  Remainder: Royal Assent | — |
| National Health Act 1961 | 16, 1961 | 11 May 1961 | Ss. 3, 6, 7 and 10: 1 July 1961  Remainder: Royal Assent | — |
| National Health Act 1962 | 82, 1962 | 12 Dec 1962 | Ss. 3(b), (c), 4, 5, 12–19, 28 and 29: 1 Jan 1963  Remainder: Royal Assent | Ss. 10(2) and 24 |
| National Health Act 1963 | 77, 1963 | 31 Oct 1963 | 1 Jan 1964 | S. 4(2) |
| National Health Act 1964 | 37, 1964 | 28 May 1964 | S. 3(1): 1 July 1964  Ss. 3(2), 5–13, 15, 16 and 24: 1 June 1964  Remainder: Royal Assent | Ss. 7(2), 18(2) and 20(2) |
| National Health Act 1965 | 100, 1965 | 13 Dec 1965 | 13 Dec 1965 | S. 2 |
| National Health Act (No. 2) 1965 | 146, 1965 | 18 Dec 1965 | 14 Feb 1966 | — |
| National Health Act 1966 | 44, 1966 | 18 Oct 1966 | 18 Oct 1966 | Ss. 3(2), 5(2) and 6(2) |
| National Health Act 1967 | 14, 1967 | 8 May 1967 | 21 Apr 1967 (*see* s. 2) | S. 4 |
| National Health Act (No. 2) 1967 | 100, 1967 | 10 Nov 1967 | Ss. 4 and 5: 1 Mar 1968 (*see Gazette* 1968, p. 1117)  Remainder: Royal Assent | — |
| National Health Act 1968 | 100, 1968 | 26 Nov 1968 | Ss. 1, 2, 5 and 22: Royal Assent  Remainder: 1 Jan 1969 | Ss. 22(2) and 27 |
| National Health Act 1969 | 102, 1969 | 27 Sept 1969 | 27 Sept 1969 | — |
| National Health Act 1970 | 41, 1970 | 24 June 1970 | Part I (ss. 1–3), ss. 4, 6, 7, 59 and 60: Royal Assent  Ss. 35 and 48: 1 July 1971  Remainder: 1 July 1970 (*see Gazette* 1970, p. 4143) | Ss. 40(2), 50(2), 51(2) and 59–64 |
| National Health Act 1971 | 85, 1971 | 20 Oct 1971 | S. 3: 21 Oct 1971  Ss. 4–6 and 11: 1 Nov 1971 (*see Gazette* 1971, p. 6701)  Remainder: Royal Assent | Ss. 7(2), 8(2), 10 and 11 |
| National Health Act 1972 | 114, 1972 | 31 Oct 1972 | Ss. 1, 2, 5, 6,  31–36, 38 and 39: Royal Assent  Ss. 3(1), 14 and 30: 1 Mar 1973 (*see Gazette* 1972, No. 135)  Remainder: 1 Jan 1973 (*see Gazette* 1972, No. 135) | Ss. 31(2), 32(2), 33(2), 34(2), 35(2) and 39–41 |
| National Health Act 1973 | 49, 1973 | 14 June 1973 | 3 July 1973 | — |
| National Health Act (No. 2) 1973 | 202, 1973 | 18 Dec 1973 | S. 17: 1 Jan 1974  Remainder: Royal Assent | Ss. 31(2), 32(2), 34(2), 36(2), 37(2) and 38(2) |
| National Health Act 1974 | 37, 1974 | 7 Aug 1974 | 7 Aug 1974 | Ss. 5 and 6 |
| National Health Act 1975 | 1, 1975 | 15 Feb 1975 | Ss. 3(2), 7, 9, 10(2), 11–14,  17–20, 32 and 34: 1 Jan 1975  Remainder: Royal Assent | Ss. 3(3), 4(2), 22(2), 33(2) and 34 |
| National Health Act (No. 2) 1975 | 13, 1975 | 9 Apr 1975 | 9 Apr 1975 | — |
| National Health (Pharmaceutical Benefits Charges) Act 1975 | 93, 1975 | 28 Aug 1975 | 1 Sept 1975 | — |
| National Health Act 1976 | 1, 1976 | 29 Feb 1976 | Ss. 1, 2, 4 and 7: Royal Assent  Remainder: 1 Mar 1976 | S. 16 |
| National Health Amendment Act 1976 | 60, 1976 | 5 June 1976 | Ss. 1, 2, 28, 31, 41 and 42: Royal Assent  Remainder: 1 Oct 1976 | Ss. 25(2), 29(2), 33(2), 35(2), 36(2) and 42  S. 43 (am. by 99, 1976, s. 24) |
| as amended by |  |  |  |  |
| Administrative Changes (Consequential Provisions) Act 1976 | 91, 1976 | 20 Sept 1976 | S. 3: Royal Assent *(a)* | S. 4 |
| National Health Amendment Act (No. 2) 1976 | 99, 1976 | 29 Sept 1976 | 1 Oct 1976 | — |
| Administrative Changes (Consequential Provisions) Act 1976 | 91, 1976 | 20 Sept 1976 | S. 3: *(b)* | S. 4 |
| National Health Amendment Act (No. 2) 1976 | 99, 1976 | 29 Sept 1976 | 1 Oct 1976 | S. 23(2) |
| National Health Amendment Act (No. 3) 1976 | 108, 1976 | 29 Oct 1976 | 25 Nov 1976 | Ss. 4 and 5 |
| Federal Court of Australia (Consequential Provisions) Act 1976 | 157, 1976 | 9 Dec 1976 | 1 Feb 1977 (*see* s. 2 and *Gazette* 1977, No. S3) | S. 4 |
| National Health Amendment Act (No. 4) 1976 | 177, 1976 | 13 Dec 1976 | 1 Jan 1977 (*see Gazette* 1976, No. S240) | S. 10 |
| National Health Amendment Act 1977 | 98, 1977 | 30 Sept 1977 | 1 Nov 1977 (*see Gazette* 1977, No. S266) | — |
| National Health Acts Amendment Act 1977 | 100, 1977 | 30 Sept 1977 | Ss. 1, 2 and 32: Royal Assent  Remainder: 1 Oct 1977 | Ss. 9(2), 11(2), 14(2), 21(2) and 32(2) |
| Administrative Changes (Consequential Provisions) Act 1978 | 36, 1978 | 12 June 1978 | 12 June 1978 | S. 8 |
| National Health Amendment Act 1978 | 88, 1978 | 22 June 1978 | Ss. 3, 5–7 and 15: *(c)*  Ss. 4 and 12: 1 Oct 1978 (*see Gazette* 1978, No. G38, p. 2)  S. 11: 1 July 1978  Remainder: Royal Assent | — |
| as amended by |  |  |  |  |
| National Health Amendment Act (No. 2) 1978 | 132, 1978 | 31 Oct 1978 | (*see* 132, 1978 below) | — |
| National Health Amendment Act (No. 2) 1978 | 132, 1978 | 31 Oct 1978 | Ss. 1, 2, 3(1)(b), 3(2) and 44: Royal Assent  Ss. 20–42: 16 Feb 1979 (*see Gazette* 1979, No. S27)  Remainder: 1 Nov 1978 | S. 3(2) |
| National Health Amendment Act (No. 3) 1978 | 189, 1978 | 4 Dec 1978 | 4 Dec 1978 | — |
| National Health Amendment Act 1979 | 54, 1979 | 14 June 1979 | Ss. 3(1)(b)–(d) and 16: 1 Sept 1979  Remainder: Royal Assent | Ss. 3(2), 9(2), 13(2), 14(2), 15 and 16 |
| National Health Amendment Act (No. 2) 1979 | 91, 1979 | 31 Aug 1979 | 1 Sept 1979 | — |
| National Health Amendment Act (No. 3) 1979 | 122, 1979 | 29 Oct 1979 | 1 Nov 1979 | — |
| National Health Amendment Act 1980 | 117, 1980 | 8 Sept 1980 | 8 Sept 1980 | S. 11(2) |
| National Health Amendment Act (No. 2) 1980 | 131, 1980 | 19 Sept 1980 | Ss. 1, 2, 7–10 and 15: 4 Sept 1980  S. 3: 1 Nov 1980  Ss. 4–6 and 14: 1 Oct 1980  Remainder: 1 Dec 1980 (*see Gazette* 1980, No. S261) | Ss. 4(2) and 15 |
| National Health (Pharmaceutical Benefits) Amendment Act 1981 | 40, 1981 | 12 May 1981 | 12 May 1981 | Ss. 9 and 10 |
| Commonwealth Functions (Statutes Review) Act 1981 | 74, 1981 | 18 June 1981 | Part IX (s. 177): Royal Assent *(d)* | S. 264 |
| Companies (Miscellaneous Amendments) Act 1981 | 92, 1981 | 18 June 1981 | Part I (ss. 1, 2): Royal Assent  Div. 1 of Part XI (s. 36): 1 July 1981 (*see* s. 2(2) and *Gazette* 1981, No. S118)  Remainder: 1 July 1982 (*see* s. 2(3) and *Gazette* 1982, No. S124) | — |
| Health Acts Amendment Act 1981 | 118, 1981 | 25 June 1981 | Ss. 1–3, 20, 24–31, 33 and 34: Royal Assent  Ss. 4(1), 6, 37 and 41: 3 Aug 1981  Ss. 48 and 51–54: 1 Jan 1981  Part V (ss. 81–97): 1 Apr 1982 (*see Gazette* 1982, No. G12, p. 3)  Remainder: 1 Sept 1981 | Ss. 55(2), (3), 70(2) and 75(2) |
| National Health Amendment Act 1981 | 163, 1981 | 26 Nov 1981 | S. 3: 1 Dec 1981  Remainder: Royal Assent | S. 4(2) |
| Statute Law (Miscellaneous Amendments) Act 1981 | 176, 1981 | 2 Dec 1981 | Part XIV (ss. 48, 49): 1 Sept 1981 *(e)*  S. 68: 30 Dec 1981 *(e)* | — |
| Health Legislation Amendment Act 1982 | 49, 1982 | 9 June 1982 | Ss. 5 and 7: 1 Feb 1984 (*see Gazette* 1984, No. S24)  Ss. 6, 8, 12(1) and 45: 1 Nov 1982 (*see Gazette* 1982, No. S227 p. 2)  Ss. 10, 11 and 41: *(f)*  S. 35: 7 July 1982  Remainder: Royal Assent | S. 45(2) |
| as amended by |  |  |  |  |
| Health and Community Services Legislation Amendment Act 1991 | 211, 1991 | 24 Dec 1991 | (*see* 211, 1991 below) | — |
| Statute Law (Miscellaneous Amendments) Act  (No. 2) 1982 | 80, 1982 | 22 Sept 1982 | Part LXXVII  (s. 280): Royal Assent *(g)* | S. 280(2) and (3) |
| Health Legislation Amendment Act (No. 2) 1982 | 112, 1982 | 8 Nov 1982 | Ss. 4(1), (4) and 14(2), (4): 1 Nov 1982  Ss. 4(2), 5(1), 7, 9, 24(1), 25, 26, 29(2), 31, 32(2) and 40: 1 Jan 1983  Ss. 4(3), 5(2), 14(3) and 24(2): 1 Mar 1983  S. 6(2): 1 Apr 1983  S. 6(3): 1 May 1983  S. 8: 1 Nov 1982 (*see* s. 2(7) and *Gazette* 1982, No. S227, p. 2)  Remainder: Royal Assent | Ss. 2(8), 14(4), 17(2), 35(3), (4) and 40 |
| National Health Amendment Act 1983 | 35, 1983 | 19 June 1983 | Ss. 6, 7, 9 and 10: 18 July 1983 (*see Gazette* 1983, No. S151)  Remainder: Royal Assent | Ss. 2(2) and 10 |
| Health Legislation Amendment Act 1983 | 54, 1983 | 1 Oct 1983 | Ss. 1–3, 4(1), 31(1), 32(4)–(8), 39, 45, 64–67, 70–82, 83(1), 85–88, 89(2), 95–99, 115(1), 119(1), 120(1), 123, 124, 126, 128 and 129: Royal Assent  Remainder: 1 Feb 1984 | Ss. 2(3), 95(2), 96(2), 98(2), 100(2), 102(2), 103(2), (3), 105(2), 113(2), 116 (2), 119(3), 120(3), 133, 134(2) and 136 |
| Health Legislation Amendment Act (No. 2) 1983 | 139, 1983 | 22 Dec 1983 | Ss. 24, 26, 27, 28(1), (3)–(7), (9), 29–33, 35(2),  (5)–(8), 36(1),  (3)–(5), 37, 38(1), (3), 39, 40(1), 41(1), 42–47, 49, 50(1), 51, 53, 54(1), (4), 55(1), 56 and 57: Royal Assent *(h)*  Ss. 25 and 52: 1 Dec 1983 *(h)*  S. 28(2) and (8): 1 Feb 1984 *(h)*  Ss. 34, 35(3),  (9)–(11), 36(2), 38(2), 48, 50(2), 54(2) and 55(2): 23 May 1984 (*see Gazette* 1984, No. S183) *(h)*  S. 35(1): 1 Jan 1975 *(h)*  Ss. 35(4),  40(2)–(4), 41(2) and 54(3), (5): *(h)* | Ss. 26(2), 28(3)–(9), 29(2), 30(2), 31(2), 33(2), 35(5)–(11), 36(3)–(5), 37(2), 38(3), 39(2), 42(2), (3), 44(2), (3), 45(2), (3), 46(2), 51(2) and 54(4) |
| as amended by |  |  |  |  |
| Statute Law (Miscellaneous Provisions) Act (No. 2) 1984 | 165, 1984 | 25 Oct 1984 | S. 3: *(i)* | S. 9(5) and (8) |
| Nursing Homes and Hostels Legislation Amendment Act 1986 | 115, 1986 | 24 Nov 1986 | Part V (ss. 40, 41): Royal Assent *(j)* | — |
| Cocos (Keeling) Islands Self‑Determination (Consequential Amendments) Act 1984 | 46, 1984 | 25 June 1984 | Part VII (ss.  22–26): 6 Apr 1984  Remainder: Royal Assent | — |
| Public Service Reform Act 1984 | 63, 1984 | 25 June 1984 | S. 151(1): 1 July 1984 (*see Gazette* 1984, No. S245) *(k)* | S. 151(9) |
| Statute Law (Miscellaneous Provisions) Act (No. 1) 1984 | 72, 1984 | 25 June 1984 | S. 3: 23 July 1984 *(l)* | S. 5(7) |
| Christmas Island Administration (Miscellaneous Amendments) Act 1984 | 120, 1984 | 18 Oct 1984 | Part VIII (ss.  27–31): 1 Oct 1984  Remainder: Royal Assent | — |
| Health Legislation Amendment Act 1984 | 135, 1984 | 25 Oct 1984 | S. 7: 1 Feb 1984  Ss. 11, 12, 15–21 and 26: 1 July 1985 (*see Gazette* 1985, No. S235)  Remainder: Royal Assent | Ss. 22(2), (3),  23(2)–(4) and 24(2), (3) |
| Statute Law (Miscellaneous Provisions) Act (No. 2) 1984 | 165, 1984 | 25 Oct 1984 | S. 3: *(m)* | Ss. 2(32), 6(1) and 9 |
| National Welfare Fund Repeal Act 1985 | 24, 1985 | 22 May 1985 | Ss. 1, 2 and 5: Royal Assent  Remainder: 1 July 1985 (*see Gazette* 1985, No. S232) | S. 5 |
| National Health Amendment Act 1985 | 53, 1985 | 4 June 1985 | 1 July 1985 | S. 6(2) and (3) |
| Statute Law (Miscellaneous Provisions) Act (No. 1) 1985 | 65, 1985 | 5 June 1985 | S. 3: 3 July 1985 *(n)* | — |
| Health Legislation Amendment Act 1985 | 70, 1985 | 5 June 1985 | Ss. 1–3 and 11: Royal Assent  Ss. 6, 8, 9 and  12–21: 1 Sept 1985  Remainder: 1 Sept 1985 (*see Gazette* 1985, No. S346) | S. 21(2) and (3) |
| Social Security and Repatriation Legislation Amendment Act 1985 | 95, 1985 | 5 Sept 1985 | Part XI (ss. 60–62): *(p)* | — |
| Social Security and Repatriation (Budget Measures) Amendment Act 1985 | 127, 1985 | 28 Oct 1985 | Ss. 7 and 10(2): Royal Assent *(q)*  Ss. 8 and 11: 1 Nov 1985 *(q)*  Ss. 9 and 10(1): 1 July 1985 *(q)* | — |
| Health Legislation Amendment Act (No. 2) 1985 | 167, 1985 | 16 Dec 1985 | Ss. 1–25, 26(2), 27, 37, 38, 42, 43, 55, 57, 65–70 and  72–74: Royal Assent  S. 28: 1 Feb 1984  S. 30: 5 Sept 1985  Ss. 58–64: 1 May 1985  Remainder: 22 Feb 1986 (*see Gazette* 1986, No. S64) | — |
| Veterans’ Entitlements (Transitional Provisions and Consequential Amendments) Act 1986 | 28, 1986 | 19 May 1986 | S. 61: Royal Assent  Remainder: 22 May 1986 (*see Gazette* 1986, No. S225) | — |
| Health Legislation Amendment Act 1986 | 75, 1986 | 24 June 1986 | Ss. 57 and 61–71: 22 July 1986 *(r)*  Ss. 58 and 59: 1 July 1986 *(r)*  S. 60: 16 Feb 1979 *(r)* | S. 71 |
| Health Legislation Amendment Act (No. 2) 1986 | 94, 1986 | 13 Oct 1986 | Ss. 4(1), 6–8, 10, 12, 14(2) and 36: 1 Oct 1986  Ss. 4(2), 17(2), 20, 22 and 29: 1 Apr 1987 (*see Gazette* 1987, No. S57)  Ss. 5, 14(3), 17(1), 18, 19, 21, 23–28, 30, 32 and 35: 1 Nov 1986  Ss. 16, 31, 33 and 38(2)–(4): 1 Jan 1987  Remainder: Royal Assent | Ss. 21(2), 27(2), 28(2), 34(2) and 38 |
| as amended by |  |  |  |  |
| Statute Law (Miscellaneous Provisions) Act 1987 | 141, 1987 | 18 Dec 1987 | S. 3: 13 Oct 1986 *(s)* | S. 5(1) |
| Nursing Homes and Hostels Legislation Amendment Act 1986 | 115, 1986 | 24 Nov 1986 | Ss. 6, 8–15, 18–20 and 23: Royal Assent *(t)*  S. 7: 1 Aug 1991 (*see Gazette* 1991, No. S207) *(t)*  Ss. 16, 17 and 21: 1 May 1987 (*see Gazette* 1987, No. S68) *(t)*  S. 22: *(t)* | S. 23 |
| as amended by |  |  |  |  |
| Community Services and Health Legislation Amendment Act 1991 | 84, 1991 | 26 June 1991 | (*see* 84, 1991 below) | — |
| National Health Amendment Act 1987 | 22, 1987 | 26 May 1987 | S. 3(1): 1 Nov 1986 (*see* s. 2(2))  S. 4(1): 1 Nov 1986 (*see* s. 2(3))  S. 5: 1 Jan 1988 (*see Gazette* 1987, No. S348)  Remainder: Royal Assent | Ss. 3(3), 5(2) and 8(2) |
| as amended by |  |  |  |  |
| Health and Community Services Legislation Amendment Act (No. 2) 1992 | 192, 1992 | 21 Dec 1992 | (*see* 192, 1992 below) | — |
| Health Legislation Amendment Act 1987 | 44, 1987 | 5 June 1987 | 1 Aug 1987 | S. 6(2) |
| Nursing Homes and Hostels Legislation Amendment Act 1987 | 72, 1987 | 5 June 1987 | Ss. 1 and 2: Royal Assent  S. 30: 1 May 1993 (*see Gazette* 1993, No. GN16)  Remainder: 1 July 1987 | Ss. 13(2), 30, 32 and 33  S. 31 (am. by 79, 1988, s. 33) |
| as amended by |  |  |  |  |
| Community Services and Health Legislation Amendment Act 1988 | 79, 1988 | 24 June 1988 | (*see* 79, 1988 below) | — |
| National Health Amendment Act (No. 2) 1987 | 118, 1987 | 16 Dec 1987 | Ss. 1 and 2: Royal Assent  Remainder: 1 Mar 1988 (*see Gazette* 1988, No. S54) | S. 8(2) |
| Health Legislation Amendment Act (No. 2) 1987 | 131, 1987 | 16 Dec 1987 | S. 4: 13 Dec 1987  Ss. 5, 6, 8(a) and 9: 1 Jan 1988  Remainder: Royal Assent | — |
| Community Services and Health Legislation Amendment Act 1987 | 132, 1987 | 16 Dec 1987 | Ss. 1–3, 4(d), (g), 5–7, 21, 22 and 31: 16 Dec 1987  Ss. 23–30 and 32: 1 Mar 1988 (*see Gazette* 1988, No. S58)  Part V (s. 33): 1 May 1988 (*see Gazette* 1988, No. S118)  Remainder: 11 Jan 1989 (*see Gazette* 1988, No. S411) | — |
| National Health Amendment Act 1988 | 46, 1988 | 15 June 1988 | 1 July 1988 | S. 4 |
| Community Services and Health Legislation Amendment Act 1988 | 79, 1988 | 24 June 1988 | Part II (ss. 3–6): 28 June 1989 (*see* s. 2(3) and *Gazette* 1989, No. S206)  Ss. 11, 14, 16, 18, 19, 20(a), (c)–(o), 21–26 and 31: 1 July 1988  Ss. 12, 29, 30, 32 and 34: 1 Oct 1988 (*see Gazette* 1988, No. S303)  Ss. 27 and 28: 1 July 1989 (*see Gazette* 1989, No. S206)  S. 33: 1 July 1987  Remainder: Royal Assent | Ss. 15(2) and 17(2) |
| as amended by |  |  |  |  |
| Community Services and Health Legislation Amendment Act (No. 2) 1988 | 155, 1988 | 26 Dec 1988 | (*see* 155, 1988 below) | — |
| Industrial Relations (Consequential Provisions) Act 1988 | 87, 1988 | 8 Nov 1988 | Ss. 1 and 2: Royal Assent  Remainder: 1 Mar 1989 (*see* s. 2(2) and *Gazette* 1989, No. S53) | S. 90 |
| Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988 | 99, 1988 | 2 Dec 1988 | 2 Dec 1988 | — |
| Community Services and Health Legislation Amendment Act (No. 2) 1988 | 155, 1988 | 26 Dec 1988 | S. 10: 1 Jan 1989  Ss. 12 and 13: 1 July 1989 (*see Gazette* 1989, No. S228)  Ss. 14 and 17: 1 July 1988  Ss. 19–26 and  28–34: 24 Jan 1990 (*see Gazette* 1990, No. S13)  Ss. 27 and 36: 15 Mar 1989 (*see Gazette* 1989, No. S91)  Part V (ss. 38–40): 24 June 1988  S. 41(2): 16 Dec 1987  S. 41(3): 6 Nov 1987  S. 41(4): 1 Mar 1989 (*see* s. 2(8) and *Gazette* 1989, No. S54)  Remainder: Royal Assent | Ss. 27(3)‑ (7) and 37 |
| Community Services and Health Legislation Amendment Act 1989 | 95, 1989 | 28 June 1989 | S. 10: 10 Oct 1989 (*see Gazette* 1989, No. S323)  Ss. 11–16 and 18: 1 Aug 1989  Ss. 20(2), 21, 22, 53(2) and 54: 28 Dec 1989  S. 23: 15 Mar 1989  Ss. 28–33, 43 and 44: 15 Nov 1989 (*see Gazette* 1989, No. S355)  S. 37(a)–(k) and (s): 1 June 1989  Part 5 (ss. 55–62): 1 July 1989  Part 7 (ss. 65–68): 1 Jan 1989  Remainder: Royal Assent | Ss. 2(10), 28(2), 36(2) and 54 |
| Social Security and Veterans’ Affairs Legislation Amendment Act (No. 4) 1989 | 164, 1989 | 19 Dec 1989 | Ss. 11 and 12(a): Royal Assent *(u)*  S. 12(b): 1 Jan 1990 *(u)*  S. 12(c) and (d): 1 June 1990 *(u)* | — |
| National Health Amendment Act 1989 | 175, 1989 | 24 Dec 1989 | 24 Dec 1989 | S. 6 |
| Community Services and Health Legislation Amendment Act (No. 2) 1989 | 3, 1990 | 17 Jan 1990 | Ss. 4, 26(b), (c), 28 and 31: 1 July 1990  Ss. 5 and 26(d), (e): 1 July 1990 (*see Gazette* 1990, No. S164)  S. 14(e): 1 June 1990  S. 16: 1 July 1988  Ss. 33, 34 and 36: 1 Apr 1990 (*see Gazette* 1990, No. S83)  Remainder: Royal Assent | S. 25(2) |
| Social Welfare Legislation (Pharmaceutical Benefits) Amendment Act 1990 | 84, 1990 | 30 Oct 1990 | Ss. 3 and 9: Royal Assent *(v)*  Ss. 4, 5(a),  5(c)–(e), 6, 7, 8(a), 8(c)–(e) and 10: 1 Nov 1990 *(v)*  Ss. 5(b) and 8(b): 1 Jan 1991 *(v)*  S. 11: 1 Feb 1991 *(v)* | — |
| Community Services and Health Legislation Amendment Act 1990 | 106, 1990 | 18 Dec 1990 | Ss. 19–21, 23, 25, 26 and 29–31: Royal Assent *(w)*  S. 22(a): *(w)*  Ss. 22(b)–(e) and 27: 1 Jan 1991 *(w)*  S. 24: *(w)*  S. 28: *(w)* | — |
| Community Services and Health Legislation Amendment Act (No. 2) 1990 | 141, 1990 | 28 Dec 1990 | Ss. 48, 50, 51(a), 52–55 and 72–74: Royal Assent *(x)*  S. 49: 1 Mar 1990 *(x)*  Ss. 51(b) and  56–71: 1 Jan 1991 *(x)* | S. 72(2) |
| Social Security Legislation Amendment Act 1990 | 6, 1991 | 8 Jan 1991 | Part 6 (ss. 91–93): 1 June 1990 *(y)* | — |
| Social Security (Job Search and Newstart) Amendment Act 1991 | 68, 1991 | 25 June 1991 | *(z)* | — |
| Social Security (Rewrite) Transition Act 1991 | 70, 1991 | 25 June 1991 | *(za)* | — |
| Veterans’ Entitlements (Rewrite) Transition Act 1991 | 73, 1991 | 25 June 1991 | S. 19: *(zb)*  Remainder: 1 July 1991 | — |
| National Health Amendment Act 1991 | 83, 1991 | 26 June 1991 | Ss. 4, 5 (in part), 7(1), 11, 12, 16 and 23: 1 Jan 1991  Remainder: Royal Assent | Ss. 3 and 24 |
| Community Services and Health Legislation Amendment Act 1991 | 84, 1991 | 26 June 1991 | S. 14: 1 Aug 1991 (*see* s. 2 and *Gazette* 1991, No. S207)  Remainder: Royal Assent | — |
| Social Security Legislation Amendment Act (No. 2) 1991 | 115, 1991 | 27 June 1991 | Part 5 (ss. 41, 42): 1 Mar 1991 *(zc)* | — |
| Social Security (Rewrite) Amendment Act 1991 | 116, 1991 | 27 June 1991 | *(zd)* | — |
| Health Legislation (Pharmaceutical Benefits) Amendment Act 1991 | 119, 1991 | 27 June 1991 | Ss. 4 (in part), 5, 7(c), 8 and 9: 1 July 1991  Ss. 4 (in part), 7(b), (d), 13, 14, 15(a), (b), (d)–(h), 16 and 17: 1 Aug 1991 (*see Gazette* 1991, No. S209)  S. 10(1): 1 Jan 1991  Remainder: Royal Assent | S. 2 (am. by 136, 1992,  s. 26) |
| as amended by |  |  |  |  |
| Health and Community Services Legislation Amendment Act 1992 | 136, 1992 | 11 Nov 1992 | (*see* 136, 1992 below) | — |
| Human Services and Health Legislation Amendment Act (No. 3) 1995 | 149, 1995 | 16 Dec 1995 | Schedule 2 (item 16): *(ze)* | — |
| Industrial Relations Legislation Amendment Act 1991 | 122, 1991 | 27 June 1991 | Ss. 4(1), 10(b) and 15–20: 1 Dec 1988  Ss. 28(b)–(e), 30 and 31: 10 Dec 1991 (*see Gazette* 1991, No. S332)  Remainder: Royal Assent | S. 31(2) |
| Social Security (Disability and Sickness Support) Amendment Act 1991 | 141, 1991 | 9 Oct 1991 | Part 1 (ss. 1, 2): Royal Assent  Remainder: 12 Nov 1991 | — |
| Hearing Services Act 1991 | 169, 1991 | 20 Nov 1991 | 1 July 1992 | — |
| Social Security Legislation Amendment Act (No. 3) 1991 | 175, 1991 | 25 Nov 1991 | Ss. 4–12 and Schedule (Part 2): 17 Aug 1991  Ss. 13, 14, 21–24, 36–40, 42, 43(b), 44(a), 45–57, 97, 98(a), 99, 100–105 and Schedule (Part 3): 1 Jan 1992  Ss. 25–28: 20 Mar 1992  Ss. 41, 43(a) and 44(b): 1 Apr 1992  Ss. 58–73 and  75–96: 1 July 1992  S. 74: 26 Mar 1992  Part 5 (s. 106) and Schedule (Part 1): 12 Nov 1991  Schedule (Part 4): 12 Nov 1991 (*see* s. 2(4))  Schedule (Part 5): 1 Dec 1991 (*see* s. 2(5))  Remainder: Royal Assent | — |
| Veterans’ Affairs Legislation Amendment Act (No. 2) 1991 | 208, 1991 | 24 Dec 1991 | Ss. 3–8 and 9(b): 1 Jan 1992 *(zf)*  S. 9(a): 2 Jan 1992 *(zf)* | — |
| Health and Community Services Legislation Amendment Act 1991 | 211, 1991 | 24 Dec 1991 | Ss. 10 and 11: 29 Apr 1992  Part 5 (ss. 30, 31): 19 Aug 1991  Ss. 35, 37 and 39: 1 Apr 1992  Remainder: Royal Assent | — |
| as amended by |  |  |  |  |
| Human Services and Health Legislation Amendment Act (No. 3) 1995 | 149, 1995 | 16 Dec 1995 | Schedule 2 (item 4): 24 Dec 1991 *(zg)* | — |
| Veterans’ Affairs Legislation Amendment Act 1992 | 70, 1992 | 26 June 1992 | Part 6 (s. 87): 1 Mar 1991 *(zh)* | — |
| Social Security Legislation Amendment Act 1992 | 81, 1992 | 30 June 1992 | S. 117: Royal Assent *(zi)*  Schedule 2 (Part 2): 1 July 1991 *(zi)* | — |
| Health, Housing and Community Services Legislation Amendment Act 1992 | 88, 1992 | 30 June 1992 | Ss. 49–59, 65 and 67: 1 Jan 1992 *(zj)*  Ss. 60–64, 66 and Part 7 (ss. 68–81): Royal Assent *(zj)* | Ss. 61(2) and 71(2) |
| as amended by |  |  |  |  |
| Health and Community Services Legislation Amendment Act 1993 | 12, 1994 | 18 Jan 1994 | Part 4 (ss. 8, 9): *(zk)* | — |
| Health and Community Services Legislation Amendment Act 1992 | 136, 1992 | 11 Nov 1992 | Ss. 38, 39(a), 41, 43, 44(d) and 49: 12 May 1954 (*see* s. 2(2) and *Gazette* 1954, p. 1179)  S. 40: 1 July 1992  Ss. 46 and 47: 18 Dec 1990  Remainder: Royal Assent | S. 41(2) |
| Health and Community Services Legislation Amendment Act (No. 2) 1992 | 192, 1992 | 21 Dec 1992 | Ss. 3–6: 28 Apr 1993  S. 8(b): 1 Jan 1993  S. 9: 31 Dec 1992  S. 20: 1 Nov 1992  Ss. 24–27: 6 Jan 1993  Part 6 (ss. 34, 35): *(zl)*  Remainder: Royal Assent | S. 2 (am. by 12, 1994,  s. 6) |
| as amended by |  |  |  |  |
| Health and Community Services Legislation Amendment Act 1993 | 12, 1994 | 18 Jan 1994 | S. 6: *(zm)*  S. 7: Royal Assent *(zm)* | — |
| National Health Amendment Act 1992 | 200, 1992 | 21 Dec 1992 | S. 19 (in part): Royal Assent  Remainder: 1 July 1993 | — |
| Health and Community Services Legislation Amendment Act (No. 3) 1992 | 204, 1992 | 21 Dec 1992 | 21 Dec 1992 | — |
| Social Security Legislation Amendment Act (No. 3) 1992 | 230, 1992 | 24 Dec 1992 | S. 32: 20 Mar 1993 *(zn)*  Schedule 3 (Part 2): 1 Apr 1993 *(zn)* | — |
| National Health Amendment Act 1993 | 28, 1993 | 9 June 1993 | 9 June 1993 | S. 4(2) |
| Social Security Legislation Amendment Act (No. 2) 1993 | 61, 1993 | 3 Nov 1993 | S. 17: 1 July 1994 *(zo)* | — |
| Health and Community Services Legislation Amendment Act (No. 2) 1993 | 76, 1993 | 25 Nov 1993 | Part 5 (ss. 18–21): Royal Assent *(zp)* | S. 20(2) |
| as amended by |  |  |  |  |
| Human Services and Health Legislation Amendment Act (No. 3) 1995 | 149, 1995 | 16 Dec 1995 | Schedule 2 (item 5): 25 Nov 1993 *(zq)* | — |
| National Health Amendment Act (No. 2) 1993 | 106, 1993 | 22 Dec 1993 | 1 Jan 1994 | S. 3 |
| as amended by |  |  |  |  |
| Human Services and Health Legislation Amendment Act (No. 2) 1994 | 116, 1994 | 16 Sept 1994 | S. 3: 1 Jan 1994 *(zr)* | — |
| Health and Community Services Legislation Amendment Act 1993 | 12, 1994 | 18 Jan 1994 | Part 6 (ss. 18–31): *(zs)* | — |
| as amended by |  |  |  |  |
| Human Services and Health Legislation Amendment Act (No. 3) 1995 | 149, 1995 | 16 Dec 1995 | Schedule 2 (item 6): *(zt)* | — |
| Health Legislation (Professional Services Review) Amendment Act 1994 | 22, 1994 | 16 Feb 1994 | 1 July 1994 | S. 15 |
| National Health Amendment Act 1994 | 23, 1994 | 16 Feb 1994 | Ss. 8–10 and 15: 1 July 1993  Remainder: Royal Assent | — |
| Social Security Legislation Amendment Act 1994 | 63, 1994 | 19 May 1994 | S. 33: 20 Mar 1993 *(zu)* | — |
| Veterans’ Affairs Legislation Amendment Act 1994 | 78, 1994 | 21 June 1994 | Ss. 8 and 9: 1 July 1994 *(zv)* | — |
| Human Services and Health Legislation Amendment Act 1994 | 80, 1994 | 23 June 1994 | S. 13: Royal Assent *(zw)* | — |
| Health Legislation (Powers of Investigation) Amendment Act 1994 | 85, 1994 | 23 June 1994 | 21 July 1994 | S. 2 (rep. by 19, 1996, Sch. 1 [item 1]) |
| as amended by |  |  |  |  |
| Health Legislation (Powers of Investigation) Amendment Act 1996 | 19, 1996 | 28 June 1996 | 28 June 1996 | — |
| Human Services and Health Legislation Amendment Act (No. 2) 1994 | 116, 1994 | 16 Sept 1994 | S. 3: *(zx)* | — |
| Veterans' Affairs (1994–95 Budget Measures) Legislation Amendment Act (No. 2) 1994 | 164, 1994 | 16 Dec 1994 | S. 27 (items 2–5): 20 Mar 1995 *(zy)* | — |
| Social Security (Parenting Allowance and Other Measures) Legislation Amendment Act 1994 | 174, 1994 | 16 Dec 1994 | S. 5(2) (item 39): 1 Jan 1995 *(zz)*  S. 5(2) (item 40): 1 July 1995 *(zz)* | — |
| Student Assistance (Youth Training Allowance—Transitional Provisions and Consequential Amendments) Act 1994 | 184, 1994 | 23 Dec 1994 | 1 Jan 1995 *(zza)* | — |
| Evidence (Transitional Provisions and Consequential Amendments) Act 1995 | 3, 1995 | 23 Feb 1995 | S. 14: Royal Assent *(zzb)*  S. 25: 23 Feb 1995 *(zzb)*  S. 27: 18 Apr 1995 *(zzb)* | S. 14 |
| National Health Amendment Act 1995 | 24, 1995 | 31 Mar 1995 | S. 3 (items 1–25, 27–44): 1 Apr 1995  S. 3 (item 26): 1 July 1995  Remainder: Royal Assent | S. 3 (item 45) |
| Health Legislation (Private Health Insurance Reform) Amendment Act 1995 | 41, 1995 | 29 May 1995 | S. 5: 1 Oct 1995  S. 6: 1 July 1996  S. 7: 1 July 1997 Remainder: Royal Assent | S. 6 (item 4) and s. 7(2) |
| as amended by |  |  |  |  |
| Human Services and Health Legislation Amendment Act (No. 3) 1995 | 149, 1995 | 16 Dec 1995 | Schedule 2 (item 17): Royal Assent *(zzc)* | — |
| Statute Law Revision Act 1996 | 43, 1996 | 25 Oct 1996 | Schedule 3 (item 28): 29 May 1995 *(zzd)* | — |
| Social Security (Non‑Budget Measures) Legislation Amendment Act 1995 | 105, 1995 | 29 Sept 1995 | Ss. 50–53: Royal Assent *(zze)* | — |
| Health and Other Services (Compensation) (Consequential Amendments) Act 1995 | 132, 1995 | 14 Nov 1995 | 1 Feb 1996 (*see* s. 2 and *Gazette* 1996, No. GN2) | — |
| Human Services and Health Legislation Amendment Act (No. 3) 1995 | 149, 1995 | 16 Dec 1995 | Schedule 1 (items 69–78) and Schedule 2 (items 19, 21, 22): Royal Assent *(zzf)*  Schedule 2 (item 20): *(zzf)* | Sch. 1 (item 78) |
| Human Services and Health Legislation Amendment Act (No. 2) 1995 | 164, 1995 | 16 Dec 1995 | Schedule (items  1–4, 14–17,  19–25): 1 Jan 1996  Remainder: Royal Assent | — |
| Social Security and Veterans’ Affairs Legislation Amendment Act 1995 | 1, 1996 | 9 Jan 1996 | Schedule 10 (Part 1): 20 Mar 1996 *(zzg)*  Schedule 10 (Part 2): 1 July 1996 *(zzg)*  Schedule 10 (Part 3): 20 Sept 1996 *(zzg)* | — |
| Statute Law Revision Act 1996 | 43, 1996 | 25 Oct 1996 | Schedule 2 (items 76, 77): *(zzh)*  Schedule 4 (item 102): Royal Assent *(zzh)* | — |
| National Health (Budget Measures) Amendment Act 1996 | 79, 1996 | 19 Dec 1996 | Schedule 2 (item 1): 2 Jan 1997 Remainder: 1 Jan 1997 | — |
| Social Security Legislation Amendment (Budget and Other Measures) Act 1996 | 84, 1996 | 23 Dec 1996 | Schedule 14 (items 4, 5) and Schedule 16 (item 3): 1 July 1997 *(zzi)* | — |
| Commonwealth Services Delivery Agency (Consequential Amendments) Act 1997 | 29, 1997 | 17 Apr 1997 | 1 July 1997 (*see* s. 2) | — |
| Health Legislation Amendment (Private Health Insurance Incentives) Act 1997 | 45, 1997 | 22 Apr 1997 | 22 Apr 1997 | — |
| Aged Care (Consequential Provisions) Act 1997 | 114, 1997 | 7 July 1997 | Schedule 1: *(zzj)* Schedule 6: 1 July 1998 *(zzj)* | Sch. 1 (items 45A, 49A) (ad. by 132, 1999, Sch. 5 [items 3, 4]) [*see* Table A] |
| as amended by |  |  |  |  |
| Aged Care Amendment (Omnibus) Act 1999 | 132, 1999 | 13 Oct 1999 | Schedule 5: (items 3, 4): *(zzja)* | — |
| Audit (Transitional and Miscellaneous) Amendment Act 1997 | 152, 1997 | 24 Oct 1997 | Schedule 2 (items 963–972): 1 Jan 1998 (*see Gazette* 1997, No. GN49) *(zzk)* | — |
| Veterans’ Affairs Legislation Amendment (Budget and Compensation Measures) Act 1997 | 157, 1997 | 3 Nov 1997 | Schedule 7: 1 Dec 1997 *(zzl)* | — |
| Social Security Legislation Amendment (Parenting and Other Measures) Act 1997 | 197, 1997 | 11 Dec 1997 | Schedule 1 (items 345, 346):20 Mar 1998 *(zzm)* | Sch. 1 (item 346) [*see* Table A] |
| Health Legislation Amendment Act 1998 | 19, 1998 | 17 Apr 1998 | Schedule 3 (items 2, 3): 1 May 1998 *(zzn)* Schedule 3 (items 1, 4–16): Royal Assent *(zzn)* | — |
| Health Legislation Amendment Act (No. 2) 1998 | 37, 1998 | 24 Apr 1998 | Schedules 1–3, Schedule 4 (items 1–14) and Schedules 5, 6, 9 and Schedule 10 (items 5, 8, 11): Royal Assent *(zzo)*  Schedule 4 (items 15–22): 1 July 1998 *(zzo)*  Schedule 10 (item 4): 16 Dec 1995 *(zzo)* Schedule 10 (items 6, 7): 29 May 1995 *(zzo)* Schedule 10 (item 9): 16 Dec 1995 *(zzo)* Schedule 10 (item 10): 1 Jan 1997 *(zzo)* | Sch. 2 (items 8–11)  Sch. 4 (item 14) Sch. 5 (items  47–49) Sch. 6 (item 13) [*see* Table A] |
| Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 1998 | 45, 1998 | 17 June 1998 | Schedule 13 (items 43–47): 1 July 1998 *(zzp)* | Sch. 13 (item 46) [*see* Table A] |
| Financial Sector Reform (Consequential Amendments) Act 1998 | 48, 1998 | 29 June 1998 | Schedule 1 (item 121): 1 July 1998 (*see Gazette* 1998, No. S310) *(zzq)* | — |
| 1998 Budget Measures Legislation Amendment (Social Security and Veterans’ Entitlements) Act 1998 | 116, 1998 | 11 Dec 1998 | Schedule 3 (Part 2): 1 July 1999 *(zzr)* | — |
| Assistance for Carers Legislation Amendment Act 1999 | 13, 1999 | 9 Apr 1999 | Schedule 2 (items 43–49) and Schedule 3 (items 3, 4): 1 July 1999 *(zzs)* | Sch. 3 (items 3, 4) [*see* Table A] |
| Health Legislation Amendment Act (No. 2) 1999 | 21, 1999 | 19 Apr 1999 | Schedules 1 and 2: 20 Oct 1999 Remainder: Royal Assent | Sch. 1 (items 3, 15) [*see* Table A] |
| National Health Amendment Act (No. 1) 1999 | 35, 1999 | 31 May 1999 | Schedule 1: 1 Dec 1999 Remainder: Royal Assent | — |
| Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999 | 44, 1999 | 17 July 1999 | Schedule 6 (item 26) and Schedule 7 (item 122): *(zzt)* | S. 3(2)(e) (am. by 160, 2000, Sch. 4 [item 4]) |
| as amended by |  |  |  |  |
| Financial Sector Legislation Amendment Act (No. 1) 2000 | 160, 2000 | 21 Dec 2000 | Schedule 1 (item 21): Royal Assent Remainder: 18 Jan 2001 | — |
| A New Tax System (Compensation Measures Legislation Amendment) Act 1999 | 68, 1999 | 8 July 1999 | Schedule 3: 1 July 2000 *(zzu)* | — |
| Statute Stocktake Act 1999 | 118, 1999 | 22 Sept 1999 | 22 Sept 1999 | Sch. 2 (item 44) [*see* Table A] |
| National Health Amendment (Lifetime Health Cover) Act 1999 | 130, 1999 | 13 Oct 1999 | 1 July 2000 | S. 4 [*see* Table A] |
| Public Employment (Consequential and Transitional) Amendment Act 1999 | 146, 1999 | 11 Nov 1999 | Schedule 1 (items 628–637): 5 Dec 1999 (*see Gazette* 1999, No. S584) *(zzv)* | — |
| Corporate Law Economic Reform Program Act 1999 | 156, 1999 | 24 Nov 1999 | Schedule 10 (items 96–98): 13 Mar 2000 (*see Gazette* 2000, No. S114) *(zzw)* | — |
| Health Legislation Amendment Act (No. 3) 1999 | 159, 1999 | 8 Dec 1999 | Schedule 1 and Schedule 2 (items 1–51): 1 Jan 2000 (*see Gazette* 1999, No. S635) *(zzx)* Schedule 2 (items 52–64): *(zzx)* Schedule 3 (items 71–80): 1 Jan 1999 *(zzx)* | Sch. 1 (items 13, 21, 51, 52) Sch. 2 (items 43, 45, 49–51, 64) [*see* Table A] |
| Health Legislation Amendment (Gap Cover Schemes) Act 2000 | 72, 2000 | 27 June 2000 | 11 Aug 2000 (*see Gazette* 2000, No. S435) | S. 4 [*see* Table A] |
| National Health Amendment Act (No. 1) 2000 | 75, 2000 | 28 June 2000 | Schedule 1 (items 1, 3–9,  11–15): 1 July 2000 Schedule 1 (items 2, 10): 30 June 2000 *(zzy)* Remainder: Royal Assent | Sch. 1 (items 9, 12) [*see* Table A] |
| Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 | 137, 2000 | 24 Nov 2000 | Ss. 1–3 and Schedule 1 (items 1, 4, 6, 7,  9–11, 32): Royal Assent Remainder: 24 May 2001 | Sch. 2 (items 418, 419) [*see* Table A] |
| National Health Amendment (Improved Monitoring of Entitlements to Pharmaceutical Benefits) Act 2000 | 146, 2000 | 11 Dec 2000 | Schedule 2: 1 Jan 2001 Remainder: Royal Assent | — |
| Health Legislation Amendment Act (No. 1) 2001 | 6, 2001 | 21 Mar 2001 | Schedule 1: 8 June 2001 (*see Gazette* 2001, No. S193) Schedule 3: *(zzz)* Remainder: Royal Assent | Ss. 4 and 5 [*see* Table A] |
| Corporations (Repeals, Consequentials and Transitionals) Act 2001 | 55, 2001 | 28 June 2001 | Ss. 4–14 and Schedule 3 (items 340–389): 15 July 2001 (*see Gazette* 2001, No. S285) *(zzza)* | Ss. 4–14 [*see* Note 1] |
| Social Security Legislation Amendment (Concession Cards) Act 2001 | 80, 2001 | 30 June 2001 | 1 July 2001 | — |
| Health and Aged Care Legislation Amendment (Application of Criminal Code) Act 2001 | 111, 2001 | 17 Sept 2001 | 17 Sept 2001 | S. 4 [*see* Table A] |
| Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001 | 159, 2001 | 1 Oct 2001 | 29 Oct 2001 | Sch. 1 (item 97) [*see* Table A] |
| Statute Law Revision Act 2002 | 63, 2002 | 3 July 2002 | Schedule 1 (item 22): *(zzzb)* Schedule 1 (item 23): Royal Assent | — |
| Health Legislation Amendment (Private Health Industry Measures) Act 2002 | 76, 2002 | 8 Oct 2002 | Schedule 1 (items 1–7): Royal Assent Schedule 1 (items 8, 9): 5 Nov 2002 | — |
| Medical Indemnity (Consequential Amendments) Act 2002 | 133, 2002 | 19 Dec 2002 | 1 Jan 2003 | — |
| National Health Amendment (Private Health Insurance Levies) Act 2003 | 69, 2003 | 15 July 2003 | 1 July 2004 | Sch. 1 (item 29) [*see* Table A] |
| Health Legislation Amendment (Private Health Insurance Reform) Act 2004 | 1, 2004 | 27 Feb 2004 | Schedule 1 (items 1–27): 1 July 2004 (*see* *Gazette* 2004, S125) Schedule 1 (items 28–40): 1 July 2004 Schedule 1 (items 58, 65–69, 71, 73): 23 Apr 2004 (*see* *Gazette* 2004, No. S125) Remainder: Royal Assent | Sch. 1 (items 17, 54, 59, 64, 73) Sch. 1 (item 28A) (ad. by 31, 2005, Sch. 2 [item 1]) [*see* Table A] |
| as amended by |  |  |  |  |
| National Health Amendment (Prostheses) Act 2005 | 31, 2005 | 21 Mar 2005 | Schedule 2: (*see* 31, 2005 below) | — |
| Medical Indemnity Amendment Act 2004 | 17, 2004 | 23 Mar 2004 | 24 Mar 2004 | — |
| Health and Ageing Legislation Amendment Act 2004 | 50, 2004 | 21 Apr 2004 | Schedule 1 (items 1–4, 7–22, 24–35): Royal Assent Schedule 2: 19 May 2004 | Sch. 1 (items 10, 35) [*see* Table A] |
| Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004 | 52, 2004 | 27 Apr 2004 | Schedule 3 (items 30–32): 1 July 2004 (*see* s. 2(1)) | — |
| Medical Indemnity Legislation Amendment (Run‑off Cover Indemnity and Other Measures) Act 2004 | 77, 2004 | 23 June 2004 | Schedule 2 (item 16): 1 July 2004 | — |
| Health Legislation Amendment (Podiatric Surgery and Other Matters) Act 2004 | 117, 2004 | 13 July 2004 | Schedule 1 (item 6): Royal Assent Schedule 1 (items 7–14): 13 Jan 2005 | — |
| as amended by |  |  |  |  |
| Health Legislation Amendment (Australian Community Pharmacy Authority) Act 2005 | 60, 2005 | 26 June 2005 | Schedule 1 (item 1): (*see* 60, 2005 below) | — |
| National Health Amendment (Pharmaceutical Benefits—Budget Measures) Act 2004 | 119, 2004 | 13 July 2004 | Schedule 1: 1 Jan 2005 Remainder: Royal Assent | Sch. 1 (item 24) [*see* Table A] |
| Private Health Insurance Incentives Amendment Act 2005 | 9, 2005 | 22 Feb 2005 | 22 Feb 2005 | Sch. 2 (item 3) [*see* Table A] |
| National Health Amendment (Prostheses) Act 2005 | 31, 2005 | 21 Mar 2005 | Schedule 1: 31 Oct 2005 (*see* F2005L02548) Schedule 2: 1 July 2004 (*see* s. 2(1)) Remainder: Royal Assent | Sch. 1 (items 8, 12) [*see* Table A] |
| Health Legislation Amendment (Australian Community Pharmacy Authority) Act 2005 | 60, 2005 | 26 June 2005 | Schedule 1 (item 1): *(zzzc)* Remainder: Royal Assent | — |
| Human Services Legislation Amendment Act 2005 | 111, 2005 | 6 Sept 2005 | Schedule 2 (items 551–605): 1 Oct 2005 | — |
| Medical Indemnity Legislation Amendment (Competitive Neutrality) Act 2005 | 126, 2005 | 19 Oct 2005 | Schedule 1 (item 14): 1 July 2005 | — |
| National Health Amendment (Immunisation Program) Act 2005 | 140, 2005 | 18 Nov 2005 | Schedule 1: 1 Jan 2006 (*see* F2005L04086) Remainder: Royal Assent | Sch. 1 (item 9) [*see* Table A] |
| National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Act 2005 | 151, 2005 | 14 Dec 2005 | Schedule 1 (items 3–11, 13) and Schedule 2 (items 8, 9): 1 Jan 2006 Schedule 2 (items 10, 11): 1 Jan 2007 Schedule 2 (items 12, 13): 1 Jan 2008 Schedule 2 (items 14, 15): 1 Jan 2009 Schedule 2 (items 16–18): 31 Dec 2009 Remainder: Royal Assent | Sch. 1 (item 13) [*see* Table A] |
| Health Legislation Amendment Act 2005 | 155, 2005 | 19 Dec 2005 | Schedule 2: 20 Dec 2005 Schedule 4: 1 Oct 2005 Remainder: Royal Assent | — |
| Health Legislation Amendment (Pharmacy Location Arrangements) Act 2006 | 37, 2006 | 3 May 2006 | Schedule 1 (items 3, 4) and Schedule 2: 1 July 2006 Schedule 1 (items 5, 6): *(zzzd)* Remainder: Royal Assent | Sch. 2 (item 13) [*see* Table A] |
| National Health and Medical Research Council Amendment Act 2006 | 50, 2006 | 9 June 2006 | Schedule 1: 1 July 2006 Remainder: Royal Assent | — |
| Health Legislation Amendment (Private Health Insurance) Act 2006 | 83, 2006 | 30 June 2006 | 1 July 2006 | — |
| Privacy Legislation Amendment Act 2006 | 99, 2006 | 14 Sept 2006 | 14 Sept 2006 | — |
| National Health Amendment (Immunisation) Act 2006 | 105, 2006 | 27 Sept 2006 | 27 Sept 2006 | — |
| Australian Participants in British Nuclear Tests (Treatment) (Consequential Amendments and Transitional Provisions) Act 2006 | 136, 2006 | 30 Nov 2006 | Schedules 1 and 2: 1 Dec 2006 (*see* s. 2(1)) Remainder: Royal Assent | Sch. 2 (items 1, 2) [*see* Table A] |
| Medibank Private Sale Act 2006 | 160, 2006 | 11 Dec 2006 | Schedule 1 (items 4–7): 12 Dec 2006 | — |
| Statute Law Revision Act 2007 | 8, 2007 | 15 Mar 2007 | Schedule 4 (item 21): Royal Assent | — |
| Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007 | 32, 2007 | 30 Mar 2007 | Schedule 1 (items 6–59) and Schedule 2 (items 81–103): 1 Apr 2007 (*see* s. 2(1)) | [*see* Note 1] |
| National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007 | 111, 2007 | 28 June 2007 | 1 Aug 2007 | Sch. 1 (items 94–100) [*see* Table A] |
| National Health Amendment (National HPV Vaccination Program Register) Act 2007 | 135, 2007 | 20 Aug 2007 | 20 Aug 2007 | — |
| National Health Amendment (Pharmaceutical Benefits) Act 2007 | 169, 2007 | 28 Sept 2007 | Schedule 1 (items 12, 13, 36, 43): 1 Jan 2008 Schedule 2: 29 Sept 2007 Remainder: Royal Assent | Sch. 2 (item 21) [*see* Table A] |
| Health Legislation Amendment Act 2007 | 180, 2007 | 28 Sept 2007 | Schedule 1 (items 1–3, 5): 1 April 2007 Schedule 1 (items 4–4B, 6): 29 Sept 2007 Schedule 2 (items 1–6, 8–11): 1 Aug 2007 Schedule 2 (item 7): *(zzze)* Remainder: Royal Assent | — |
| National Health Amendment (Pharmaceutical Benefits Scheme) Act 2008 | 49, 2008 | 25 June 2008 | Schedule 2: 26 June 2008 Remainder: Royal Assent | Sch. 1 (item 6), Sch. 3 (item 3) and Sch. 4 (item 6) [*see* Table A] |
| Same‑Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008 | 144, 2008 | 9 Dec 2008 | Schedule 9 (items 15–29): 1 Jan 2009 | — |
| Customs Legislation Amendment (Name Change) Act 2009 | 33, 2009 | 22 May 2009 | Schedule 2 (items 43–45): 23 May 2009 | — |
| Fair Work (State Referral and Consequential and Other Amendments) Act 2009 | 54, 2009 | 25 June 2009 | Schedule 11 (items 5–9): *(zzzf)* | — |
| National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Act 2009 | 71, 2009 | 22 July 2009 | Schedule 1: 1 July 2008 Remainder: Royal Assent | — |
| Statute Stocktake (Regulatory and Other Laws) Act 2009 | 111, 2009 | 16 Nov 2009 | Schedule 2 (item 13): 17 Nov 2009 | — |
| Health Legislation Amendment (Midwives and Nurse Practitioners) Act 2010 | 29, 2010 | 12 Apr 2010 | Schedule 1 (items 67–112): 13 Apr 2010 Schedule 2 (items 19–21): 1 July 2010 (*see* s. 2(1)) | — |
| Freedom of Information Amendment (Reform) Act 2010 | 51, 2010 | 31 May 2010 | Schedule 5 (items 39–46) and Schedule 7: *(zzzg)* | Sch. 7 [*see* Note 1] |
| Health Legislation Amendment (Australian Community Pharmacy Authority and Private Health Insurance) Act 2010 | 63, 2010 | 28 June 2010 | Schedule 1: Royal Assent | — |
| National Health Amendment (Continence Aids Payment Scheme) Act 2010 | 68, 2010 | 28 June 2010 | Schedule 1: 1 July 2010 Remainder: Royal Assent | Sch. 1 (item 3) [*see* Table A] |
| National Health Amendment (Pharmaceutical Benefits Scheme) Act 2010 | 126, 2010 | 23 Nov 2010 | Schedule 1: 1 Feb 2011 Schedules 2–4, Schedule 6 (items 1–27,  30–33) and Schedule 7: 1 Dec 2010 Schedule 5: [*see* Note 3] | Sch. 4 (item 20) and Sch. 6 (items  30–33) [*see* Table A] |

*(a)* The *National Health Amendment Act 1976* was amended by section 3 only of the *Administrative Changes (Consequential Provisions) Act 1976*, subsection 2(5) of which provides as follows:

(5) The amendment of the *National Health Amendment Act 1976* made by this Act shall come into operation on the day on which this Act receives the Royal Assent.

*(b)* The *National Health Act 1953* was amended by section 3 only of the *Administrative Changes (Consequential Provisions) Act 1976*, subsection 2(7) of which provides as follows:

(7) The amendments of each other Act specified in the Schedule made by this Act shall be deemed to have come into operation on 22 December 1975.

*(c)* Sections 3, 5–7 and 15 of the *National Health Amendment Act 1978* were repealed by subsection 44(2) of the *National Health Amendment Act (No. 2) 1978* before a date was fixed for their commencement.

*(d)* The *National Health Act 1953* was amended by Part IX (section 177) only of the *Commonwealth Functions (Statutes Review) Act 1981*, subsection 2(1) of which provides as follows:

(1) Parts I, IV, IX, X, XI, XII, XIII, XV, XVII (other than sections 220, 221, 222, 223, 225, 226, 227, 228 and 230), XX, XXI, XXII and XXIII shall come into operation on the day on which this Act receives the Royal Assent.

*(e)* The *National Health Act 1953* was amended by Part XIV (sections 48 and 49) and section 68 only of the *Statute Law (Miscellaneous Amendments) Act 1981*, subsections 2(8) and (12) of which provide as follows:

(8) Parts XII and XIV shall be deemed to come into operation on 1 September 1981.

(12) The remaining provisions of this Act shall come into operation on the twenty‑eighth day after the day on which this Act receives the Royal Assent.

*(f)* Sections 10, 11 and 41 of the *Health Legislation Amendment Act 1982* were repealed by section 29 of the *Health and Community Services Legislation Amendment Act 1991* before a date was fixed for their commencement.

*(g)* The *National Health Act 1953* was amended by Part LXXVII (section 280) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(1) of which provides as follows:

(1) Sections 1, 2, 166 and 195 and Parts III, VI, VII, XVI, XXXVI, XLIV, LI, LIII, LIV, LXI and LXXVII shall come into operation on the day on which this Act receives the Royal Assent.

*(h)* The *National Health Act 1953* was amended by sections 24–57 only of the *Health Legislation Amendment Act (No. 2) 1983*, subsections 2(1), (2), (7), (9) and (10) of which provide as follows:

(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Subsection 4(2) and sections 25 and 52 shall come into operation, or shall be deemed to have come into operation, as the case requires, on 1 December 1983.

(7) Subsections 6(2) and (4), 7(2) and (4), sections 8, 9 and 12 and subsections 28(2) and (8) shall come into operation on 1 February 1984.

(9) Part III, section 34, subsections 35(3), (4), (9), (10) and (11), 36(2), 38(2), 40(2), (3) and (4) and 41(2), section 48, subsections 50(2), 54(2), (3) and (5) and 55(2), section 60, subsections 61(3), (8), (9) and (10), 62(2), 66(2), 69(2) and (3) and 72(2) and section 74 shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

(10) Subsections 35(1) and 62(1) shall be deemed to have come into operation on 1 January 1975.

In pursuance of subsection 2(9), subsections 35(4), 40(2)–(4), 41(2), 54(3) and (5) of the *Health Legislation Amendment Act (No. 2) 1983* were repealed by section 41 of the *Nursing Homes and Hostels Legislation Amendment Act 1986* before a date was fixed for their commencement.

*(i)* The *Health Legislation Amendment Act (No. 2) 1983* was amended by section 3 only of the S*tatute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(11) of which provides as follows:

(11) The amendment of the *Health Legislation Amendment Act (No. 2) 1983* made by this Act shall come into operation, or be deemed to have come into operation, as the case requires, on the commencement of subsection 40(2) of that Act.

In pursuance of subsection 2(11), section 40(2) was repealed by section 41 of the *Nursing Homes and Hostels Legislation Amendment Act 1986* before a date was fixed for the commencement.

*(j)* The *Health Legislation Amendment Act (No. 2) 1983* was amended by Part V (sections 40 and 41) only of the *Nursing Homes and Hostels Legislation Amendment Act 1986*, subsection 2(5) of which provides as follows:

(5) The remaining provisions of this Act shall come into operation on the day on which it receives the Royal Assent.

*(k)* The *National Health Act 1953* was amended by subsection 151(1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:

(4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

*(l)* The *National Health Act 1953* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1984*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the twenty‑eighth day after the day on which it receives the Royal Assent.

*(m)* The *National Health Act 1953* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(29) of which provides that section 9 and the amendments made to the *National Health Act 1953* (other than the amendments made by this Act to subsections 105AAA(1), (2), (4), (5) and (6) and paragraphs 105AC(1AA)(a) and (b) and (1B)(a) of that Act), shall come into operation on the day fixed by Proclamation for the purposes of subsection 2(20) of that Act.

Subsection 2(15) of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984* provides as follows:

(15) The amendments of subsections 105AAA(1), (2), (4), (5) and (6) and paragraphs 105AC(1AA)(a) and (b) and (1B)(a) of the *National Health Act 1953* made by this Act shall be deemed to have come into operation on 23 July 1984.

In pursuance of subsection 2(20) the date of commencement was 13 December 1984 (*see Gazette* 1984, No. S519).

*(n)* The *National Health Act 1953* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the twenty‑eighth day after the day on which it receives the Royal Assent.

*(p)* The *National Health Act 1953* was amended by Part XI (sections 60–62) only of the *Social Security and Repatriation Legislation Amendment Act 1985*, subsection 2(5) of which provides as follows:

(5) Part XI shall come into operation, or shall be deemed to have come into operation, as the case requires, immediately after the commencement of section 12 of the *Health Legislation Amendment Act 1984*.

Section 12 commenced on 1 July 1985 (*see Gazette* 1985, No. S235).

*(q)* The *National Health Act 1953* was amended by sections 7–11 only of the *Social Security and Repatriation (Budget Measures) Amendment Act 1985*, subsections 2(1), (2) and (5) of which provide as follows:

(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Section 9 and subsection 10(1) shall be deemed to have come into operation on 1 July 1985.

(5) Sections 8, 11, 13 to 28, inclusive, 36, 41, 42, 43, 44, 46, 48, 49, 50, 52, 60, 61, 62 and 68 to 74, inclusive, and subsections 45(1), 57(1), 63(1), 66(1) and 67(1) shall come into operation, or shall be deemed to have come into operation, as the case requires, on 1 November 1985.

*(r)* The *National Health Act 1953* was amended by sections 57–71 only of the *Health Legislation Amendment Act 1986*, subsections 2(1), (2) and (5) of which provide as follows:

(1) Section 1, this section, section 3, subsection 19(2), section 23, subsection 47(1), section 53, Part III, section 57, sections 61 to 71 (inclusive) and Parts V and VI shall come into operation on the twenty–eighth day after the day on which this Act receives the Royal Assent.

(2) Subsection 4(2) and sections 58 and 59 shall come into operation, or be deemed to have come into operation, as the case requires, on 1 July 1986.

(5) Section 60 shall be deemed to have come into operation on 16 February 1979.

*(s)* The *Health Legislation Amendment Act (No. 2) 1986* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(16) of which provides as follows:

(16) The amendments of section 46 of, and Schedules 1 and 2 to, the *Health Legislation Amendment Act (No. 2) 1986* made by this Act shall be respectively deemed to have come into operation on the commencement of sections 46 and 37 of the   
first‑mentioned Act.

*(t)* The *National Health Act 1953* was amended by sections 6–23 only of the *Nursing Homes and Hostels Legislation Amendment Act 1986*, subsections 2(4) and (5) of which provide as follows:

(4) Sections 7, 16, 17, 21 and 22, subsection 25(2) and sections 34, 35, 37 and 38 shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

(5) The remaining provisions of this Act shall come into operation on the day on which it receives the Royal Assent.

In pursuance of subsection 2(4), section 22 was repealed by section 16 of the *Community Services and Health Legislation Amendment Act 1991* before a date was fixed for the commencement.

*(u)* The *National Health Act 1953* was amended by sections 11 and 12 only of the *Social Security and Veterans’ Affairs Legislation Amendment Act (No. 4) 1989*, section 2 of which provides as follows:

2. Each provision of this Act commences, or is to be taken to have commenced, as the case requires, on the day, or at the time, shown by the note in italics at the foot of that provision.

*(v)* The *National Health Act 1953* was amended by sections 3–11 only of the *Social Welfare Legislation (Pharmaceutical Benefits) Amendment Act 1990*, section 2 of which provides as follows:

2. Each provision of this Act commences on the day shown by the note in italics at the foot of that provision.

*(w)* The *National Health Act 1953* was amended by sections 19–31 only of the *Community Services and Health Legislation Amendment Act 1990*, section 2 of which provides as follows:

2. Each provision of this Act commences, or is taken to have commenced, on the day, or at the time, shown by the note in italics at the foot of that provision.

Commencement of paragraph 22(a) provides as follows:

Immediately after the commencement of paragraph 5(c) of the *Social Welfare Legislation (Pharmaceutical Benefits) Amendment Act 1990*.

Paragraph 5(c) commenced on 1 November 1990.

Commencement of section 24 provides as follows:

Immediately after the commencement of paragraph 8(b) of the *Social Welfare Legislation (Pharmaceutical Benefits) Amendment Act 1990*.

Paragraph 8(b) commenced on 1 January 1991.

Commencement of section 28 provides as follows:

Immediately after the commencement of section 11 of the *Social Welfare Legislation (Pharmaceutical Benefits) Amendment Act 1990*.

Section 11 commenced on 1 February 1991.

*(x)* The *National Health Act 1953* was amended by sections 48–74 only of the *Community Services and Health Legislation Amendment Act (No. 2) 1990*, subsections 2(1)–(3) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Section 49 is taken to have commenced on 1 March 1990.

(3) Paragraph 51(b) and sections 56 to 71 (inclusive) commence on 1 January 1991.

*(y)* The *National Health Act 1953* was amended by Part 6 (sections 91–93) only of the *Social Security Legislation Amendment Act 1990*, section 2 of which provides as follows:

2. Each provision of this Act commences, or is taken to have commenced, as the case requires, on the day shown by the note in italics at the foot of the provision.

*(z)* Section 2 of the *Social Security (Job Search and Newstart) Amendment Act 1991* provides as follows:

2. This Act commences immediately after the commencement of the *Social Security Act 1991*.

The *Social Security Act 1991* came into operation on 1 July 1991.

*(za)* Section 2 of the *Social Security (Rewrite) Transition Act 1991* provides as follows:

2. This Act commences immediately after the *Social Security Act 1991* commences.

The *Social Security Act 1991* came into operation on 1 July 1991.

*(zb)* Subsection 2(2) of the *Veterans’ Entitlements (Rewrite) Transition Act 1991* provides as follows:

2. Section 19 commences immediately after the commencement of section 22.

Section 22 commenced on 1 July 1991.

*(zc)* The *National Health Act 1953* was amended by Part 5 (sections 41 and 42) only of the *Social Security Legislation Amendment Act (No. 2) 1991*, subsection 2(5) of which provides as follows:

(5) Parts 5 and 6 are taken to have commenced on 1 March 1991.

*(zd)* Section 2 of the *Social Security (Rewrite) Amendment Act 1991* provides as follows:

2. This Act commences immediately after the *Social Security (Rewrite) Transition Act 1991* and the *Social Security (Job Search and Newstart) Amendment Act 1991* commence.

The *Social Security (Rewrite) Transition Act 1991* and the *Social Security (Job Search and Newstart) Amendment Act 1991* came into operation on 1 July 1991, immediately after the commencement of the *Social Security Act 1991*.

*(ze)* The *Health Legislation (Pharmaceutical Benefits) Amendment Act 1991* was amended by the *Human Services and Health Legislation Amendment Act (No. 3) 1995*, subsection 2(7) of which provides as follows:

(7) Item 16 of Schedule 2 is taken to have commenced immediately before the commencement of section 13 of the *Health Legislation (Pharmaceutical Benefits) Amendment Act 1991*.

Section 13 commenced on 1 August 1991 (*see Gazette* 1991, No. S209).

*(zf)* The *National Health Act 1953* was amended by sections 3–9 only of the *Veterans’ Affairs Legislation Amendment Act (No. 2) 1991*, section 2 of which provides as follows:

2. Each provision of this Act commences, or is taken to have commenced, as the case requires, on the day, or at the time, shown by the note in italics at the foot of the provision.

*(zg)* The *Health and Community Services Legislation Amendment Act 1991* was amended by the *Human Services and Health Legislation Amendment Act (No. 3) 1995*, subsection 2(4) of which provides as follows:

(4) Item 4 of Schedule 2 is taken to have commenced on the commencement of section 43 of the *Health and Community Services Legislation Amendment Act 1991*.

*(zh)* The *National Health Act 1953* was amended by Part 6 (section 87) only of the *Veterans’ Affairs Legislation Amendment Act 1992*, subsection 2(5) of which provides as follows:

(5) Part 6 is taken to have commenced on 1 March 1991.

*(zi)* The *National Health Act 1953* was amended by section 117 and Schedule 2 (Part 2) only of the *Social Security Legislation Amendment Act 1992*, subsections 2(1)(f) and (4) of which provide as follows:

(1) The following provisions commence on the day on which this Act receives the Royal Assent:

(f) Part 3;

(4) Part 2 of Schedule 1 and Part 2 of Schedule 2 are taken to have commenced on 1 July 1991.

*(zj)* The *National Health Act 1953* was amended by sections 49–67 and Part 7 (sections 68–81) only of the *Health, Housing and Community Services Legislation Amendment Act 1992*, subsections 2(1) and (6) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(6) Part 6 (other than sections 60 to 64 (inclusive) and section 66) is taken to have commenced on 1 January 1992.

*(zk)* The *Health, Housing and Community Services Legislation Amendment Act 1992* was amended by Part 4 (sections 8 and 9) only of the *Health and Community Services Legislation Amendment Act 1993*, subsection 2(3) of which provides as follows:

(3) Part 4 is taken to have commenced immediately after the commencement of section 63 of the *Health, Housing and Community Services Legislation Amendment Act 1992*.

Section 63 commenced on 30 June 1992.

*(zl)* Subsection 2(7) of the *Health and Community Services Legislation Amendment Act (No. 2) 1992* provides as follows:

(7) Part 6 is taken to have commenced immediately after the commencement of section 11 of the *National Health Amendment Act 1987*.

Section 11 commenced on 26 May 1987.

*(zm)* The *Health and Community Services Legislation Amendment Act (No. 2) 1992* was amended by sections 6 and 7 only of the *Health and Community Services Legislation Amendment Act 1993*, subsections 2(1) and (2) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Section 6 is taken to have commenced immediately after the commencement of section 2 of the *Health and Community Services Legislation Amendment Act (No. 2) 1992*.

Section 2 commenced on 21 December 1992.

*(zn)* The *National Health Act 1953* was amended by section 32 and Schedule 3 (Part 2) only of the *Social Security Legislation Amendment Act (No. 3) 1992*, subsections 2(8)(a) and (10) of which provide as follows:

(8) The following provisions commence on 20 March 1993:

(a) Divisions 2, 3, 5 and 8 of Part 2 (except sections 20, 23, 24 and 25 and paragraphs 41(b) and (c));

(10) Division 10 of Part 2 and Part 2 of Schedule 3 commence on 1 April 1993.

*(zo)* The *National Health Act 1953* was amended by section 17 only of the *Social Security Legislation Amendment Act (No. 2) 1993*, subsection 2(5) of which provides as follows:

(5) Part 3 commences on 1 July 1994.

*(zp)* The *National Health Act 1953* was amended by Part 5 (sections 18–21) only of the *Health and Community Services Legislation Amendment Act (No. 2) 1993*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

*(zq)* The *Health and Community Services Legislation Amendment Act (No. 2) 1993* was amended by the *Human Services and Health Legislation Amendment Act (No. 3) 1995*, subsection 2(5) of which provides as follows:

(5) Item 5 of Schedule 2 is taken to have commenced on the commencement of section 19 of the *Health and Community Services Legislation Amendment Act (No. 2) 1993*.

*(zr)* The *National Health Amendment Act (No. 2) 1993* was amended by section 3 only of the *Human Services and Health Legislation Amendment Act (No. 2) 1994*, subsection 2(6) of which provides as follows:

(6) The amendment made by this Act to the *National Health Amendment Act (No. 2) 1993* is taken to have commenced on 1 January 1994, immediately after the commencement of that Act.

*(zs)* The *National Health Act 1953* was amended by Part 6 (sections 18–31) only of the *Health and Community Services Legislation Amendment Act 1993*, subsection 2(4) of which provides as follows:

(4) Part 6 commences immediately after the commencement of the *National Health Amendment Act 1992* as provided under subsection 2(1) of that Act.

The *National Health Amendment Act 1992* came into operation on 1 July 1993.

*(zt)* The *Health and Community Services Legislation Amendment Act 1993* was amended by the *Human Services and Health Legislation Amendment Act (No. 3) 1995*, subsection 2(6) of which provides as follows:

(6) Item 6 of Schedule 2 is taken to have commenced immediately before the commencement of section 24 of the *Health and Community Services Legislation Amendment Act 1993*.

Section 24 commmenced on 1 July 1993.

*(zu)* The *National Health Act 1953* was amended by section 33 only of the *Social Security Legislation Amendment Act 1994*, subsection 2(6) of which provides as follows:

(6) Section 33 and Part 6 of Schedule 4 are taken to have commenced on 20 March 1993.

*(zv)* The *National Health Act 1953* was amended by sections 8 and 9 only of the *Veterans’ Affairs Legislation Amendment Act 1994*, subsection 2(3) of which provides as follows:

(3) Part 2 commences, or is taken to have commenced, on 1 July 1994, immediately after the commencement of Part 3 of the *Social Security Legislation Amendment Act (No. 2) 1993*.

*(zw)* The *National Health Act 1953* was amended by section 13 only of the *Human Services and Health Legislation Amendment Act 1994*, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

*(zx)* The *National Health Act 1953* was amended by section 3 only of the *Human Services and Health Legislation Amendment Act (No. 2) 1994*, subsections 2(1), (4) and (5) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(4) The amendment made by this Act to section 103 of the *National Health Act 1953* commences on 1 December 1994.

(5) The amendment made by this Act to subsection 84C(1AA) of the *National Health Act 1953* commences on 1 January 1995.

*(zy)* The *National Health Act 1953* was amended by section 27 (items 2–5) only of the *Veterans’ Affairs (1994–95 Budget Measures) Legislation Amendment Act (No. 2) 1994*, subsection 2(3) of which provides as follows:

(3) Divisions 3 and 7 of Part 2 commence on 20 March 1995, immediately after the commencement of Divisions 6 and 7 of Part 2 of the *Veterans’ Affairs (1994–95 Budget Measures) Legislation Amendment Act 1994*.

*(zz)* The *National Health Act 1953* was amended by the *Social Security (Parenting Allowance and Other Measures) Legislation Amendment Act 1994*, subsections 2(1) and (3) of which provide as follows:

(1) Subject to this section, this Act commences on 1 July 1995.

(3) Item 39 of Schedule 3 commences on 1 January 1995, and subsection 5(2) is taken to commence on that day to the extent necessary in order to enable that item to commence on that day.

*(zza)* Section 2 of the *Student Assistance (Youth Training Allowance—Transitional Provisions and Consequential Amendments) Act 1994* provides as follows:

(2) This Act commences on 1 January 1995 immediately after the commencement of the *Student Assistance (Youth Training Allowance) Amendment Act 1994*.

*(zzb)* The *National Health Act 1953* was amended by sections 14, 15 and 27 only of the *Evidence (Transitional Provisions and Consequential Amendments) Act 1995*, subsections 2(1), (12) and (13) of which provide as follows:

(1) This Part and Parts 2 and 3 commence on the day on which this Act receives the Royal Assent.

(12) Sections 25 and 26 of this Act commence on the day on which section 3 of the *Evidence Act 1995* commences.

(13) Section 27 of this Act and the Schedule to this Act commence:

(a) on the day on which sections 153 and 155 of the *Evidence Act 1995* commence; or

(b) if those sections commence on different days—the first day on which both of those sections are in force.

*(zzc)* The *Health Legislation (Private Health Insurance Reform) Amendment Act 1995* was amended by Schedule 2 (item 17) only of the *Human Services and Health Legislation Amendment Act (No. 3) 1995*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

*(zzd)* The *Health Legislation (Private Health Insurance Reform) Amendment Act 1995* was amended by Schedule 3 (item 28) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:

(3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.

*(zze)* The *National Health Act 1953* was amended by sections 50–53 only of the *Social Security (Non‑Budget Measures) Legislation Amendment Act 1995*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

*(zzf)* The *National Health Act 1953* was amended by Schedule 1 (items 69–78) and Schedule 2 (items 19–22) only of the *Human Services and Health Legislation Amendment Act (No. 3) 1995*, subsections 2(1) and (9) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(9) Item 20 of Schedule 2 is taken to have commenced immediately before the commencement of Schedule 2 to the *Health Legislation (Private Health Insurance Reform) Amendment Act 1995*.

Schedule 2 commenced on 1 October 1995.

*(zzg)* The *National Health Act 1953* was amended by Schedule 10 only of the *Social Security and Veterans’ Affairs Legislation Amendment Act 1995*, subsections 2(3)(b), (4)(c) and (5)(c) of which provide as follows:

(3) The following provisions commence, or are taken to have commenced, on 20 March 1996:

(b) Part 1 of Schedule 10.

(4) The following provisions commence, or are taken to have commenced, on 1 July 1996:

(c) Part 2 of Schedule 10;

(5) The following provisions commence, or are taken to have commenced, on 20 September 1996:

(c) Part 3 of Schedule 10;

*(zzh)* The *National Health Act 1953* was amended by Schedule 2 (items 76 and 77) and Schedule 4 (item 102) only of the *Statute Law Revision Act 1996*, subsections 2(1) and (2) of which provide as follows:

(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(2) Each item in Schedule 2 commences or is taken to have commenced (as the case requires) at the time specified in the note at the end of the item.

Items 76 and 77 are taken to have commenced immediately after the commencement of Schedule 3 to the *Competition Policy Reform Act 1995*.

Schedule 3 to the *Competition Policy Reform Act 1995* commenced on 6 November 1995 (*see Gazette* 1995, No. S423).

*(zzi)* The *National Health Act 1953* was amended by Schedule 14 (items 4 and 5) and Schedule 16 (item 3) only of the *Social Security Legislation Amendment (Budget and Other Measures) Act 1996*, subsection 2(4) of which provides as follows:

(4) Schedules 1, 2, 14, 15 and 16 commence on 1 July 1997.

*(zzj)* The *National Health Act 1953* was amended by Schedules 1 and 6 only of the *Aged Care (Consequential Provisions) Act 1997*, subsections 2(1) and (5) of which provide as follows:

(1) Subject to this section, this Act commences immediately after the commencement of the *Aged Care Act 1997* (other than Division 1 of that Act).

(5) Schedule 6 commences on 1 July 1998.

The *Aged Care Act 1997* (other than Division 1) commenced on 1 October 1997.

*(zzja)* The *Aged Care Consequential Provisions) Act 1997* was amended by Schedule 5 (items 3 and 4) only of the *Aged Care Amendment (Omnibus) Act 1999*, subsection 2(4) of which provides as follows:

(4) Items 3 and 4 of Schedule 5 are taken to have commenced immediately after the commencement of Schedule 1 to the *Aged Care (Consequential Provisions) Act 1997*.

Schedule 1 commences immediately after the commencement of sections 2–1 to 96–13 and Schedule 1 of the *Aged Care Act 1997*.

Sections 2–1 to 96–13 and Schedule 1 commenced on 1 October 1997 (*see Gazette* 1997, No. GN36).

*(zzk)* The *National Health Act 1953* was amended by Schedule 2 (items 963–972) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:

(2) Schedules 1, 2 and 4 commence on the same day as the *Fianancial Management and Accountability Act 1997*.

*(zzl)* The *National Health Act 1953* was amended by Schedule 7 only of the *Veterans’ Affairs Legislation Amendment (Budget and Compensation Measures) Act 1997*, subsection 2(8) of which provides as follows:

(8) Schedules 5 and 7 commence on the 28th day after the day on which this Act receives the Royal Assent.

*(zzm)* The *National Health Act 1953* was amended by Schedule 1 (item 345) only of the *Social Security Legislation Amendment (Parenting and Other Measures) Act 1997*, subsection 2(2) of which provides as follows:

(2) Part 3 of Schedule 1 commences on 1 July 1998. The remaining items of Schedule 1 commence on 20 March 1998.

*(zzn)* The *National Health Act 1953* was amended by Schedule 3 only of the *Health Legislation Amendment Act 1998*, subsections 2(1) and (4) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(4) Items 2 and 3 of Schedule 3 commence on 1 May 1998.

*(zzo)* The *National Health Act 1953* was amended by Schedules 1–6, 9 and Schedule 10   
(items 4–11) only of the *Health Legislation Amendment Act (No. 2) 1998*, subsections 2(1), (2) and (5)–(8) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Part 2 of Schedule 4 commences on 1 July 1998.

(5) Item 4 of Schedule 10 is taken to have commenced on 16 December 1995, immediately after the commencement of item 74 of Schedule 1 to the *Human Services and Health Legislation Amendment Act (No. 3) 1995*.

(6) Items 6 and 7 of Schedule 10 are taken to have commenced on 29 May 1995, immediately after the commencement of Schedule 1 to the *Health Legislation (Private Health Insurance Reform) Amendment Act 1995*.

(7) Item 9 of Schedule 10 is taken to have commenced on 16 December 1995, immediately after the commencement of item 22 of Schedule 2 to the *Human Services and Health Legislation Amendment Act (No. 3) 1995*.

(8) Item 10 of Schedule 10 is taken to have commenced on 1 January 1997, immediately after the commencement of Schedule 3 to the *National Health (Budget Measures) Amendment Act 1996*.

*(zzp)* The *National Health Act 1953* was amended by Schedule 13 (items 43–47) only of the *Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 1998*, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) to (10), this Act commences on 1 July 1998.

*(zzq)* The *National Health Act 1953* was amended by Schedule 1 (item 121) only of the *Financial Sector Reform (Consequential Amendments) Act 1998*, subsection 2(2) of which provides as follows:

(2) Subject to subsections (3) to (14), Schedules 1, 2 and 3 commence on the commencement of the *Australian Prudential Regulation Authority Act 1998*.

*(zzr)* The *National Health Act 1953* was amended by Schedule 3 (Part 2) only of the *1998 Budget Measures Legislation Amendment (Social Security and Veterans’ Entitlements) Act 1998*, subsection 2(4) of which provides as follows:

(4) Part 2 of Schedule 3 commences on 1 July 1999.

*(zzs)* The *National Health Act 1953* was amended by Schedule 2 (items 43–49) only of the *Assistance for Carers Legislation Amendment Act 1999*, subsection 2(2)(b) and (c) of which provides as follows:

(2) The following provisions:

(b) Schedule 2 (other than items 1 and 3);

(c) Schedule 3 (other than item 1);

commence immediately after the commencement of Schedule 1 to the *Payment Processing Legislation Amendment (Social Security and Veterans’ Entitlements) Act 1998*.

Note: Schedule 1 to the *Payment Processing Legislation Amendment (Social Security and Veterans’ Entitlements) Act 1998* commences on 1 July 1999.

*(zzt)* The *National Health Act 1953* was amended by Schedule 6 (item 26) and Schedule 7 (item 122) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*, subsections 3(2)(d), (e) and (16) of which provides as follows:

(2) The following provisions commence on the transfer date:

(d) item 26 of Schedule 6;

(e) subject to subsection (12), Schedule 7, other than items 43, 44, 118, 205 and 207 (the commencement of those items is covered by subsections (10), (11) and (13)).

(16) The Governor‑General may, by Proclamation published in the *Gazette*, specify the date that is to be the transfer date for the purposes of this Act.

The transfer date was 1 July 1999 (*see* *Gazette* 1999, No. S283).

*(zzu)* The *National Health Act 1953* was amended by Schedule 3 only of the *A New Tax System (Compensation Measures Legislation Amendment) Act 1999*, subsections 2(2) and (3) of which provide as follows:

(2) Schedules 1, 2 and 3 commence, or are taken to have commenced:

(a) after all the provisions listed in subsection (3) have commenced; and

(b) on the last day on which any of those provisions commenced.

(3) These are the provisions:

(a) section 1–2 of the *A New Tax System (Goods and Services Tax) Act 1999*;

(b) section 2 of the *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999*;

(c) section 2 of the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*;

(d) section 2 of the *A New Tax System (Goods and Services Tax Imposition—General) Act 1999*;

(e) section 2 of the *A New Tax System (Goods and Services Tax Administration) Act 1999*.

*(zzv)* The *National Health Act 1953* was amended by Schedule 1 (items 628–637) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:

(1) In this Act, ***commencing time*** means the time when the *Public Service Act 1999* commences.

(2) Subject to this section, this Act commences at the commencing time.

*(zzw)* The *National Health Act 1953* was amended by Schedule 10 (items 96–98) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:

(2) The following provisions commence on a day or days to be fixed by Proclamation:

(c) the items in Schedules 10, 11 and 12.

*(zzx)* The *National Health Act 1953* was amended by Schedules 1, 2 (items 1–64) and Schedule 3 (items 71–80) only of the *Health Legislation Amendment Act (No. 3) 1999*, subsections 2(2), (4) and (5) of which provide as follows:

(2) Subject to subsection (3), Schedule 1 and Part 1 of Schedule 2 commence on a day to be fixed by Proclamation.

(4) Part 2 of Schedule 2 commences:

(b) if that transfer day occurs before the commencement of Part 1 of Schedule 2 to this Act—immediately after the commencement of that Part of that Schedule.

(5) Schedule 3 is taken to have commenced on 1 January 1999.

Part 1 of Schedule 2 commenced on 1 January 2000.

*(zzy)* Subsection 2(2) of the *National Health Amendment Act (No. 1) 2000* provides as follows:

(2) Items 2 and 10 of Schedule 1 commence immediately before the end of 30 June 2000.

*(*zzz*)* Subsection 2(4) of the *Health Legislation Amendment Act (No. 1) 2001*, provides as follows:

(4) Schedule 3 commences, or is taken to have commenced, immediately after the commencement of the *National Health Amendment (Lifetime Health Cover) Act 1999*.

The *National Health Amendment (Lifetime Health Cover) Act 1999* came into operation on 1 July 2000.

*(zzza)* The *National Health Act 1953* was amended by Schedule 3 (items 340–389) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:

(3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.

*(zzzb)* Subsection 2(1) (item 17) of the *Statute Law Revision Act 2002* provides as follows:

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| **Commencement information** | | |
| --- | --- | --- |
| **Column 1** | **Column 2** | **Column 3** |
| **Provision(s)** | **Commencement** | **Date/Details** |
| 17. Schedule 1, item 22 | Immediately after the *Health Legislation (Powers of Investigation) Amendment Act 1994* commenced | 21 July 1994 |

*(zzzc)* Subsection 2(1) (item 2) of the *Health Legislation Amendment (Australian Community Pharmacy Authority) Act 2005* provides as follows:

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

| **Provision(s)** | **Commencement** | **Date/Details** |
| --- | --- | --- |
| 2. Schedule 1, item 1 | Immediately after the commencement of item 11 of Schedule 1 to the *Health Legislation Amendment (Podiatric Surgery and Other Matters) Act 2004* | 13 January 2005 |

*(zzzd)* Subsection 2(1) (item 4) of the *Health Legislation Amendment (Pharmacy Location Arrangements) Act 2006* provides as follows:

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

| **Provision(s)** | **Commencement** | **Date/Details** |
| --- | --- | --- |
| 4. Schedule 1, Part 3 | Immediately after the commencement of item 14 of Schedule 1 to the *National Health Amendment Act (No. 1) 2000*. | 1 July 2000 |

*(zzze)* Subsection 2(1) (item 7) of the *Health Legislation Amendment Act 2007* provides as follows:

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

| **Provision(s)** | **Commencement** | **Date/Details** |
| --- | --- | --- |
| 7. Schedule 2, item 7 | Immediately after the commencement of item 15 of Schedule 1 to the *National Health Amendment (Pharmaceutical Benefits) Act 2007*. | 28 September 2007 |

*(zzzf)* Subsection 2(1) (item 33) of the *Fair Work (State Referral and Consequential and Other Amendments) Act 2009* provides as follows:

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

| **Provision(s)** | **Commencement** | **Date/Details** |
| --- | --- | --- |
| 33. Schedule 11 | Immediately after the commencement of Part 2‑4 of the *Fair Work Act 2009*. | 1 July 2009 |

*(zzzg)* Subsection 2(1) (item 7) of the *Freedom of Information Amendment (Reform) Act 2010* provides as follows:

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

| **Provision(s)** | **Commencement** | **Date/Details** |
| --- | --- | --- |
| 7. Schedules 4 to 7 | Immediately after the commencement of section 3 of the *Australian Information Commissioner Act 2010*.  However, if section 3 of the *Australian Information Commissioner Act 2010* does not commence, the provision(s) do not commence at all. | 1 November 2010 |

Table of Amendments

| ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted | |
| --- | --- |
| Provision affected | How affected |
| Long Title | rs. No. 94, 1986 |
| **Part I** |  |
| S. 1 | am. No. 94, 1986 |
| S. 2 | am. No. 60, 1976 |
| S. 3 | am. No. 68, 1955; No. 68, 1958; No. 82, 1962; No. 100, 1968; No. 102, 1969; No. 41, 1970; No. 114, 1972 |
|  | rep. No. 202, 1973 |
| S. 4 | am. No. 68, 1955; No. 92, 1957; No. 82, 1962; No. 37, 1964; No. 100, 1965; No. 44, 1966; No. 14, 1967; No. 100, 1968; No. 41, 1970; No. 114, 1972; No. 202, 1973; No. 1, 1975; No. 60, 1976 (as am. by No. 91, 1976); Nos. 91, 99 and 108, 1976; No. 100, 1977; No. 132, 1978; Nos. 54 and 122, 1979; No. 131, 1980; Nos. 118 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 54 and 139, 1983; Nos. 63 and 135, 1984; Nos. 65, 70 and 127, 1985; Nos. 28, 75, 94 and 115, 1986; Nos. 22, 44, 72 and 131, 1987; No. 79, 1988; Nos. 95 and 164, 1989; No. 3, 1990; Nos. 6, 68, 70, 73, 83, 116, 141, 175 and 211, 1991; Nos. 81, 88 and 136, 1992; No. 192, 1992 (as am. by No. 12, 1994); Nos. 204 and 230, 1992; Nos. 12, 116, 164, 174 and 184, 1994; Nos. 41, 105 and 149, 1995; Nos. 1, 79 and 84, 1996; Nos. 114 and 197, 1997; No. 45, 1998; Nos. 44, 118, 146, 130 and 159, 1999; No. 72, 2000; Nos. 6 and 80, 2001; No. 69, 2003; Nos. 52 and 117, 2004; Nos. 31, 111, 140 and 155, 2005; No. 136, 2006; Nos. 8, 32, 111 and 169, 2007; No. 144, 2008; No. 29, 2010 |
| S. 4AAAA | ad. No. 83, 1991 |
|  | rep. No. 114, 1997 |
| S. 4AAA | ad. No. 6, 1991 |
|  | am. No. 81, 1992; No. 1, 1996 |
|  | rep. No. 80, 2001 |
| S. 4AAAB | ad. No. 105, 1995 |
|  | am. No. 1, 1996 |
|  | rep. No. 80, 2001 |
| S. 4AA | ad. No. 135, 1984 |
|  | am. Nos. 95 and 127, 1985; Nos. 28 and 94, 1986; No. 72, 1987; No. 155, 1988; No. 141, 1990; No. 88, 1992; No. 12, 1994 |
| S. 4A | ad. No. 132, 1978 |
|  | am. No. 118, 1981; No. 54, 1983; No. 94, 1986; No. 79, 1988; No. 41, 1995 |
|  | rep. No. 41, 1995 |
| S. 4B | ad. No. 95, 1989 |
|  | rep. No. 41, 1995 |
| S. 4C | ad. No. 95, 1989 |
|  | am. No. 211, 1991 |
|  | rep. No. 41, 1995 |
| S. 4D | ad. No. 95, 1989 |
|  | rep. No. 41, 1995 |
| S. 5 | am. No. 202, 1973; No. 91, 1976 |
|  | rep. No. 74, 1981 |
|  | ad. No. 70, 1985 |
|  | am. No. 167, 1985; No. 99, 1988 |
|  | rs. No. 95, 1989 |
|  | rep. No. 41, 1995 |
| S. 5A | ad. No. 41, 1995 |
|  | am. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 5AB | ad. No. 21, 1999 |
|  | rep. No. 32, 2007 |
| S. 5B | ad. No. 41, 1995 |
|  | am. No. 117, 2004 |
|  | rep. No. 32, 2007 |
| Ss. 5C–5E | ad. No. 6, 2001 |
|  | rep. No. 32, 2007 |
| Ss. 5F, 5G | ad. No. 31, 2005 |
|  | rep. No. 32, 2007 |
| S. 6 | am. No. 68, 1955 |
|  | rs. No. 202, 1973 |
|  | am. No. 91, 1976 |
|  | rs. No. 139, 1983 |
|  | am. No. 63, 1984; No. 167, 1985; No. 94, 1986; No. 6, 2001; No. 37, 2006; No. 32, 2007; No. 68, 2010 |
| S. 6A | ad. No. 46, 1984 |
|  | am. No. 120, 1984 |
| Heading to s. 7 | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 7 | rep. No. 41, 1970 |
|  | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| Note to s. 7(2) | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 7A | ad. No. 111, 2001 |
| **Part II** |  |
| S. 8 | rep. No. 41, 1970 |
|  | ad. No. 202, 1973 |
|  | rep. No. 91, 1976 |
|  | ad. No. 94, 1986 |
| S. 9 | am. No. 98, 1977; No. 94, 1986 |
| S. 9A | ad. No. 37, 1964 |
|  | am. No. 100, 1967; Nos. 49 and 202, 1973 |
|  | rs. No. 1, 1975 |
|  | am. No. 135, 1984; No. 94, 1986; No. 169, 1991 |
| S. 9B | ad. No. 37, 1964 |
|  | rs. No. 100, 1968; No. 41, 1970 |
|  | am. No. 49, 1982; No. 94, 1986 |
|  | rs. No. 140, 2005 |
|  | am. No. 105, 2006 |
| S. 9BA | ad. No. 135, 2007 |
|  | am. No. 144, 2008 |
| S. 9C | ad. No. 135, 1984 |
|  | am. No. 94, 1986 |
| Ss. 10, 11 | am. No. 94, 1986 |
| **Part III** |  |
| Part III | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | rep. No. 94, 1986 |
|  | ad. No. 68, 2010 |
| S. 11A | ad. No. 202, 1973 |
|  | rep. No. 91, 1976 |
| S. 12 | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | am. No. 54, 1979; No. 118, 1981; Nos. 54 and 139, 1983; No. 63, 1984; No. 167, 1985 |
|  | rep. No. 94, 1986 |
|  | ad. No. 68, 2010 |
| S. 13 | am. No. 16, 1961; No. 37, 1964; No. 102, 1969; No. 41, 1970; No. 202, 1973; No. 1, 1975; No. 1, 1976 |
|  | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | am. No. 54, 1979; No. 118, 1981; No. 139, 1983; No. 63, 1984 |
|  | rep. No. 94, 1986 |
|  | ad. No. 68, 2010 |
| S. 13AA | ad. No. 1, 1976 |
|  | rep. No. 60, 1976 |
| S. 13A | ad. No. 41, 1970 |
|  | am. No. 202, 1973; No. 1, 1975 |
|  | rep. No. 60, 1976 |
| S. 14 | rs. No. 72, 1959 |
|  | am. No. 37, 1964; No. 102, 1969; No. 41, 1970; No. 1, 1976 |
|  | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | am. No. 54, 1979; No. 118, 1981; No. 139, 1983; No. 63, 1984 |
|  | rep. No. 94, 1986 |
|  | ad. No. 68, 2010 |
| S. 15 | am. No. 68, 1955 |
|  | rep. No. 72, 1959 |
|  | ad. No. 88, 1978 |
|  | am. No. 63, 1984 |
|  | rep. No. 94, 1986 |
|  | ad. No. 68, 2010 |
| S. 15A | ad. No. 55, 1956 |
|  | am. No. 72, 1959; No. 37, 1964; No. 44, 1966 |
|  | rep. No. 41, 1970 |
| S. 16A | ad. No. 41, 1970 |
|  | am. No. 114, 1972 |
|  | rep. No. 60, 1976 |
| S. 16 | am. No. 72, 1959; No. 16, 1961; No. 37, 1964; No. 44, 1966 |
|  | rs. No. 41, 1970 |
|  | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | am. No. 63, 1984 |
|  | rep. No. 94, 1986 |
| S. 17 | am. No. 92, 1957; No. 37, 1964; No. 41, 1970; No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | am. No. 131, 1980; Nos. 54 and 139, 1983 |
|  | rep. No. 94, 1986 |
| S. 17A | ad. No. 202, 1973 |
|  | rep. No. 60, 1976 |
| S. 18 | am. No. 37, 1964; No. 41, 1970; No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | am. No. 131, 1980; No. 139, 1983; No. 63, 1984 |
|  | rep. No. 94, 1986 |
| S. 18A | ad. No. 68, 1958 |
|  | am. No. 102, 1969 |
|  | rs. No. 41, 1970 |
|  | rep. No. 60, 1976 |
|  | ad. No. 139, 1983 |
|  | am. No. 63, 1984 |
|  | rep. No. 94, 1986 |
| S. 19 | am. No. 55, 1956; No. 92, 1957; No. 82, 1962; No. 37, 1964; No. 100, 1967; No. 41, 1970; No. 114, 1972; No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | rep. No. 94, 1986 |
| S. 20 | am. No. 95, 1956; No. 82, 1962 |
|  | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | rs. No. 54, 1979; No. 131, 1980 |
|  | am. No. 118, 1981; No. 112, 1982; No. 63, 1984 |
|  | rep. No. 94, 1986 |
| S. 21 | rs. No. 82, 1962 |
|  | am. No. 41, 1970; No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | rep. No. 94, 1986 |
| S. 22 | rs. No. 146, 1965 |
|  | am. No. 44, 1966 |
|  | rep. No. 60, 1976 |
|  | ad. No. 88, 1978 |
|  | am. No. 54, 1979 |
|  | rep. No. 94, 1986 |
| S. 23 | am. No. 37, 1964; No. 102, 1969; No. 41, 1970 |
|  | rep. No. 60, 1976 |
| S. 24 | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
| S. 25 | am. No. 37, 1964; No. 102, 1969 |
|  | rep. No. 60, 1976 |
| S. 26 | rs. No. 68, 1955 |
|  | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
| S. 27 | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
| S. 28 | rs. No. 41, 1970 |
|  | rep. No. 60, 1976 |
| S. 29 | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
| Ss. 29A–29C | ad. No. 41, 1970 |
|  | rep. No. 60, 1976 |
| Ss. 29D, 29E | ad. No. 41, 1970 |
|  | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
| S. 29F | ad. No. 41, 1970 |
|  | rep. No. 60, 1976 |
| S. 30 | rs. No. 68, 1958 |
|  | am. No. 44, 1966; No. 102, 1969 |
|  | rep. No. 60, 1976 |
| Part IV | rep. No. 60, 1976 |
| S. 31 | rep. No. 82, 1962 |
|  | ad. No. 202, 1973 |
|  | rep. No. 91, 1976 |
| S. 32 | am. No. 82, 1962; No. 41, 1970; No. 202, 1973 |
|  | rep. No. 60, 1976 |
| S. 33 | am. No. 82, 1962; No. 202, 1973 |
|  | rep. No. 60, 1976 |
| S. 34 | rs. No. 68, 1955 |
|  | am. No. 82, 1962 |
|  | rep. No. 60, 1976 |
| S. 35 | am. No. 68, 1955 |
|  | rep. No. 60, 1976 |
| S. 36 | rep. No. 68, 1955 |
| S. 37 | am. No. 68, 1955; No. 202, 1973 |
|  | rep. No. 60, 1976 |
| S. 37A | ad. No. 68, 1955 |
|  | am. No. 44, 1966 |
|  | rep. No. 60, 1976 |
| **Part V** |  |
| Heading to Part V | am. No. 60, 1976 |
|  | rs. No. 100, 1977 |
| Part V | rs. No. 82, 1962 |
| Div. 1 of Part V | rep. No. 100, 1977 |
| S. 38 | am. No. 68, 1955 |
|  | rs. No. 82, 1962 |
|  | am. No. 44, 1966; No. 102, 1969; No. 41, 1970; No. 202, 1973; Nos. 1, 60, 91 and 99, 1976 |
|  | rep. No. 100, 1977 |
| S. 38A | ad. No. 1, 1976 |
|  | rep. No. 60, 1976 |
| S. 39 | am. No. 92, 1957; No. 68, 1958 |
|  | rs. No. 82, 1962 |
|  | am. No. 100, 1968; No. 1, 1975; No. 60, 1976 |
|  | rs. No. 100, 1977 |
|  | am. No. 176, 1981; No. 139, 1983 |
|  | rs. No. 115, 1986 |
|  | am. No. 72, 1987; No. 155, 1988; Nos. 3 and 141, 1990; Nos. 83 and 211, 1991; No. 200, 1992; No. 114, 1997 |
| S. 39AAA | ad. No. 155, 1988 |
|  | rep. No. 114, 1997 |
| S. 39AA | ad. No. 115, 1986 |
|  | am. No. 72, 1987 |
|  | rep. No. 114, 1997 |
| S. 39A | ad. No. 139, 1983 |
|  | am. Nos. 94 and 115, 1986; No. 72, 1987; No. 79, 1988 |
|  | rep. No. 114, 1997 |
| S. 39AB | ad. No. 155, 1988 |
|  | am. No. 83, 1991 |
|  | rep. No. 114, 1997 |
| Ss. 39AC, 39AD | ad. No. 83, 1991 |
|  | rep. No. 114, 1997 |
| S. 39B | ad. No. 132, 1987 |
|  | am. No. 88, 1992 |
|  | rep. No. 114, 1997 |
| Ss. 39BA, 39BB | ad. No. 3, 1990 |
|  | am. No. 88, 1992 |
|  | rep. No. 114, 1997 |
| Heading to Div. 2 of Part V | rep. No. 100, 1977 |
| S. 40 | rs. No. 82, 1962 |
|  | am. No. 114, 1972; No. 202, 1973 |
|  | rep. No. 60, 1976 |
| Heading to s. 40AA | rs. No. 114, 1997 |
| S. 40AA | ad. No. 114, 1972 |
|  | am. No. 202, 1973; No. 1, 1975; No. 100, 1977; No. 117, 1980; No. 118, 1981; Nos. 35 and 139, 1983; Nos. 63 and 135, 1984; No. 95, 1985; Nos. 94 and 115, 1986; Nos. 72 and 132, 1987; Nos. 79 and 155, 1988; Nos. 3 and 141, 1990; Nos. 83 and 84, 1991; Nos. 88 and 204, 1992; No. 12, 1994; No. 114, 1997 |
| S. 40AAA | ad. No. 155, 1988 |
|  | rep. No. 114, 1997 |
| S. 40AB | ad. No. 114, 1972 |
|  | am. No. 202, 1973; No. 117, 1980; No. 139, 1983; No. 135, 1984; Nos. 94 and 115, 1986; Nos. 72 and 132, 1987; No. 79, 1988; No. 3, 1990; No. 114, 1997 |
| S. 40ABB | ad. No. 3, 1990 |
|  | am. No. 141, 1990 |
|  | rep. No. 114, 1997 |
| S. 40ABA | ad. No. 135, 1984 |
|  | am. Nos. 94 and 115, 1986; No. 132, 1987 |
|  | rep. No. 3, 1990 |
| S. 40AC | ad. No. 114, 1972 |
|  | am. No. 202, 1973 |
|  | rep. No. 139, 1983 |
|  | ad. No. 72, 1987 |
|  | am. No. 114, 1997 |
| S. 40AD | ad. No. 114, 1972 |
|  | am. No. 202, 1973; No. 139, 1983; Nos. 63 and 135, 1984; No. 65, 1985; Nos. 94 and 115, 1986; Nos. 72 and 132, 1987; Nos. 79 and 155, 1988; No. 211, 1991; No. 149, 1995 |
|  | rep. No. 114, 1997 |
| S. 40ADA | ad. No. 79, 1988 |
|  | am. No. 95, 1989 |
|  | rep. No. 149, 1995 |
| S. 40ADB | ad. No. 155, 1988 |
|  | am. Nos. 83 and 211, 1991 |
|  | rep. No. 114, 1997 |
| S. 40AE | ad. No. 114, 1972 |
|  | am. No. 202, 1973; Nos. 35 and 139, 1983; No. 63, 1984; No. 94, 1986 (as am. by No. 141, 1987); Nos. 72 and 132, 1987 |
|  | rs. No. 155, 1988 |
|  | am. No. 149, 1995; No. 114, 1997 |
| Ss. 40AEA, 40AEB | ad. No. 155, 1988 |
|  | am. No. 114, 1997 |
| S. 40AEC | ad. No. 155, 1988 |
|  | am. No. 141, 1990; No. 114, 1997 |
| Ss. 40AED–40AEF | ad. No. 155, 1988 |
| Ss. 40AEG, 40AEH | ad. No. 155, 1988 |
|  | am. No. 114, 1997 |
| S. 40AF | ad. No. 100, 1977 |
|  | am. No. 139, 1983; No. 63, 1984; No. 94, 1986; No. 79, 1988 |
| S. 40AFA | ad. No. 79, 1988 |
|  | am. No. 192, 1992 |
|  | rep. No. 114, 1997 |
| Ss. 40AFB, 40AFC | ad. No. 79, 1988 |
|  | rep. No. 114, 1997 |
| S. 40AFD | ad. No. 79, 1988 |
|  | am. No. 95, 1989; No. 211, 1991; No. 88, 1992 |
|  | rep. No. 114, 1997 |
| S. 40AFDA | ad. No. 211, 1991 |
|  | rep. No. 114, 1997 |
| S. 40AFE | ad. No. 79, 1988 |
|  | am. No. 95, 1989; No. 192, 1992 |
|  | rep. No. 114, 1997 |
| S. 40AFF | ad. No. 79, 1988 |
|  | am. No. 192, 1992 |
|  | rep. No. 114, 1997 |
| Ss. 40AFG, 40AFH, 40AFJ | ad. No. 95, 1989 |
|  | rep. No. 114, 1997 |
| S. 40AFK | ad. No. 95, 1989 |
| S. 40AG | ad. No. 100, 1977 |
|  | rep. No. 118, 1981 |
|  | ad. No. 72, 1987 |
|  | am. Nos. 79 and 155, 1988; No. 114, 1997 |
| S. 40AGA | ad. No. 79, 1988 |
|  | am. No. 155, 1988; No. 83, 1991; No. 114, 1997 |
| S. 40AH | ad. No. 72, 1987 |
|  | am. No. 83, 1991; No. 114, 1997 |
| S. 40AI | ad. No. 79, 1988 |
| S. 40A | ad. No. 100, 1968 |
|  | am. No. 202, 1973 |
|  | rep. No. 1, 1975 |
| S. 41 | rs. No. 82, 1962 |
|  | am. No. 44, 1966 |
|  | rs. No. 100, 1968 |
|  | am. No. 114, 1972; No. 202, 1973; No. 1, 1975 |
|  | rs. No. 60, 1976 |
|  | am. No. 139, 1983; No. 65, 1985; No. 115, 1986; Nos. 72 and 132, 1987; No. 211, 1991 |
| S. 42 | rs. No. 82, 1962 |
|  | am. No. 44, 1966; No. 100, 1968; No. 202, 1973; No. 1, 1975 |
|  | rs. No. 60, 1976; No. 139, 1983 |
|  | am. No. 135, 1984; No. 65, 1985; No. 94, 1986; No. 132, 1987; No. 211, 1991 |
| S. 42A | ad. No. 88, 1992 |
|  | am. No. 204, 1992 |
|  | rep. No. 200, 1992 |
| S. 43 | rs. No. 82, 1962 |
|  | am. No. 44, 1966; No. 100, 1968; No. 202, 1973; No. 1, 1975 |
|  | rs. No. 60, 1976 |
|  | am. No. 139, 1983; No. 65, 1985; No. 94, 1986; No. 132, 1987; No. 211, 1991; No. 200, 1992 |
| S. 43A | ad. No. 117, 1980 |
|  | am. No. 118, 1981; No. 139, 1983; No. 135, 1984; Nos. 94 and 115, 1986 |
| S. 44 | rs. No. 82, 1962 |
|  | am. No. 100, 1968; No. 114, 1972; No. 202, 1973; No. 1, 1975 |
|  | rs. No. 60, 1976 |
|  | am. No. 100, 1977; No. 117, 1980; No. 139, 1983; No. 94, 1986; No. 155, 1988; No. 204, 1992 |
| S. 44A | ad. No. 155, 1988 |
|  | am. No. 83, 1991 |
|  | rep. No. 114, 1997 |
| S. 45 | am. No. 16, 1961 |
|  | rs. No. 82, 1962 |
|  | am. No. 100, 1968; No. 202, 1973; No. 1, 1975 |
|  | rs. No. 60, 1976 |
|  | am. No. 100, 1977; No. 117, 1980 |
|  | rep. No. 139, 1983 |
|  | ad. No. 211, 1991 |
| S. 45A | ad. No. 117, 1980 |
|  | am. No. 139, 1983; No. 94, 1986 |
| S. 45B | ad. No. 117, 1980 |
|  | am. No. 118, 1981; No. 135, 1984; No. 94, 1986 |
| S. 45C | ad. No. 139, 1983 |
|  | am. No. 65, 1985; No. 94, 1986; No. 99, 1988 |
|  | rs. No. 155, 1988 |
|  | rep. No. 83, 1991 |
| S. 45D | ad. No. 72, 1987 |
| S. 45DA | ad. No. 3, 1990 |
|  | am. No. 84, 1991; No. 114, 1997 |
| S. 45DB | ad. No. 84, 1991 |
| S. 45DC | ad. No. 84, 1991 |
|  | am. No. 114, 1997 |
| S. 45E | ad. No. 72, 1987 |
|  | am. No. 132, 1987; No. 83, 1991; No. 149, 1995 |
|  | rep. No. 114, 1997 |
| S. 45EA | ad. No. 84, 1991 |
|  | rep. No. 114, 1997 |
| S. 45EB | ad. No. 204, 1992 |
|  | rep. No. 114, 1997 |
| S. 45F | ad. No. 3, 1990 |
|  | rs. No. 141, 1990 |
|  | rep. No. 114, 1997 |
| Heading to Div. 3 of Part V | am. No. 41, 1970 |
|  | rep. No. 60, 1976 |
| Div. 3 of Part V | rep. No. 60, 1976 |
| **Part VA** |  |
| Part VA | ad. No. 100, 1977 |
| **Division 1** |  |
| Heading to Div. 1 of Part VA | ad. No. 200, 1992 |
| S. 46 | am. No. 68, 1955 |
|  | rs. No. 82, 1962 |
|  | am. No. 44, 1966; No. 102, 1969; No. 1, 1976 |
|  | rep. No. 60, 1976 |
|  | ad. No. 100, 1977 |
|  | am. Nos. 118 and 176, 1981; No. 63, 1984; No. 200, 1992 |
| S. 46A | ad. No. 72, 1987 |
|  | am. No. 88, 1992; No. 12, 1994; No. 37, 1998 |
| S. 46B | ad. No. 88, 1992 |
| Renumbered s. 46AB | No. 12, 1994 (as am. by No. 149, 1995) |
| S. 46B | ad. No. 200, 1992 |
| S. 46C | ad. No. 200, 1992 |
|  | am. No. 12, 1994; No. 114, 1997 |
| Ss. 46D, 46E | ad. No. 200, 1992 |
| **Division 2** |  |
| Heading to Div. 2 of Part VA | ad. No. 200, 1992 |
| S. 47 | am. No. 68, 1955 |
|  | rs. No. 82, 1962 |
|  | am. No. 102, 1969; No. 41, 1970 |
|  | rep. No. 60, 1976 |
|  | ad. No. 100, 1977 |
|  | am. Nos. 118 and 176, 1981; No. 127, 1985; No. 115, 1986; No. 72, 1987; No. 79, 1988 |
| S. 47A | ad. No. 79, 1988 |
|  | am. No. 155, 1988; No. 200, 1992; No. 114, 1997 |
| S. 48 | am. No. 68, 1955 |
|  | rs. No. 82, 1962 |
|  | am. No. 44, 1966; No. 102, 1969 |
|  | rep. No. 60, 1976 |
|  | ad. No. 100, 1977 |
|  | am. No. 63, 1984; No. 94, 1986 |
|  | rep. No. 200, 1992 |
| S. 48A | ad. No. 72, 1987 |
|  | am. Nos. 79 and 155, 1988; No. 83, 1991; No. 200, 1992; No. 114, 1997 |
| S. 48AB | ad. No. 200, 1992 |
|  | am. No. 114, 1997 |
| S. 48B | ad. No. 83, 1991 |
|  | am. No. 114, 1997; No. 13, 1999 |
| Ss. 48C–48E | ad. No. 211, 1991 |
|  | am. No. 114, 1997 |
| S. 49 | am. No. 68, 1955 |
|  | rs. No. 82, 1962 |
|  | am. No. 41, 1970 |
|  | rep. No. 60, 1976 |
|  | ad. No. 100, 1977 |
|  | am. Nos. 118 and 176, 1981; No. 115, 1986 |
|  | rs. No. 72, 1987 |
|  | am. No. 79, 1988 |
| S. 49AA | ad. No. 79, 1988 (as am. by No. 155, 1988) |
|  | am. No. 114, 1997 |
| **Division 3** |  |
| Heading to Div. 3 of Part VA | ad. No. 200, 1992 |
| S. 49A | ad. No. 37, 1964 |
|  | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 117, 1980 |
| S. 49B | ad. No. 200, 1992 |
| S. 50 | rs. No. 82, 1962; No. 41, 1970 |
|  | rep. No. 60, 1976 |
|  | ad. No. 100, 1977 |
|  | am. No. 118, 1981; No. 63, 1984; No. 65, 1985; No. 132, 1987; No. 211, 1991; No. 32, 2007 |
| S. 51 | rs. No. 82, 1962 |
|  | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 100, 1977 |
|  | am. No. 63, 1984; No. 72, 1987; No. 200, 1992 |
| S. 51A | ad. No. 72, 1987 |
|  | rs. No. 200, 1992 |
|  | am. No. 149, 1995 |
| S. 51B | ad. No. 83, 1991 |
|  | rs. No. 200, 1992 |
| S. 51C | ad. No. 200, 1992 |
| **Part VAB** |  |
| Part VAB | ad. No. 211, 1991 |
| **Division 1** |  |
| Heading to Div. 1 of   Part VAB | ad. No. 192, 1992 |
| S. 52 | rs. No. 82, 1962 |
|  | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 211, 1991 |
|  | am. No. 192, 1992; No. 114, 1997 |
| **Division 2** |  |
| Div. 2 of Part VAB | ad. No. 192, 1992 |
| Ss. 52A–52C | ad. No. 192, 1992 |
|  | rep. No. 114, 1997 |
| S. 52D | ad. No. 192, 1992 |
| Heading to Div. 4 of Part V | rs. No. 41, 1970 |
|  | rep. No. 60, 1976 |
| Div. 4 of Part V | rep. No. 60, 1976 |
| **Division 3** |  |
| Heading to Div. 3 of  Part VAB | ad. No. 192, 1992 |
| S. 53 | rs. No. 82, 1962 |
|  | am. No. 44, 1966; No. 100, 1968; No. 41, 1970; No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 211, 1991 |
| S. 54 | rs. No. 82, 1962 |
|  | am. No. 44, 1966 |
|  | rep. No. 60, 1976 |
|  | ad. No. 211, 1991 |
| S. 55 | am. No. 92, 1957 |
|  | rs. No. 82, 1962 |
|  | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 211, 1991 |
|  | am. No. 192, 1992 |
| Div. 4A of Part V | ad. No. 41, 1970  rep. No. 60, 1976 |
| Ss. 55A, 55B | ad. No. 41, 1970 |
|  | rep. No. 60, 1976 |
| Div. 5 of Part V | rep. No. 100, 1977 |
| S. 55C | ad. No. 1, 1975 |
|  | rep. No. 100, 1977 |
| S. 56 | rs. No. 82, 1962 |
|  | am. No. 44, 1966; No. 100, 1968; No. 85, 1971; No. 114, 1972 |
|  | rep. No. 100, 1977 |
|  | ad. No. 211, 1991 |
|  | am. No. 114, 1997 |
| S. 56A | ad. No. 92, 1957 |
|  | rep. No. 82, 1962 |
|  | ad. No. 114, 1972 |
|  | am. No. 202, 1973; No. 60, 1976 |
|  | rep. No. 100, 1977 |
| S. 57 | rs. No. 92, 1957; No. 82, 1962 |
|  | am. No. 100, 1968; No. 202, 1973 |
|  | rep. No. 100, 1977 |
|  | ad. No. 211, 1991 |
|  | am. No. 114, 1997 |
| S. 57A | ad. No. 100, 1968 |
|  | am. No. 202, 1973; No. 60, 1976 |
|  | rep. No. 100, 1977 |
| S. 57B | ad. No. 114, 1972 |
|  | am. No. 1, 1975; Nos. 60 and 99, 1976 |
|  | rep. No. 100, 1977 |
| S. 57C | ad. No. 114, 1972 |
|  | am. No. 202, 1973; Nos. 60 and 99, 1976 |
|  | rep. No. 100, 1977 |
| **Part VAC** |  |
| Part VAC | ad. No. 204, 1992 |
| **Division 1** |  |
| S. 58 | rs. No. 82, 1962 |
|  | am. No. 100, 1968; No. 202, 1973; No. 60, 1976 |
|  | rep. No. 100, 1977 |
|  | ad. No. 204, 1992 |
|  | am. No. 114, 1997 |
| Div. 5A of Part V | ad. No. 100, 1968 rep. No. 1, 1975 |
| S. 58A | ad. No. 100, 1968 |
|  | am. No. 202, 1973 |
|  | rep. No. 1, 1975 |
|  | ad. No. 204, 1992 |
| S. 58B | ad. No. 100, 1968 |
|  | rep. No. 1, 1975 |
|  | ad. No. 204, 1992 |
|  | rep. No. 114, 1997 |
| S. 58C | ad. No. 100, 1968 |
|  | am. No. 202, 1973 |
|  | rep. No. 1, 1975 |
|  | ad. No. 204, 1992 |
|  | rep. No. 114, 1997 |
| S. 58CA | ad. No. 204, 1992 |
|  | rep. No. 114, 1997 |
| **Division 2** |  |
| S. 58CB | ad. No. 204, 1992 |
| **Division 3** |  |
| Ss. 58CC, 58CD | ad. No. 204, 1992 |
| Ss. 58CE–58CG | ad. No. 204, 1992 |
|  | am. No. 114, 1997 |
| Heading to Div. 5B of Part V | rep. No. 100, 1977 |
| Div. 5B of Part V | ad. No. 114, 1972 |
| Heading to Part VB | ad. No. 100, 1977 |
|  | rep. No. 13, 1999 |
| Part VB | rep. No. 13, 1999 |
| S. 58D | ad. No. 114, 1972 |
|  | am. No. 100, 1977; No. 131, 1980; Nos. 46 and 120, 1984; Nos. 94 and 115, 1986; No. 192, 1992 |
|  | rep. No. 13, 1999 |
| S. 58E | ad. No. 114, 1972 |
|  | am. No. 202, 1973; No. 60, 1976; No. 100, 1977; No. 54, 1979; No. 63, 1984; No. 94, 1986; No. 3, 1990; No. 83, 1991; No. 114, 1997 |
|  | rep. No. 13, 1999 |
| S. 58F | ad. No. 114, 1972 |
|  | am. No. 202, 1973; No. 63, 1984; No. 94, 1986 |
|  | rep. No. 13, 1999 |
| S. 58G | ad. No. 114, 1972 |
|  | am. No. 131, 1980 |
|  | rs. No. 192, 1992 |
|  | am. No. 114, 1997 |
|  | rep. No. 13, 1999 |
| S. 58GA | ad. No. 131, 1980 |
|  | am. No. 63, 1984; No. 192, 1992 |
|  | rep. No. 13, 1999 |
| S. 58H | ad. No. 114, 1972 |
|  | am. No. 202, 1973; No. 63, 1984; No. 65, 1985; No. 94, 1986; No. 211, 1991; No. 192, 1992 |
|  | rep. No. 13, 1999 |
| S. 58J | ad. No. 114, 1972 |
|  | am. No. 202, 1973; No. 131, 1980; No. 35, 1983; No. 63, 1984; No. 94, 1986 |
|  | rep. No. 13, 1999 |
| Heading to Div. 6 of Part V | rep. No. 100, 1977 |
| **Part VC** |  |
| Heading to Part VC | ad. No. 100, 1977 |
|  | am. No. 211, 1991; No. 200, 1992 |
|  | rs. No. 13, 1999 |
| S. 58K | ad. No. 100, 1977 |
|  | rs. No. 132, 1987 |
|  | am. No. 211, 1991 (as am. by No. 149, 1995); No. 13, 1999 |
| S. 59 | rs. No. 82, 1962 |
|  | am. No. 100, 1968; No. 202, 1973; No. 1, 1975 |
|  | rs. No. 60, 1976 |
|  | am. No. 100, 1977; Nos. 118 and 176, 1981; No. 94, 1986; No. 132, 1995 |
| S. 60 | rs. No. 68, 1955; No. 82, 1962 |
|  | am. No. 44, 1966; No. 202, 1973 |
|  | rep. No. 60, 1976 |
| S. 60A | ad. No. 114, 1972 |
|  | am. No. 202, 1973 |
|  | rs. No. 100, 1977; No. 118, 1981 |
|  | am. No. 63, 1984; No. 94, 1986; No. 72, 1987 |
|  | rep. No. 114, 1997 |
| S. 60B | ad. No. 100, 1977 |
|  | am. No. 63, 1984; No. 65, 1985; No. 94, 1986; No. 72, 1987; No. 211, 1991 |
| S. 61 | rs. No. 82, 1962 |
|  | am. No. 44, 1966; No. 100, 1968; No. 114, 1972; No. 1, 1975 |
|  | rs. No. 60, 1976; No. 117, 1980 |
|  | am. No. 139, 1983; No. 63, 1984; No. 94, 1986; No. 132, 1987; No. 211, 1991; No. 12, 1994 |
| S. 61AA | ad. No. 88, 1992 |
| S. 61A | ad. No. 132, 1987 |
|  | am. No. 211, 1991 |
| S. 61B | ad. No. 132, 1987 |
|  | am. No. 211, 1991; No. 111, 2001 |
| Ss. 61C, 61D | ad. No. 132, 1987 |
| S. 61E | ad. No. 132, 1987 |
|  | am. No. 211, 1991; No. 111, 2001 |
| Note to s. 61E(3) | ad. No. 111, 2001 |
| S. 62 | rs. No. 82, 1962 |
|  | am. No. 44, 1966; No. 100, 1968; No. 102, 1969; No. 114, 1972; No. 1, 1975; No. 60, 1976 |
|  | rs. No. 100, 1977; No. 117, 1980 |
|  | am. No. 139, 1983; No. 63, 1984; No. 65, 1985; No. 94, 1986; Nos. 72 and 132, 1987; No. 79, 1988; Nos. 83 and 211, 1991; No. 111, 2001 |
| Note to s. 62(3) | ad. No. 111, 2001 |
| **Part VD** |  |
| Part VD | ad. No. 200, 1992 |
| **Division 1** |  |
| S. 63 | rs. No. 82, 1962 |
|  | am. No. 202, 1973 |
|  | rep. No. 60, 1976 |
|  | ad. No. 117, 1980 |
|  | rep. No. 139, 1983 |
|  | ad. No. 200, 1992 |
|  | am. No. 23, 1994 |
| S. 64 | rs. No. 68, 1958; No. 82, 1962 |
|  | rep. No. 60, 1976 |
|  | ad. No. 200, 1992 |
|  | am. No. 23, 1994; No. 114, 1997 |
| S. 65 | rs. No. 82, 1962 |
|  | am. No. 60, 1976 |
|  | rep. No. 99, 1976 |
|  | ad. No. 200, 1992 |
|  | am. Nos. 12 and 23, 1994; No. 114, 1997 |
| **Division 2** |  |
| Ss. 65A, 65B | ad. No. 200, 1992 |
|  | am. No. 23, 1994 |
| S. 65C | ad. No. 200, 1992 |
|  | am. Nos. 12 and 23, 1994; No. 114, 1997 |
| S. 65D | ad. No. 200, 1992 |
| S. 65E | ad. No. 200, 1992 |
|  | am. No. 23, 1994 |
| Ss. 65F, 65G | ad. No. 200, 1992 |
|  | am. No. 23, 1994; No. 114, 1997 |
| S. 65GAA | ad. No. 114, 1997 |
| **Division 2A** |  |
| Div. 2A of Part VD | ad. No. 23, 1994 |
| **Subdivision 1** |  |
| Ss. 65GA–65GK | ad. No. 23, 1994 |
| **Subdivision 2** |  |
| Ss. 65GL–65GQ | ad. No. 23, 1994 |
| **Subdivision 3** |  |
| Ss. 65GR–65GW | ad. No. 23, 1994 |
| **Division 3** |  |
| Ss. 65H, 65J | ad. No. 200, 1992 |
|  | am. No. 23, 1994 |
| Ss. 65K–65M | ad. No. 200, 1992 |
| S. 65N | ad. No. 200, 1992 |
|  | am. No. 23, 1994 |
| Ss. 65P–65R | ad. No. 200, 1992 |
| S. 65S | ad. No. 200, 1992 |
|  | am. No. 12, 1994 |
| **Division 4** |  |
| Heading to Div. 4 of Part VD | ad. No. 23, 1994 |
| Ss. 65SA, 65SB | ad. No. 23, 1994 |
| S. 65T | ad. No. 200, 1992 |
|  | am. No. 12, 1994 |
| S. 65U | ad. No. 200, 1992 |
|  | am. No. 23, 1994 |
| Heading to Part VI | rs. No. 54, 1983 |
|  | rep. No. 32, 2007 |
| Part VI | rep. No. 32, 2007 |
| Heading to Div. 1 of Part VI | ad. No. 68, 1958 |
|  | rep. No. 32, 2007 |
| S. 66 | rs. No. 68, 1958 |
|  | am. No. 72, 1959; No. 16, 1961; No. 82, 1962; No. 77, 1963; No. 37, 1964; No. 44, 1966; No. 100, 1968; No. 41, 1970; No. 114, 1972; No. 202, 1973; Nos. 1 and 13, 1975; Nos. 60, 91 and 99, 1976; No. 100, 1977; Nos. 132 and 189, 1978; No. 118, 1981; No. 54, 1983; Nos. 46 and 120, 1984; No. 41, 1995; No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 67 | am. No. 68, 1958 |
|  | rs. No. 37, 1964; No. 41, 1970 |
|  | am. No. 202, 1973; Nos. 60 and 99, 1976; No. 132, 1978 |
|  | rep. No. 54, 1983 |
|  | ad. No. 70, 1985 |
|  | am. No. 155, 1988; No. 136, 1992; No. 41, 1995; No. 37, 1998; No. 76, 2002; No. 31, 2005 |
|  | rep. No. 32, 2007 |
| S. 67A | ad. No. 95, 1989 |
|  | am. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 67B | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Heading to Div. 2 of Part VI | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 68 | am. No. 68, 1958; No. 82, 1962; No. 37, 1964; No. 44, 1966 |
|  | rs. No. 41, 1970 |
|  | am. No. 202, 1973; Nos. 60 and 99, 1976; No. 132, 1978; No. 118, 1981; No. 54, 1983; Nos. 63 and 135, 1984; No. 70, 1985; No. 95, 1989; No. 41, 1995 (as am. by No. 43, 1996); No. 37, 1998 |
|  | rs. No. 159, 1999 |
|  | am. No. 160, 2006 |
|  | rep. No. 32, 2007 |
| S. 68A | ad. No. 54, 1983 |
|  | am. No. 94, 1986 |
|  | rep. No. 88, 1992 |
| Heading to s. 69 | am. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 69 | am. No. 41, 1970; No. 202, 1973; No. 63, 1984; No. 95, 1989; No. 41, 1995; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 70 | am. No. 202, 1973; No. 91, 1976; No. 63, 1984; No. 94, 1986; No. 37, 1998; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 71 | am. No. 202, 1973; No. 63, 1984; No. 94, 1986; No. 95, 1989; No. 41, 1995; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 72 | am. No. 68, 1958 |
|  | rs. No. 41, 1970; No. 95, 1989 |
|  | am. No. 41, 1995; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Heading to s. 72A | am. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 72A | ad. No. 41, 1970 |
|  | am. No. 94, 1986; No. 95, 1989; No. 41, 1995; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 73 | am. No. 41, 1970; No. 202, 1973; Nos. 60 and 99, 1976; No. 54, 1983; No. 63, 1984; No. 94, 1986; No. 95, 1989; No. 88, 1992; No. 41, 1995; No. 159, 1999; No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73AA | ad. No. 54, 1983 |
|  | rep. No. 88, 1992 |
|  | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 73AAB | ad. No. 159, 1999 |
|  | am. No. 159, 1999; No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 73AAC | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 73AAD | ad. No. 159, 1999 |
|  | am. No. 160, 2006 |
|  | rep. No. 32, 2007 |
| S. 73AADA | ad. No. 160, 2006 |
|  | rep. No. 32, 2007 |
| S. 73AAE | ad. No. 159, 1999 |
|  | am. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Heading to Div. 3 of Part VI | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 73AAF | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73AAG | ad. No. 1, 2004 |
|  | am. No. 31, 2005 |
|  | rep. No. 32, 2007 |
| S. 73AAH | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73AAI | ad. No. 1, 2004 |
|  | am. No. 155, 2005 |
|  | rep. No. 32, 2007 |
| Ss. 73AAJ–73AAL | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Heading to s. 73A | rs. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73A | ad. No. 37, 1964 |
|  | am. No. 202, 1973; No. 60, 1976; No. 100, 1977; No. 63, 1984; Nos. 21 and 159, 1999; No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Heading to s. 73AB | rs. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73AB | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 73ABA | ad. No. 41, 1995 |
|  | rep. No. 1, 2004 |
| S. 73ABB | ad. No. 45, 1997 |
|  | rs. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 73ABBA | ad. No. 69, 2003 |
|  | rep. No. 32, 2007 |
| S. 73ABC | ad. No. 37, 1998 |
|  | am. No. 76, 2002 |
|  | rep. No. 32, 2007 |
| S. 73ABD | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Heading to s. 73B | rs. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 73B | ad. No. 41, 1970 |
|  | am. No. 37, 1974; No. 1, 1975; No. 1, 1976 |
|  | rs. No. 60, 1976 |
|  | am. No. 112, 1982; No. 94, 1986; No. 159, 1999; No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73BA | ad. No. 60, 1976 |
|  | am. No. 99, 1976; No. 100, 1977 |
|  | rs. No. 132, 1978 |
|  | am. No. 54, 1983; No. 141, 1990; Nos. 41 and 149, 1995; No. 21, 1999 |
|  | rep. No. 1, 2004 |
| S. 73BAAA | ad. No. 130, 1999 |
|  | rep. No. 32, 2007 |
| S. 73BAA | ad. No. 54, 1983 |
|  | rep. No. 95, 1989 |
|  | ad. No. 21, 1999 |
|  | rep. No. 32, 2007 |
| S. 73BAB | ad. No. 54, 1983 |
|  | am. No. 95, 1989; No. 88, 1992; No. 41, 1995 |
|  | rep. No. 159, 1999 |
| S. 73BAC | ad. No. 54, 1983 |
|  | am. No. 94, 1986; No. 95, 1989 |
|  | rep. No. 159, 1999 |
| Heading to Div. 3AA  of Part VI | ad. No. 1, 2004 rep. No. 32, 2007 |
| Heading to s. 73BB | rs. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73BB | ad. No. 60, 1976 |
|  | rs. No. 99, 1976 |
|  | am. No. 100, 1977; No. 132, 1978; No. 118, 1981; No. 54, 1983; Nos. 46, 63 and 120, 1984; Nos. 70 and 167, 1985; No. 95, 1989; No. 88, 1992; No. 41, 1995 |
|  | rs. No. 37, 1998 |
|  | am. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73BC | ad. No. 60, 1976 |
|  | am. No. 54, 1983; No. 135, 1984; No. 94, 1986; No. 95, 1989; No. 41, 1995; No. 37, 1998; No. 69, 2003 |
|  | rep. No. 32, 2007 |
| Div. 3A of Part VI | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 73BCA–73BCE | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Div. 3B of Part VI | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 73BCF–73BCJ | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Div. 4 of Part VI | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 73BD | ad. No. 60, 1976 |
|  | am. No. 54, 1983; No. 135, 1984; No. 94, 1986 |
|  | rep. No. 95, 1989 |
|  | ad. No. 41, 1995 |
|  | am. No. 41, 1995; No. 6, 2001; Nos. 31 and 155, 2005 |
|  | rep. No. 32, 2007 |
| Subhead. to s. 73BDAAA(4) | am. No. 155, 2005 |
|  | rep. No. 32, 2007 |
| Subhead. to s. 73BDAAA(5) | am. No. 155, 2005 |
|  | rep. No. 32, 2007 |
| S. 73BDAAA | ad. No. 31, 2005 |
|  | am. No. 155, 2005 |
|  | rep. No. 32, 2007 |
| S. 73BDAA | ad. No. 41, 1995 |
|  | am. No. 41, 1995; No. 37, 1998; No. 6, 2001; No. 155, 2005 |
|  | rep. No. 32, 2007 |
| S. 73BDA | ad. No. 41, 1995 |
|  | am. No. 41, 1995; No. 37, 1998; No. 50, 2004; No. 155, 2005 |
|  | rep. No. 32, 2007 |
| S. 73BDB | ad. No. 41, 1995 |
|  | am. No. 76, 2002; No. 155, 2005 |
|  | rep. No. 32, 2007 |
| S. 73BDC | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| Div. 4A of Part VI | ad. No. 72, 2000 |
|  | rep. No. 32, 2007 |
| S. 73BDDA | ad. No. 72, 2000 |
|  | rep. No. 32, 2007 |
| S. 73BDD | ad. No. 41, 1995 |
|  | rep. No. 37, 1998 |
|  | ad. No. 72, 2000 |
|  | rep. No. 32, 2007 |
| S. 73BDE | ad. No. 72, 2000 |
|  | rep. No. 32, 2007 |
| S. 73BDEA | ad. No. 72, 2000 |
|  | rep. No. 32, 2007 |
| Heading to Div. 5 of Part VI | ad. No. 37, 1998 rs. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Div. 5 of Part VI | rs. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73BE | ad. No. 60, 1976 |
|  | am. No. 189, 1978; No. 54, 1979; No. 112, 1982; No. 54, 1983; No. 70, 1985; No. 94, 1986; No. 41, 1995 |
|  | rep. No. 1, 2004 |
| S. 73BEA | ad. No. 49, 1982 |
|  | am. No. 112, 1982 |
|  | rep. No. 54, 1983 |
|  | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73BEB | ad. No. 112, 1982 |
|  | am. No. 54, 1983; No. 159, 1999 |
|  | rs. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73BEC | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Ss. 73BED–73BEG | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Ss. 73BEH, 73BEI | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Ss. 73BEJ, 73BEK | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73BEL | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Ss. 73BEM–73BEO | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73BEP | ad. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 73BF | ad. No. 60, 1976 |
|  | rs. No. 99, 1976 |
|  | am. No. 132, 1978; No. 112, 1982; No. 54, 1983; No. 94, 1986; No. 88, 1992; No. 41, 1995 |
|  | rep. No. 1, 2004 |
| S. 73BFA | ad. No. 132, 1978 |
|  | am. No. 112, 1982; No. 54, 1983; No. 94, 1986; No. 88, 1992; No. 41, 1995 |
|  | rep. No. 1, 2004 |
| S. 73BFB | ad. No. 189, 1978 |
|  | am. No. 112, 1982; No. 54, 1983; No. 94, 1986; No. 88, 1992; No. 80, 1994; No. 41, 1995 |
|  | rep. No. 1, 2004 |
| S. 73BG | ad. No. 60, 1976 |
|  | am. No. 99, 1976; No. 100, 1977; No. 132, 1978 |
|  | rep. No. 54, 1983 |
| S. 73BH | ad. No. 60, 1976 |
|  | am. No. 54, 1983; No. 94, 1986; No. 88, 1992 |
|  | rep. No. 1, 2004 |
| S. 73C | ad. No. 114, 1972 |
|  | am. No. 1, 1975; Nos. 60 and 99, 1976 |
|  | rs. No. 100, 1977 |
|  | am. No. 132, 1978; No. 117, 1980 |
|  | rep. No. 118, 1981 |
| S. 73D | ad. No. 60, 1976 |
|  | rs. No. 99, 1976 |
|  | am. No. 88, 1978; No. 94, 1986; No. 41, 1995 |
|  | rep. No. 1, 2004 |
| Div. 5A of Part VI | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 73E | ad. No. 88, 1978 |
|  | rs. No. 132, 1978 |
|  | am. No. 189, 1978; No. 54, 1979 |
|  | rep. No. 118, 1981 |
|  | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 73EA | ad. No. 41, 1995 |
|  | am. No. 50, 2006 |
|  | rep. No. 32, 2007 |
| Ss. 73EB–73EE | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| Heading to Div. 6 of Part VI | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 73F | ad. No. 132, 1978 |
|  | am. No. 118, 1981; No. 54, 1983; No. 63, 1984; No. 70, 1985; No. 94, 1986; No. 88, 1992 |
|  | rs. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 73G | ad. No. 118, 1981 |
|  | am. No. 54, 1983; No. 63, 1984; No. 70, 1985; No. 94, 1986; No. 88, 1992 |
|  | rs. No. 41, 1995 |
|  | am. No. 6, 2001 |
|  | rep. No. 32, 2007 |
| S. 74 | am. No. 44, 1966; No. 202, 1973; No. 60, 1976; No. 118, 1981; No. 63, 1984; No. 65, 1985; No. 94, 1986; No. 79, 1988; No. 159, 1999; No. 111, 2001; No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 74A | ad. No. 60, 1976 |
|  | am. No. 92, 1981 |
|  | rs. No. 159, 1999 |
|  | am. No. 159, 1999; No. 55, 2001 |
|  | rep. No. 1, 2004 |
| S. 74B | ad. No. 60, 1976 |
|  | am. No. 189, 1978; No. 54, 1979; No. 54, 1983; No. 95, 1989; No. 88, 1992; No. 41, 1995 |
|  | rep. No. 1, 2004 |
| S. 74BA | ad. No. 79, 1988 |
|  | am. No. 41, 1995; No. 111, 2001 |
|  | rep. No. 32, 2007 |
| S. 74C | ad. No. 60, 1976 |
|  | rs. No. 132, 1978 |
|  | am. No. 54, 1983; No. 88, 1992; No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 74D | ad. No. 132, 1978 |
|  | am. No. 63, 1984 |
|  | rep. No. 32, 2007 |
| S. 75 | am. No. 68, 1955; No. 44, 1966; No. 202, 1973; Nos. 60 and 91, 1976; No. 54, 1983; No. 63, 1984; No. 65, 1985; No. 94, 1986; No. 41, 1995; No. 111, 2001 |
|  | rs. No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 76 | rs. No. 68, 1958 |
|  | am. No. 44, 1966 |
|  | rs. No. 41, 1970 |
|  | am. No. 202, 1973; No. 60, 1976; No. 63, 1984; No. 65, 1985; No. 94, 1986 |
|  | rep. No. 95, 1989 |
| S. 76A | ad. No. 41, 1970 |
|  | am. No. 202, 1973; No. 60, 1976; No. 132, 1978; No. 54, 1983; No. 63, 1984; No. 94, 1986 (as am. by No. 141, 1987) |
|  | rep. No. 95, 1989 |
| S. 77 | am. No. 202, 1973; No. 60, 1976; No. 63, 1984 |
|  | rep. No. 95, 1989 |
| S. 78 | rs. No. 68, 1955 |
|  | am. No. 44, 1966; No. 41, 1970; No. 114, 1972; No. 202, 1973; No. 37, 1974; Nos. 60 and 99, 1976; Nos. 88, 132 and 189, 1978; Nos. 118 and 176, 1981; No. 49, 1982; No. 54, 1983; No. 63, 1984; No. 94, 1986; No. 95, 1989; No. 41, 1995; No. 37, 1998; No. 159, 1999; No. 6, 2001; No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 79 | am. No. 41, 1970 |
|  | rs. No. 60, 1976 |
|  | am. No. 54, 1983; No. 94, 1986; No. 95, 1989; No. 192, 1992; No. 41, 1995; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 80 | rep. No. 60, 1976 |
| S. 80A | ad. No. 41, 1970 |
|  | rep. No. 60, 1976 |
| S. 81 | am. No. 41, 1970; No. 202, 1973; No. 60, 1976; No. 63, 1984; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 81A | ad. No. 100, 1968 |
|  | am. No. 114, 1972; Nos. 60 and 99, 1976; No. 118, 1981; No. 94, 1986 |
|  | rep. No. 88, 1992 |
| S. 82 | am. No. 68, 1955; No. 68, 1958; No. 82, 1962; No. 44, 1966; No. 114, 1972; No. 60, 1976; No. 100, 1977; No. 112, 1982; No. 54, 1983; No. 65, 1985; No. 94, 1986; No. 95, 1989; No. 41, 1995; No. 111, 2001 |
|  | rep. No. 32, 2007 |
| Div. 1A of Part VI | ad. No. 99, 1976  rep. No. 132, 1978 |
| Ss. 82AA–82AC | ad. No. 99, 1976 |
|  | rep. No. 132, 1978 |
| Div. 2 of Part VI | ad. No. 68, 1958 |
|  | rep. No. 132, 1978 |
| Part VIAA | ad. No. 95, 1989 |
|  | rep. No. 32, 2007 |
| S. 82A | ad. No. 68, 1958 |
|  | rs. No. 41, 1970; No. 60, 1976 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | am. No. 37, 1998; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82B | ad. No. 68, 1958 |
|  | am. No. 72, 1959 |
|  | rep. No. 77, 1963 |
|  | ad. No. 95, 1989 |
|  | rep. No. 32, 2007 |
| Note to s. 82B(2) | ad. No. 152, 1997 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82BA | ad. No. 152, 1997 |
|  | rep. No. 37, 1998 |
|  | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82C | ad. No. 68, 1958 |
|  | am. No. 72, 1959; No. 100, 1968; No. 41, 1970; No. 114, 1972; No. 202, 1973; No. 60, 1976 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | rs. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82CA | ad. No. 77, 1963 |
|  | am. No. 41, 1970; No. 60, 1976 |
|  | rep. No. 132, 1978 |
|  | ad. No. 152, 1997 |
|  | rep. No. 37, 1998 |
| S. 82D | ad. No. 68, 1958 |
|  | am. No. 82, 1962; No. 77, 1963; No. 100, 1968; No. 41, 1970; No. 114, 1972; No. 202, 1973; No. 1, 1975; Nos. 60 and 99, 1976 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | rs. No. 37, 1998 |
|  | am. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82E | ad. No. 68, 1958 |
|  | am. No. 72, 1959; No. 16, 1961; No. 82, 1962; No. 77, 1963; No. 100, 1968; No. 41, 1970; No. 114, 1972; No. 202, 1973; No. 13, 1975; No. 60, 1976 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | rep. No. 37, 1998 |
| S. 82F | ad. No. 68, 1958 |
|  | am. No. 41, 1970; No. 1, 1976 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | am. No. 37, 1998; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82G | ad. No. 68, 1958 |
|  | am. No. 72, 1959; No. 77, 1963; No. 41, 1970 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | am. No. 41, 1995; No. 45, 1997; No. 37, 1998; No. 159, 1999; No. 72, 2000; No. 69, 2003; No. 1, 2004 |
|  | rep. No. 32, 2007 |
| S. 82H | ad. No. 68, 1958 |
|  | am. No. 202, 1973 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | rep. No. 32, 2007 |
| S. 82J | ad. No. 68, 1958 |
|  | am. No. 41, 1970 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | rep. No. 32, 2007 |
| S. 82K | ad. No. 68, 1958 |
|  | am. No. 60, 1976 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | am. No. 37, 1998; No. 111, 2001 |
|  | rep. No. 32, 2007 |
| S. 82L | ad. No. 68, 1958 |
|  | am. No. 41, 1970; No. 202, 1973; No. 60, 1976 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | am. No. 45, 1997; No. 159, 1999; No. 111, 2001;  No. 111, 2005 |
|  | rep. No. 32, 2007 |
| S. 82M | ad. No. 68, 1958 |
|  | am. No. 202, 1973 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | rep. No. 32, 2007 |
| S. 82N | ad. No. 68, 1958 |
|  | am. No. 202, 1973 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82P | ad. No. 68, 1958 |
|  | am. No. 44, 1966; No. 202, 1973 |
|  | rep. No. 132, 1978 |
|  | ad. No. 95, 1989 |
|  | am. No. 152, 1997; No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Heading to s. 82PA | rs. No. 152, 1997 |
|  | rep. No. 32, 2007 |
| S. 82PA | ad. No. 95, 1989 |
|  | am. No. 41, 1995; No. 45, 1997; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Note to s. 82PA | ad. No. 152, 1997 |
|  | rep. No. 32, 2007 |
| S. 82PAA | ad. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Ss. 82PB, 82PC | ad. No. 95, 1989 |
|  | rep. No. 32, 2007 |
| Ss. 82PCA, 82PCB | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82PD | ad. No. 95, 1989 |
|  | rep. No. 159, 1999 |
| S. 82PE | ad. No. 95, 1989 |
|  | rep. No. 32, 2007 |
| S. 82PEA | ad. No. 122, 1991 |
|  | am. No. 146, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82PF, 82PG | ad. No. 95, 1989 |
|  | am. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Heading to Division 7 | rs. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Heading to s. 82PH | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82PH | ad. No. 95, 1989 |
|  | am. No. 37, 1998; No. 159, 2001 |
|  | rep. No. 32, 2007 |
| Heading to s. 82PJ | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Ss. 82PJ, 82PK | ad. No. 95, 1989 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82PL | ad. No. 95, 1989 |
|  | am. No. 146, 1999 |
|  | rep. No. 32, 2007 |
| Heading to s. 82PM | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82PM | ad. No. 95, 1989 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Heading to s. 82PN | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82PN | ad. No. 122, 1991 |
|  | am. No. 37, 1998; No. 146, 1999 |
|  | rep. No. 32, 2007 |
| Div. 3 of Part VI | ad. No. 102, 1969 |
|  | rep. No. 1, 1976 |
| Div. 8 of Part VIAA | ad. No. 69, 2003 |
|  | rep. No. 32, 2007 |
| S. 82PO | ad. No. 69, 2003 |
|  | rep. No. 32, 2007 |
| Part VIA | ad. No. 60, 1976 |
|  | rep. No. 32, 2007 |
| Heading to Div. 1 of Part VIA | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82QA–82QC | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82Q | ad. No. 102, 1969 |
|  | am. No. 41, 1970; No. 202, 1973 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 157, 1976; No. 54, 1983; No. 88, 1992; No. 41, 1995; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82QAA | ad. No. 44, 1999 |
|  | rep. No. 32, 2007 |
| Heading to Div. 2 of Part VIA | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82R | ad. No. 102, 1969 |
|  | rs. No. 41, 1970 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 54, 1983; No. 94, 1986; No. 95, 1989; No. 41, 1995; No. 45, 1997; Nos. 146 and 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82S | ad. No. 102, 1969 |
|  | rs. No. 41, 1970 |
|  | am. No. 114, 1972; Nos. 1 and 13, 1975 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 94, 1986 |
|  | rep. No. 32, 2007 |
| S. 82T | ad. No. 102, 1969 |
|  | rs. No. 41, 1970 |
|  | am. No. 114, 1972; No. 1, 1975 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | rep. No. 32, 2007 |
| S. 82U | ad. No. 102, 1969 |
|  | am. No. 41, 1970; No. 202, 1973 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 65, 1985; No. 94, 1986; No. 111, 2001 |
|  | rep. No. 32, 2007 |
| S. 82V | ad. No. 102, 1969 |
|  | rs. No. 41, 1970 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 65, 1985; No. 94, 1986; No. 111, 2001 |
|  | rep. No. 32, 2007 |
| S. 82W | ad. No. 102, 1969 |
|  | am. No. 41, 1970; No. 114, 1972; No. 1, 1975 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 54, 1983; No. 94, 1986; No. 41, 1995; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82WA | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82WB (formerly s. 82X) | rep. No. 32, 2007 |
| S. 82WC  (formerly s. 82Y) | am. No. 111, 2001 rep. No. 32, 2007 |
| Note to s. 82WC(2) | ad. No. 111, 2001 |
|  | rep. No. 32, 2007 |
| S. 82X | ad. No. 102, 1969 |
|  | am. No. 102, 1973 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 94, 1986; No. 146, 1999 |
| Renumbered s. 82WB | No. 159, 1999 |
| Div. 3 of Part VIA | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82XA | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82XB | ad. No. 159, 1999 |
|  | am. No. 159, 1999; No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82XC | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82XD | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82XE | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82XF | ad. No. 159, 1999 |
|  | am. No. 159, 1999; No. 55, 2001; No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Ss. 82XG–82XK | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82XL–82XP | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82XQ | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82XR | ad. No. 159, 1999 |
|  | am. No. 159, 1999; No. 111, 2001 |
|  | rep. No. 32, 2007 |
| Ss. 82XS–82XV | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82XW, 82XX | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| Ss. 82XY, 82XZ | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82XZA, 82XZB | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82XZC–82XZE | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82XZF | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82XZG | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| Note 1 to s. 82XZG(2) | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82XZH | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82XZI | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| Ss. 82XZJ, 82XZK | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82XZL | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82XZM | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82XZN | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82Y | ad. No. 102, 1969 |
|  | am. No. 102, 1973 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 65, 1985; No. 94, 1986 |
| Renumbered s. 82WC | No. 159, 1999 |
| Div. 4 of Part VIA | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82YA | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82YB | ad. No. 159, 1999 |
|  | am. No. 159, 1999; No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82YC | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82YD | ad. No. 159, 1999 |
|  | am. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82YE | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82YF | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| Ss. 82YG–82YJ | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82YK | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82YL | ad. No. 159, 1999 |
|  | am. No. 159, 1999; No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82YM | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82YN | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82YO | ad. No. 159, 1999 |
|  | am. No. 159, 1999; No. 55, 2001; No. 1, 2004 |
|  | rep. No. 32, 2007 |
| Ss. 82YP–82YS | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82YT | ad. No. 159, 1999 |
|  | am. No. 159, 1999; No. 55, 2001 |
|  | rep. No. 32, 2007 |
| Ss. 82YU–82YX | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82YY, 82YZ | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82YZA, 82YZB | ad. No. 159, 1999 |
|  | am. No. 55, 2001 |
|  | rep. No. 32, 2007 |
| S. 82YZC | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82YZD–82YZF | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82Z | ad. No. 102, 1969 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 54, 1983; No. 94, 1986; No. 95, 1989; No. 88, 1992; No. 41, 1995 |
|  | rep. No. 159, 1999 |
| Div. 5 of Part VIA | ad. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82ZA | ad. No. 102, 1969 |
|  | am. No. 202, 1973 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 94, 1986; No. 41, 1995 |
|  | rs. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82ZB | ad. No. 102, 1969 |
|  | rep. No. 202, 1973 |
|  | ad. No. 60, 1976 |
|  | am. No. 94, 1986 |
|  | rs. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82ZC | ad. No. 102, 1969 |
|  | rs. No. 41, 1970 |
|  | am. No. 202, 1973 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | rs. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82ZD | ad. No. 102, 1969 |
|  | am. No. 202, 1973 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 41, 1995 |
|  | rs. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82ZE | ad. No. 102, 1969 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 94, 1986; No. 41, 1995 |
|  | rs. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82ZF | ad. No. 102, 1969 |
|  | am. No. 202, 1973 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 41, 1995 |
|  | rs. No. 159, 1999 |
|  | rep. No. 32, 2007 |
| S. 82ZG | ad. No. 102, 1969 |
|  | am. No. 202, 1973 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | am. No. 41, 1995 |
|  | rep. No. 159, 1999 |
| S. 82ZGA | ad. No. 54, 1983 |
|  | am. No. 94, 1986 |
|  | rep. No. 88, 1992 |
| S. 82ZH | ad. No. 102, 1969 |
|  | rep. No. 1, 1976 |
|  | ad. No. 60, 1976 |
|  | rep. No. 159, 1999 |
| S. 82ZJ | ad. No. 60, 1976 |
|  | rep. No. 159, 1999 |
| S. 82ZK | ad. No. 60, 1976 |
|  | am. No. 94, 1986; No. 41, 1995 |
|  | rep. No. 159, 1999 |
| S. 82ZL | ad. No. 60, 1976 |
|  | am. No. 132, 1978; No. 54, 1983; No. 94, 1986; No. 48, 1998 |
|  | rep. No. 159, 1999 |
| S. 82ZM | ad. No. 60, 1976 |
|  | am. No. 157, 1976 |
|  | rep. No. 159, 1999 |
| Part VIB | ad. No. 54, 1983 |
|  | rep. No. 32, 2007 |
| S. 82ZN | ad. No. 54, 1983 |
|  | am. No. 88, 1992; No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 82ZP | ad. No. 54, 1983 |
|  | am. No. 94, 1986; No. 95, 1989; No. 41, 1995; No. 159, 1999 |
|  | rep. No. 32, 2007 |
| Heading to Part VIC | rs. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Part VIC | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 82ZPA | ad. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZQ | ad. No. 41, 1995 |
|  | am. No. 41, 1995; No. 37, 1998; No. 1, 2004; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Heading to Division 2  of Part VIC | rs. No. 37, 1998 rep. No. 32, 2007 |
| Heading to s. 82ZR | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZR | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Note to s. 82ZR(1) | ad. No. 152, 1997 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZRAA | ad. No. 152, 1997 |
|  | am. No. 37, 1998; No. 156, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82ZRA, 82ZRB | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZRC | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 1, 2004; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZS | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 31, 2005; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZSAAA | ad. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZSA | ad. No. 41, 1995 |
|  | rs. No. 45, 1997 |
|  | am. No. 159, 1999; No. 31, 2005; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZSAA | ad. No. 1, 2004 |
|  | am. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZSAB | ad. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZSB | ad. No. 41, 1995 |
|  | rs. No. 37, 1998 |
|  | am. No. 1, 2004; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Ss. 82ZSBAA–82ZSBAD | ad. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Heading to s. 82ZSBA | am. No. 43, 1996; No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZSBA | ad. No. 41, 1995 |
|  | am. No. 43, 1996; No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Heading to s. 82ZSC | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZSC | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Heading to s. 82ZSD | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZSD | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 1, 2004; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZSDA | ad. No. 1, 2004 |
|  | am. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Heading to s. 82ZSE | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZSE | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 1, 2004; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZSF | ad. No. 41, 1995 |
|  | rep. No. 37, 1998 |
| Heading to s. 82ZSG | am. No. 37, 1998; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZSG | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZSH | ad. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZSI | ad. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Heading to Division 4  of Part VIC | rs. No. 37, 1998 rep. No. 32, 2007 |
| Heading to s. 82ZT | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZT | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Heading to s. 82ZTA | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZTA | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 1, 2004; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Heading to s. 82ZTB | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZTB | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rs. No. 1, 2004 |
|  | am. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Ss. 82ZTBAA–82ZTBAF | ad. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZTBA | ad. No. 41, 1995 |
|  | rep. No. 37, 1998 |
| Heading to s. 82ZTBB | am. No. 43, 1996; No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZTBB | ad. No. 41, 1995 |
|  | am. No. 43, 1996; No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Heading to s. 82ZTC | am. No. 37, 1998; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZTC | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 1, 2004; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZTCA | ad. No. 1, 2004 |
|  | am. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZTD | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Heading to Division 5  of Part VIC | rs. No. 37, 1998 rep. No. 32, 2007 |
| S. 82ZU | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZUA | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZUB | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Heading to s. 82ZUBA | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZUBA | ad. No. 152, 1997 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZUC | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZUD | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 146, 1999 |
|  | rep. No. 32, 2007 |
| Ss. 82ZUE, 82ZUF | ad. No. 41, 1995 |
|  | am. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZUG | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 146, 1999 |
|  | rep. No. 32, 2007 |
| S. 82ZUH | ad. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZV | ad. No. 41, 1995 |
|  | am. No. 37, 1998; No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Heading to s. 82ZVA | rs. No. 152, 1997 |
|  | rep. No. 32, 2007 |
| S. 82ZVA | ad. No. 41, 1995 |
|  | am. No. 152, 1997; No. 37, 1998 |
|  | rep. No. 32, 2007 |
| Ss. 82ZVB, 82ZVC | ad. No. 41, 1995 |
|  | rep. No. 32, 2007 |
| S. 82ZVD | ad. No. 37, 1998 |
|  | rep. No. 32, 2007 |
| S. 82ZVE | ad. No. 37, 1998 |
|  | am. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| S. 82ZVF | ad. No. 83, 2006 |
|  | rep. No. 32, 2007 |
| Part VID | ad. No. 69, 2003 |
|  | rep. No. 32, 2007 |
| S. 83A | ad. No. 69, 2003 |
|  | rep. No. 32, 2007 |
| Ss. 83B–83G | ad. No. 69, 2003 |
|  | rep. No. 32, 2007 |
| Ss. 83H–83J | ad. No. 69, 2003 |
|  | rep. No. 32, 2007 |
| Ss. 83K–83P | ad. No. 69, 2003 |
|  | rep. No. 32, 2007 |
| **Part VII** |  |
| **Division 1** |  |
| Heading to Div. 1 of Part VII | ad. No. 177, 1976 |
| S. 83  Renumbered s. 83Z | am. No. 60, 1976; No. 136, 1992 No. 69, 2003 |
| S. 84 | am. No. 68, 1955; No. 72, 1959; No. 82, 1962; No. 37, 1964; No. 85, 1971; No. 202, 1973; Nos. 1 and 93, 1975; Nos. 1, 60, 91 and 177, 1976; Nos. 88 and 132, 1978; No. 91, 1979; Nos. 40 and 163, 1981; No. 112, 1982; No. 139, 1983; No. 120, 1984; No. 127, 1985; Nos. 28, 75 and 94, 1986; Nos. 118 and 131, 1987; Nos. 84, 106 and 141, 1990; Nos. 70, 73, 115, 119, 175 and 208, 1991; Nos. 70, 88, 136, 192 and 230, 1992; No. 61, 1993; Nos. 63, 78, 164 and 184, 1994; Nos. 24, 105 and 149, 1995; Nos. 1, 79 and 84,1996; No. 157, 1997; Nos. 45 and 116, 1998; Nos. 75 and 146, 2000; No. 80, 2001; Nos. 50, 52 and 117, 2004; Nos. 111 and 151, 2005; No. 136, 2006; Nos. 32, 111, 169 and 180, 2007; Nos. 49 and 144, 2008; Nos. 29 and 126, 2010 |
| Note to s. 84(7) | am. No. 80, 2001 |
| S. 84AAA | ad. No. 151, 2005 |
|  | am. Nos. 32, 111 and 180, 2007 |
| Note to s. 84AAA(1) | am. No. 32, 2007 |
| S. 84AA | ad. No. 112, 1982 |
|  | rs. No. 35, 1983 |
|  | am. No. 94, 1986; Nos. 106 and 141, 1990; No. 80, 2001; No. 169, 2007 |
| S. 84A | ad. No. 132, 1978 |
|  | am. No. 63, 1984; No. 94, 1986 |
| S. 84AAB | ad. No. 169, 2007 |
| Note to s. 84AAB(4) | am. No. 29, 2010 |
| Heading to s. 84AAC | am. No. 29, 2010 |
| S. 84AAC | ad. No. 169, 2007 |
| Note to s. 84AAC(4) | am. No. 29, 2010 |
| Heading to s. 84AAD | am. No. 29, 2010 |
| S. 84AAD | ad. No. 169, 2007 |
| Ss. 84AAE–84AAL | ad. No. 29, 2010 |
| S. 84AB | ad. No. 111, 2007 |
| Heading to s. 84ABA | am. No. 126, 2010 |
| S. 84ABA | ad. No. 49, 2008 |
|  | am. No. 126, 2010 |
| S. 84AC | ad. No. 111, 2007 |
| S. 84AD | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| S. 84AE | ad. No. 111, 2007 |
|  | am. No. 49, 2008 |
| Note to s. 84AE(3) | rep. No. 49, 2008 |
| Ss. 84AF–84AI | ad. No. 111, 2007 |
| S. 84AJ | ad. No. 180, 2007 |
| **Division 1A** |  |
| Heading to Div. 1A of  Part VII | am. No. 141, 1990 |
| Div. 1A of Part VII | ad. No. 94, 1986 |
| S. 84B | ad. No. 94, 1986 |
|  | am. Nos. 49 and 144, 2008 |
| S. 84BA | ad. No. 88, 1992 |
|  | am. No. 80, 2001 |
| S. 84C | ad. No. 94, 1986 |
|  | am. No. 22, 1987; No. 46, 1988; Nos. 84, 106 and 141, 1990; Nos. 119 and 208, 1991; Nos. 88 and 192, 1992; No. 106, 1993 (as am. by No. 116, 1994); No. 116, 1994; Nos. 149 and 164, 1995; No. 79, 1996; No. 37, 1998; Nos. 52 and 119, 2004; No. 151, 2005; No. 136, 2006; Nos. 111, 169 and 180, 2007 |
| Note to s. 84C(1AA) | am. No. 119, 2004 |
| Note to s. 84C(4) | am. No. 119, 2004 |
| Note to s. 84C(4)(a) | ad. No. 50, 2004 |
| S. 84CA | ad. No. 84, 1990 |
|  | am. No. 88, 1992; No. 106, 1993; No. 79, 1996; No. 119, 2004 |
| Note to s. 84CA | am. No. 119, 2004 |
| S. 84D | ad. No. 94, 1986 |
|  | am. Nos. 84 and 141, 1990; No. 208, 1991; No. 88, 1992 |
| S. 84DA | ad. No. 141, 1990 |
|  | am. No. 88, 1992; No. 50, 2004 |
| S. 84E | ad. No. 94, 1986 |
|  | am. No. 22, 1987; No. 106, 1990; No. 88, 1992; No. 50, 2004 |
| S. 84F | ad. No. 94, 1986 |
|  | am. No. 141, 1990; No. 192, 1992 |
| Ss. 84G, 84H | ad. No. 94, 1986 |
|  | am. No. 141, 1990 |
| S. 84HA | ad. No. 22, 1987 |
|  | am. No. 141, 1990 |
| Ss. 84J, 84K | ad. No. 94, 1986 |
|  | am. No. 141, 1990 |
| S. 84L | ad. No. 94, 1986 |
|  | am. No. 22, 1987; No. 141, 1990; No. 88, 1992; No. 111, 2001 |
| **Division 2** |  |
| Heading to Div. 2 of Part VII | ad. No. 177, 1976 |
| Subheads. to s. 85(1), (2) | ad. No. 126, 2010 |
| Subhead. to s. 85(3) | ad. No. 126, 2010 |
| Subheads. to s. 85(5), (6) | ad. No. 126, 2010 |
| S. 85 | rs. No. 68, 1955; No. 72, 1959 |
|  | am. No. 60, 1976; No. 132, 1978; No. 94, 1986; No. 118, 1987; No. 99, 1988; No. 3, 1995; No. 19, 1998; No. 111, 2007; No. 126, 2010 |
| Note to s. 85(1) | ad. No. 50, 2004 |
|  | rep. No. 126, 2010 |
| Notes 1, 2 to s. 85(1), (2) | ad. No. 126, 2010 |
| S. 85AA | ad. No. 126, 2010 |
| Heading to s. 85A | am. No. 111, 2007 |
| S. 85A | ad. No. 132, 1978 |
|  | am. No. 131, 1980; No. 94, 1986; No. 111, 2007 |
| S. 85AB | ad. No. 111, 2007 |
| S. 85AC | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| S. 85AD | ad. No. 111, 2007 |
| S. 85B | ad. No. 53, 1985 |
|  | am. No. 94, 1986; No. 22, 1987; No. 3, 1990; No. 119, 1991 |
|  | rs. No. 111, 2007 |
| S. 86 | am. No. 68, 1955 |
|  | rs. No. 72, 1959 |
|  | am. No. 132, 1978; No. 94, 1986 |
|  | rs. No. 146, 2000 |
|  | am. No. 169, 2007; No. 49, 2008; No. 29, 2010 |
| S. 86A | ad. No. 146, 2000 |
|  | am. No. 49, 2008 |
| S. 86B | ad. No. 146, 2000 |
|  | am. No. 111, 2005 |
| S. 86C | ad. No. 146, 2000 |
|  | am. No. 111, 2005 |
| Note 1 to s. 86C(7) | am. No. 111, 2005 |
| Subhead. to s. 86D(2) | am. No. 169, 2007 |
| S. 86D | ad. No. 146, 2000 |
|  | am. No. 169, 2007 |
| S. 86E | ad. No. 146, 2000 |
| S. 87 | rs. No. 72, 1959 |
|  | am. No. 44, 1966; No. 85, 1971; Nos. 1 and 60, 1976; No. 132, 1978; No. 112, 1982; No. 53, 1985; Nos. 75 and 94, 1986; No. 22, 1987; No. 46, 1988; Nos. 3, 84, 106 and 141, 1990; Nos. 119 and 208, 1991; No. 88, 1992; No. 106, 1993; No. 164, 1995; No. 79, 1996; No. 37, 1998; No. 80, 2001; No. 119, 2004; No. 151, 2005; No. 111, 2007; No. 49, 2008; No. 29, 2010 |
| Note to s. 87(2) | am. No. 119, 2004 |
| S. 87A | ad. No. 3, 1990 |
|  | am. No. 141, 1990; Nos. 88 and 136, 1992; No. 79, 1996; No. 80, 2001 |
| S. 88 | am. No. 68, 1955; No. 72, 1959; No. 44, 1966; No. 60, 1976 |
|  | rs. No. 132, 1978 |
|  | am. No. 131, 1980; No. 94, 1986; No. 146, 2000; Nos. 111, 169 and 180, 2007; No. 49, 2008; No. 29, 2010 |
| Heading to s. 88AA | am. No. 169, 2007 |
| Subhead. to s. 88AA(3) | am. No. 169, 2007 |
| S. 88AA | ad. No. 146, 2000 |
|  | am. No. 169, 2007 |
| S. 88A | ad. No. 131, 1980 |
|  | rs. No. 94, 1986 |
|  | am. No. 111, 2007; No. 126, 2010 |
| S. 89 | rs. No. 68, 1955 |
|  | am. No. 72, 1959; No. 60, 1976; No. 132, 1978; No. 94, 1986; No. 19, 1998; No. 169, 2007; No. 29, 2010 |
| Note to s. 89(a) | ad. No. 50, 2004 |
| S. 90 | am. Nos. 60 and 91, 1976; No. 112, 1982; No. 63, 1984; No. 94, 1986; No. 106, 1990; No. 136, 1992; No. 76, 1993; No. 24, 1995; No. 75, 2000; No. 117, 2004 (as am. by No. 60, 2005); Nos. 60 and 155, 2005; No. 37, 2006; No. 169, 2007; No. 63, 2010 |
| Note to s. 90(5) | ad. No. 37, 2006 |
| S. 90A | ad. No. 37, 2006 |
|  | am. No. 169, 2007 |
| Ss. 90B–90D | ad. No. 37, 2006 |
| S. 90E | ad. No. 37, 2006 |
|  | am. No. 169, 2007 |
| S. 91 | rs. No. 37, 1964 |
|  | am. No. 1, 1975; No. 60, 1976 |
|  | rep. No. 139, 1983 |
|  | ad. No. 117, 2004 |
|  | am. No. 169, 2007 |
| S. 92 | am. No. 91, 1976; No. 112, 1982; No. 63, 1984; No. 94, 1986 |
| S. 92A | ad. No. 72, 1959 |
|  | rs. No. 37, 1964 |
|  | am. No. 1, 1975; Nos. 60 and 91, 1976; No. 112, 1982; No. 35, 1983; No. 63, 1984; No. 94, 1986; Nos. 106 and 141, 1990; No. 136, 1992; No. 24, 1995; No. 69, 2003; No. 37, 2006 |
| S. 92B | ad. No. 37, 1964 |
|  | am. No. 44, 1966; No. 65, 1985; No. 94, 1986 |
|  | rs. No. 21, 1999 |
|  | am. No. 32, 2007 |
| S. 93 | am. No. 68, 1955 |
| S. 93AA | ad. No. 29, 2010 |
| S. 93A | ad. No. 19, 1998 |
| S. 94 | am. No. 68, 1955; No. 72, 1959; Nos. 60 and 91, 1976; No. 132, 1978; No. 163, 1981; No. 112, 1982; No. 94, 1986; No. 50, 2004 |
| S. 95 | am. No. 68, 1955; Nos. 60 and 91, 1976; No. 132, 1978; No. 163, 1981; No. 63, 1984; No. 94, 1986; No. 136, 1992; No. 22, 1994 |
| S. 96 | rep. No. 68, 1955 |
| S. 97 | am. No. 60, 1976 |
|  | rep. No. 60, 1976 |
| S. 98 | am. No. 44, 1966; Nos. 60 and 91, 1976; No. 132, 1978; No. 163, 1981; No. 63, 1984; Nos. 53 and 65, 1985; No. 94, 1986; No. 136, 1992; No. 76, 1993; No. 50, 2004; No. 169, 2007; No. 29, 2010 |
| S. 98AA | ad. No. 163, 1981 |
|  | am. No. 65, 1985; No. 94, 1986; No. 136, 1992; No. 50, 2004 |
| S. 98AB | ad. No. 111, 2007 |
| **Division 3** |  |
| Div. 3 of Part VII | ad. No. 177, 1976 |
| S. 98A | ad. No. 177, 1976 |
|  | rs. No. 40, 1981 |
|  | am. Nos. 75 and 94, 1986; No. 87, 1988; No. 175, 1989; No. 88, 1992; No. 54, 2009 |
| S. 98B | ad. No. 177, 1976 |
|  | rs. No. 40, 1981 |
|  | am. No. 53, 1985; No. 94, 1986; No. 87, 1988; No. 24, 1995; No. 75, 2000; SLI 2006 No. 50; No. 111, 2007; No. 54, 2009 |
| S. 98BA | ad. No. 40, 1981 |
|  | am. No. 88, 1992 |
| S. 98BAA | ad. No. 84, 1990 |
|  | am. No. 88, 1992 |
| Ss. 98BB, 98BC | ad. No. 40, 1981 |
|  | am. No. 75, 1986; No. 175, 1989 |
| Ss. 98BD, 98BE | ad. No. 40, 1981 |
|  | am. No. 94, 1986 |
| S. 98C | ad. No. 177, 1976 |
|  | am. No. 40, 1981; No. 94, 1986 |
| S. 98D | ad. No. 177, 1976 |
|  | am. No. 40, 1981 |
| S. 98E | ad. No. 177, 1976 |
|  | rs. No. 40, 1981 |
|  | am. Nos. 75 and 94, 1986 |
| S. 99 | am. No. 72, 1959; No. 44, 1966; No. 85, 1971; No. 202, 1973; Nos. 1, 60 and 177, 1976; No. 132, 1978; No. 112, 1982; No. 35, 1983; No. 53, 1985; No. 94, 1986; Nos. 22 and 118, 1987; No. 46, 1988; Nos. 3, 84 and 106, 1990; No. 119, 1991 (as am. by No. 149, 1995); No. 106, 1993; No. 79, 1996; No. 19, 1998; No. 146, 2000; Nos. 50 and 119, 2004; Nos. 111 and 151, 2005; Nos. 111 and 169, 2007; No. 29, 2010 |
| Notes to s. 99(2A), (2AB),  (2B) | am. No. 119, 2004 |
| S. 99AAA | ad. No. 118, 1987 |
|  | rs. No. 119, 1991 |
| S. 99AAB | ad. No. 118, 1987 |
|  | rs. No. 119, 1991 |
|  | am. No. 24, 1995; No. 19, 1998; No. 75, 2000 |
| S. 99AAC | ad. No. 118, 1987 |
|  | rs. No. 119, 1991 |
| S. 99AA | ad. No. 94, 1986 |
|  | am. No. 118, 1987; No. 119, 1991; No. 80, 2001 |
| S. 99AB | ad. No. 22, 1987 (as am. by No. 192, 1992) |
| **Division 3A** |  |
| Div. 3A of Part VII | ad. No. 111, 2007 |
| **Subdivision A** |  |
| S. 99AC | ad. No. 111, 2007 |
|  | rs. No. 126, 2010 |
|  | am. No. 126, 2010 |
| S. 99ACA | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| **Subdivision B** |  |
| Heading to Subdiv. B of  Div. 3A of Part VII | rs. No. 126, 2010 |
| Heading to s. 99ACB | am. No. 126, 2010 |
| Subhead. to s. 99ACB(4) | am. No. 126, 2010 |
| S. 99ACB | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| **Subdivision C** |  |
| S. 99ACC | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| Heading to s. 99ACD | am. No. 126, 2010 |
| Subhead. to s. 99ACD(4) | am. No. 126, 2010 |
| S. 99ACD | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| Heading to s. 99ACE | am. No. 126, 2010 |
| Subhead. to s. 99ACE(2) | am. No. 126, 2010 |
| S. 99ACE | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| **Subdivision CA** |  |
| Subdiv. CA of Div. 3A of  Part VII | ad. No. 126, 2010 |
| Ss. 99ACEA, 99ACEB | ad. No. 126, 2010 |
| **Subdivision D** |  |
| S. 99ACF | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| Heading to s. 99ACG | am. No. 126, 2010 |
| Subhead. to s. 99ACG(1) | rs. No. 126, 2010 |
| Subhead. to s. 99ACG(2) | rs. No. 126, 2010 |
| S. 99ACG | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| Heading to s. 99ACH | am. No. 126, 2010 |
| S. 99ACH | ad. No. 111, 2007 |
| Heading to s. 99ACI | am. No. 126, 2010 |
| S. 99ACI | ad. No. 111, 2007 |
| S. 99ACIA | ad. No. 126, 2010 |
| S. 99ACJ | ad. No. 111, 2007 |
| Heading to s. 99ACK | am. No. 126, 2010 |
| S. 99ACK | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| Ss. 99ACL–99ACQ | ad. No. 126, 2010 |
| **Division 3B** |  |
| Div. 3B of Part VII | ad. No. 111, 2007 |
| **Subdivision A** |  |
| S. 99AD | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| S. 99ADA | ad. No. 111, 2007 |
|  | rs. No. 126, 2010 |
| S. 99ADB | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| **Subdivision B** |  |
| S. 99ADC | ad. No. 111, 2007 |
| Heading to Subdiv. C of  Div. 3B of Part VII | rep. No. 126, 2010 |
| S. 99ADD | ad. No. 111, 2007 |
|  | rs. No. 126, 2010 |
| S. 99ADE | ad. No. 111, 2007 |
|  | rep. No. 126, 2010 |
| **Subdivision D** |  |
| Ss. 99ADF, 99ADG | ad. No. 111, 2007 |
| **Subdivision E** |  |
| S. 99ADH | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| S. 99ADJ | ad. No. 126, 2010 |
| **Division 3C** |  |
| Div. 3C of Part VII | ad. No. 111, 2007 |
| **Subdivision A** |  |
| S. 99AE | ad. No. 111, 2007 |
| S. 99AEA | ad. No. 111, 2007 |
| **Subdivision B** |  |
| S. 99AEB | ad. No. 111, 2007 |
| **Subdivision C** |  |
| Ss. 99AEC, 99AED | ad. No. 111, 2007 |
| **Subdivision D** |  |
| Ss. 99AEE, 99AEF | ad. No. 111, 2007 |
| **Subdivision E** |  |
| S. 99AEG | ad. No. 111, 2007 |
| **Subdivision F** |  |
| S. 99AEH | ad. No. 111, 2007 |
| **Subdivision G** |  |
| S. 99AEI | ad. No. 111, 2007 |
|  | am. No. 126, 2010 |
| Ss. 99AEJ, 99AEK | ad. No. 111, 2007 |
| S. 99AEL | ad. No. 111, 2007 |
|  | rep. No. 126, 2010 |
| **Division 4** |  |
| Div. 4 of Part VII | ad. No. 177, 1976 rs. No. 40, 1981 |
| S. 99A | ad. No. 177, 1976 |
|  | rs. No. 40, 1981 |
|  | am. Nos. 75 and 94, 1986; No. 87, 1988; No. 106, 1990; No. 88, 1992; No. 54, 2009 |
| S. 99B | ad. No. 177, 1976 |
|  | rs. No. 40, 1981 |
|  | am. Nos. 75 and 94, 1986; No. 87, 1988; No. 88, 1992 (as am. by No. 12, 1994); No. 43, 1996; No. 54, 2009 |
| S. 99C | ad. No. 177, 1976 |
|  | rs. No. 40, 1981 |
|  | am. Nos. 75 and 94, 1986 |
| S. 99D | ad. No. 177, 1976 |
|  | rs. No. 40, 1981 |
|  | am. Nos. 75 and 94, 1986; No. 87, 1988; No. 88, 1992; No. 54, 2009 |
| S. 99E | ad. No. 177, 1976 |
|  | rs. No. 40, 1981 |
|  | am. No. 94, 1986 |
| **Division 4A** |  |
| Div. 4A of Part VII | ad. No. 84, 1990 |
| S. 99F | ad. No. 177, 1976 |
|  | rep. No. 40, 1981 |
|  | ad. No. 84, 1990 |
|  | am. Nos. 106 and 141, 1990; No. 208, 1991; No. 88, 1992; No. 106, 1993; No. 164, 1995; No. 79, 1996; No. 119, 2004; No. 151, 2005 |
| S. 99G | ad. No. 177, 1976 |
|  | rep. No. 40, 1981 |
|  | ad. No. 84, 1990 |
|  | am. No. 208, 1991; No. 106, 1993; No. 164, 1995; No. 79, 1996; No. 119, 2004; No. 151, 2005 |
| Note to s. 99G(2) | rs. No. 119, 2004 |
| **Division 4B** |  |
| Heading to Div. 4B of  Part VII | am. No. 24, 1995 |
| Div. 4B of Part VII | ad. No. 106, 1990 |
| S. 99H | ad. No. 177, 1976 |
|  | rep. No. 40, 1981 |
|  | ad. No. 106, 1990 |
| S. 99J | ad. No. 106, 1990 |
|  | am. No. 24, 1995 |
| S. 99K | ad. No. 106, 1990 |
|  | am. No. 136, 1992; No. 24, 1995; No. 75, 2000 |
| S. 99L | ad. No. 106, 1990 |
|  | am. No. 24, 1995; No. 75, 2000 |
| S. 99M | ad. No. 106, 1990 |
| S. 99N | ad. No. 106, 1990 |
|  | rs. No. 24, 1995 |
|  | am. No. 37, 2006 |
| Ss. 99P, 99Q | ad. No. 106, 1990 |
| Ss. 99R, 99S | ad. No. 106, 1990 |
|  | am. No. 24, 1995 |
| S. 99T | ad. No. 106, 1990 |
| S. 99U | ad. No. 106, 1990 |
|  | rs. No. 24, 1995 |
| Ss. 99V, 99W | ad. No. 106, 1990 |
|  | am. No. 24, 1995 |
| S. 99X | ad. No. 106, 1990 |
| S. 99Y | ad. No. 106, 1990 |
|  | am. No. 24, 1995; No. 75, 2000; Nos. 60 and 155, 2005; No. 37, 2006; No. 63, 2010 |
| **Division 4C** |  |
| Div. 4C of Part VII | ad. No. 106, 1990  rep. No. 75, 2000 ad. No. 71, 2009 |
| **Subdivision A** |  |
| S. 99YB | ad. No. 71, 2009 |
| **Subdivision B** |  |
| S. 99YBA | ad. No. 71, 2009 |
| **Subdivision C** |  |
| S. 99YBB | ad. No. 71, 2009 |
| **Subdivision D** |  |
| S. 99YBC | ad. No. 71, 2009 |
| S. 99Z | ad. No. 106, 1990 |
|  | am. No. 136, 1992 |
|  | rep. No. 19, 1998 |
| S. 99ZA | ad. No. 106, 1990 |
|  | am. No. 24, 1995 |
|  | rep. No. 75, 2000 |
| S. 99ZAA | ad. No. 24, 1995 |
|  | rep. No. 75, 2000 |
| S. 99ZB | ad. No. 106, 1990 |
|  | rep. No. 19, 1998 |
| S. 99ZC | ad. No. 106, 1990 |
|  | am. No. 88, 1992; No. 24, 1995 |
|  | rep. No. 19, 1998 |
| S. 99ZD | ad. No. 106, 1990 |
|  | am. No. 24, 1995 |
|  | rep. No. 19, 1998 |
| S. 99ZDA | ad. No. 24, 1995 |
|  | rep. No. 75, 2000 |
| S. 99ZE | ad. No. 106, 1990 |
|  | rs. No. 24, 1995 |
|  | rep. No. 19, 1998 |
| S. 99ZF | ad. No. 106, 1990 |
|  | rep. No. 24, 1995 |
| S. 99ZG | ad. No. 106, 1990 |
|  | am. No. 24, 1995 |
|  | rep. No. 75, 2000 |
| **Division 4D** |  |
| Div. 4D of Part VII | ad. No. 35, 1999 |
| S. 99ZH | ad. No. 35, 1999 |
|  | am. No. 111, 2005; No. 33, 2009 |
| S. 99ZI | ad. No. 35, 1999 |
|  | am. No. 49, 2008 |
| Heading to s. 99ZJ | am. No. 111, 2005 |
| S. 99ZJ | ad. No. 35, 1999 |
|  | am. No. 111, 2005; No. 169, 2007; No. 49, 2008; No. 29, 2010 |
| S. 99ZK | ad. No. 35, 1999 |
|  | am. No. 111, 2005; No. 169, 2007; No. 49, 2008; No. 29, 2010 |
| S. 99ZL | ad. No. 35, 1999 |
| S. 99ZM | ad. No. 35, 1999 |
| S. 99ZN | ad. No. 35, 1999 |
|  | am. No. 111, 2005; No. 33, 2009 |
| Heading to s. 99ZO | am. No. 111, 2005 |
| S. 99ZO | ad. No. 35, 1999 |
|  | am. No. 111, 2005 |
| S. 99ZP | ad. No. 35, 1999 |
| S. 99ZQ | ad. No. 35, 1999 |
| S. 99ZR | ad. No. 35, 1999 |
|  | am. No. 111, 2005 |
| S. 99ZS | ad. No. 35, 1999 |
|  | am. No. 111, 2005 |
| S. 99ZT | ad. No. 35, 1999 |
|  | am. No. 111, 2005; No. 49, 2008 |
| **Division 5** |  |
| Heading to Div. 5 of Part VII | ad. No. 177, 1976 |
| S. 100 | am. No. 94, 1986 |
|  | rs. No. 50, 2004 |
|  | am. No. 126, 2010 |
| S. 100AA | ad. No. 50, 2004 |
|  | rep. No. 126, 2010 |
| S. 100A | ad. No. 146, 2000 |
|  | am. No. 50, 2004; No. 140, 2005 |
| S. 100B | ad. No. 146, 2000 |
|  | am. No. 50, 2004 |
| Ss. 100C, 100D | ad. No. 146, 2000 |
| Heading to s. 101 | am. No. 146, 2000 |
| Subhead. to s. 101(3) | ad. No. 140, 2005 |
| Subhead. to s. 101(4) | ad. No. 126, 2010 |
| Subhead. to s. 101(5) | ad. No. 140, 2005 |
| S. 101 | am. No. 68, 1955; No. 72, 1959; No. 16, 1961; No. 82, 1962; No. 41, 1970; No. 202, 1973; Nos. 60 and 91, 1976; No. 63, 1984; No. 94, 1986; No. 118, 1987; No. 19, 1998; No. 146, 2000; No. 50, 2004; Nos. 140 and 151, 2005; No. 111, 2007; No. 126, 2010 |
| S. 101A | ad. No. 118, 1987 |
|  | am. No. 140, 2005 |
| S. 102 | am. No. 91, 1976; No. 63, 1984; No. 94, 1986 |
| S. 103 | am. No. 68, 1955; No. 72, 1959; No. 44, 1966; No. 91, 1976; No. 132, 1978; No. 112, 1982; No. 35, 1983; No. 63, 1984; No. 65, 1985; No. 94, 1986; No. 88, 1992; Nos. 80 and 116, 1994; No. 35, 1999; No. 137, 2000; No. 111, 2001; No. 63, 2002; No. 111, 2005; Nos. 111, 169 and 180, 2007; No. 49, 2008; No. 29, 2010 |
| S. 104 | am. No. 68, 1955; No. 37, 1964; No. 44, 1966; Nos. 60 and 91, 1976; No. 132, 1978; Nos. 63 and 135, 1984; No. 65, 1985; No. 94, 1986 |
|  | rep. No. 85, 1994 |
| S. 104A | ad. No. 72, 1959 |
|  | am. No. 91, 1976; No. 112, 1982; No. 63, 1984; No. 94, 1986 |
| S. 104B | ad. No. 111, 2007 |
| **Part VIIA** |  |
| Part VIIA | ad. No. 60, 1976 |
| S. 105AA | ad. No. 60, 1976 |
|  | rs. No. 112, 1982 |
| S. 105AAA | ad. No. 88, 1978 |
|  | am. No. 131, 1980; No. 63, 1984 |
|  | rs. No. 72, 1984 |
|  | am. No. 165, 1984 |
|  | rep. No. 94, 1986 |
| S. 105AAB | ad. No. 139, 1983 |
|  | am. No. 139, 1983; No. 135, 1984; Nos. 94 and 115, 1986; No. 72, 1987; No. 3, 1990; Nos. 83 and 84, 1991; No. 12, 1994; No. 149, 1995; No. 114, 1997; No. 111, 2009 |
| S. 105AB | ad. No. 60, 1976 |
|  | am. No. 99, 1976; Nos. 132 and 189, 1978; No. 112, 1982; No. 54, 1983; No. 63, 1984; No. 70, 1985; No. 94, 1986; No. 95, 1989; No. 106, 1990; No. 119, 1991; Nos. 136, 192 and 200, 1992; No. 23, 1994; Nos. 24 and 41, 1995; Nos. 19 and 37, 1998; Nos. 130 and 159, 1999; No. 75, 2000; No. 69, 2003; Nos. 1 and 117, 2004; No. 83, 2006; Nos. 32 and 169, 2007; No. 29, 2010 |
| Note to s. 105AB(7) | ad. No. 37, 2006 |
| S. 105AC | ad. No. 112, 1982 |
|  | am. No. 139, 1983; Nos. 63, 72 and 165, 1984; Nos. 94 and 115, 1986; No. 84, 1991 |
| S. 105AD | ad. No. 211, 1991 |
|  | am. No. 24, 1995; No. 19, 1998; No. 75, 2000; No. 37, 2006 |
| S. 105AE | ad. No. 37, 2006 |
| S. 105A | ad. No. 202, 1973 |
|  | rep. No. 91, 1976 |
| S. 106 | rep. No. 88, 1978 |
| **Part VIII** |  |
| **Division 1** |  |
| S. 107 | am. No. 68, 1955; No. 37, 1964; Nos. 60 and 91, 1976; No. 132, 1978; No. 63, 1984; Nos. 75 and 94, 1986; No. 169, 2007 |
| Heading to Div. 2 of Part VIII | rs. No. 75, 1986  rep. No. 22, 1994 |
| Div. 2 of Part VIII | rep. No. 22, 1994 |
| S. 108 | am. No. 82, 1962; No. 91, 1976; No. 63, 1984; Nos. 75 and 94, 1986 |
|  | rep. No. 22, 1994 |
| S. 109 | am. No. 68, 1955; Nos. 60 and 91, 1976; No. 63, 1984; No. 75, 1986 |
|  | rep. No. 22, 1994 |
| S. 110 | rs. No. 68, 1955 |
|  | am. No. 82, 1962; No. 202, 1973; No. 72, 1984; Nos. 75 and 94, 1986 |
|  | rep. No. 22, 1994 |
| S. 111 | am. No. 68, 1955; Nos. 60 and 91, 1976; No. 63, 1984; Nos. 75 and 94, 1986 |
|  | rep. No. 22, 1994 |
| S. 111A | ad. No. 68, 1955 |
|  | am. No. 68, 1958; No. 60, 1976; Nos. 75 and 94, 1986 |
|  | rep. No. 22, 1994 |
| S. 112 | am. No. 132, 1978; No. 94, 1986 |
|  | rep. No. 22, 1994 |
| Div. 2AA of Part VIII | ad. No. 132, 1978  rep. No. 22, 1994 |
| Ss. 112AA, 112AB | ad. No. 132, 1978 |
|  | am. No. 63, 1984 |
|  | rep. No. 22, 1994 |
| S. 112AC | ad. No. 132, 1978 |
|  | am. No. 72, 1984 |
|  | rep. No. 22, 1994 |
| S. 112AD | ad. No. 132, 1978 |
|  | am. No. 63, 1984 |
|  | rep. No. 22, 1994 |
| S. 112AE | ad. No. 132, 1978 |
|  | am. No. 94, 1986 |
|  | rep. No. 22, 1994 |
| Div. 2A of Part VIII | ad. No. 68, 1955  rep. No. 211, 1991 |
| S. 112A | ad. No. 68, 1955 |
|  | am. No. 82, 1962; No. 94, 1986 |
|  | rep. No. 211, 1991 |
| S. 112B | ad. No. 68, 1955 |
|  | am. Nos. 60 and 91, 1976; No. 100, 1977; No. 63, 1984; No. 94, 1986 |
|  | rep. No. 211, 1991 |
| **Division 3** |  |
| S. 113 | am. No. 91, 1976; No. 63, 1984; No. 94, 1986 |
| S. 114 | am. No. 91, 1976; No. 63, 1984; Nos. 75 and 94, 1986; No. 50, 2004; No. 126, 2010 |
| S. 115 | am. No. 68, 1955; No. 91, 1976; No. 72, 1984; No. 94, 1986 |
| S. 116 | am. Nos. 60 and 91, 1976; No. 63, 1984; Nos. 75 and 94, 1986; No. 50, 2004; No. 126, 2010 |
| Heading to s. 117 | am. No. 169, 2007 |
| S. 117 | am. No. 132, 1978; No. 94, 1986; No. 169, 2007 |
| **Division 3A** |  |
| Div. 3A of Part VIII | ad. No. 114, 1972 |
| S. 117A | ad. No. 114, 1972 |
|  | am. No. 94, 1986 |
|  | rep. No. 141, 1990 |
| S. 117B | ad. No. 114, 1972 |
|  | am. No. 60, 1976; No. 94, 1986; No. 155, 1988 |
| **Division 4** |  |
| S. 118 | am. No. 75, 1986 |
| S. 119A | ad. No. 55, 1956 |
|  | am. No. 94, 1986 |
| S. 120 | am. No. 75, 1986 |
| S. 120A | ad. No. 16, 1961 |
| S. 124 | am. Nos. 75 and 94, 1986 |
| Heading to s. 125 | am. No. 169, 2007 |
| S. 125 | am. Nos. 60 and 91, 1976 |
|  | rs. No. 132, 1978 |
|  | am. No. 63, 1984; No. 75, 1986; No. 94, 1986 (as am. by No. 141, 1987); No. 169, 2007 |
| S. 126 | am. Nos. 75 and 94, 1986 |
| S. 127 | am. No. 82, 1962; No. 94, 1986 |
| S. 128 | am. No. 44, 1966; No. 65, 1985; No. 94, 1986; No. 111, 2001 |
| S. 129 | am. No. 44, 1966; No. 65, 1985; No. 94, 1986 |
| Div. 5 of Part VIII | ad. No. 41, 1995 |
|  | rep. No. 37, 1998 |
| S. 132A | ad. No. 202, 1973 |
|  | rep. No. 91, 1976 |
|  | ad. No. 41, 1995 |
|  | rep. No. 37, 1998 |
| **Part IX** |  |
| S. 133 | am. No. 68, 1955; Nos. 60 and 91, 1976 |
|  | rs. No. 132, 1978 |
|  | am. Nos. 63 and 120, 1984; No. 94, 1986; No. 136, 1992; No. 50, 2004; No. 169, 2007; Nos. 29 and 126, 2010 |
| S. 133A | ad. No. 60, 1976 |
|  | am. No. 36, 1978 |
| S. 134 | am. No. 44, 1966; Nos. 60 and 91, 1976; No. 132, 1978; No. 63, 1984; No. 65, 1985; No. 94, 1986; No. 72, 1987; No. 50, 2004; No. 169, 2007; Nos. 29 and 126, 2010 |
| S. 134A | ad. No. 68, 1955 |
|  | am. No. 55, 1956 |
|  | rs. No. 82, 1962 |
|  | am. Nos. 60 and 91, 1976; No. 63, 1984; No. 94, 1986 |
| S. 134AA | ad. No. 82, 1962 |
|  | am. No. 60, 1976 |
|  | rep. No. 167, 1985 |
| S. 134B | ad. No. 68, 1955 |
|  | am. No. 94, 1986; Nos. 72 and 132, 1987 |
| S. 134C | ad. No. 68, 1955 |
|  | am. No. 112, 1982; No. 94, 1986; No. 111, 2001 |
| Note to s. 134C | ad. No. 111, 2001 |
| S. 134D | ad. No. 68, 1955 |
|  | rep. No. 32, 2007 |
| S. 134E | ad. No. 94, 1986 |
| S. 135 | am. No. 120, 1984; No. 94, 1986 |
| S. 135A | ad. No. 1, 1975 |
|  | rs. No. 139, 1983 |
|  | am. Nos. 63 and 165, 1984; No. 65, 1985; No. 94, 1986; No. 132, 1987; No. 95, 1989; Nos. 3 and 106, 1990; Nos. 88 and 204, 1992; No. 29, 1997; No. 19, 1998; No. 111, 2001; No. 133, 2002; Nos. 17, 50 and 77, 2004; Nos. 111 and 126, 2005; No. 83, 2006; Nos. 32 and 169, 2007; Nos. 29 and 126, 2010 |
| Note to s. 135A(17) | ad. No. 111, 2001 |
| Note to s. 135A(19) | ad. No. 111, 2001 |
| S. 135AAA | ad. No. 146, 2000 |
|  | am. No. 111, 2005; No. 169, 2007 |
| S. 135AA | ad. No. 119, 1991 |
|  | rs. No. 28, 1993 |
|  | am. No. 146, 2000; No. 50, 2004; No. 111, 2005; Nos. 51 and 126, 2010 |
| S. 135AB | ad. No. 119, 1991 |
|  | am. No. 28, 1993; No. 51, 2010 |
| S. 135AC | ad. No. 99, 2006 |
| S. 135B | ad. No. 139, 1983 |
|  | am. No. 65, 1985; No. 94, 1986; No. 132, 1987; No. 211, 1991 |
| S. 136 | am. No. 54, 1979; No. 94, 1986 |
| S. 136A | ad. No. 82, 1962 |
| S. 137 | am. No. 82, 1962; No. 102, 1969; Nos. 1 and 60, 1976; No. 88, 1978; No. 24, 1985; No. 94, 1986; No. 211, 1991 |
| S. 138 | am. No. 91, 1976; No. 139, 1983; No. 63, 1984 |
| S. 138A | ad. No. 95, 1989 |
| S. 139 | am. No. 91, 1976; No. 63, 1984; No. 94, 1986; No. 3, 1995 |
| S. 139A | ad. No. 68, 1955 |
|  | am. No. 72, 1959; No. 82, 1962; No. 100, 1968; No. 41, 1970; No. 114, 1972; No. 1, 1975; Nos. 60 and 91, 1976; No. 100, 1977; No. 132, 1978; No. 112, 1982; No. 54, 1983; No. 63, 1984; No. 94, 1986; No. 72, 1987; No. 136, 1992; No. 13, 1999; Nos. 32 and 169, 2007; No. 29, 2010 |
| S. 139B | ad. No. 115, 1986 |
|  | am. Nos. 72, 118 and 132, 1987 |
|  | rs. No. 79, 1988 |
|  | am. Nos. 83, 84, 119 and 211, 1991; Nos. 88, 192 and 204, 1992; No. 13, 1999 |
| S. 139C | ad. No. 80, 2001 |
| S. 140 | am. No. 44, 1966; No. 41, 1970; No. 60, 1976; No. 65, 1985; No. 95, 1989; No. 41, 1995; No. 69, 2003; No, 32, 2007 |
| Heading to The Schedules | rep. No. 37, 1964 |
|  | ad. No. 41, 1970 |
|  | rep. No. 60, 1976 |
| First, Second Schedules | rs. No. 68, 1955; No. 92, 1957 |
|  | am. No. 72, 1959 |
|  | rep. No. 37, 1964 |
| The Schedule | ad. No. 37, 1964 |
|  | rs. No. 44, 1966; No. 100, 1967 |
|  | rep. No. 41, 1970 |
| First–Seventh Schedules | ad. No. 41, 1970 |
|  | am. No. 85, 1971; No. 114, 1972; No. 202, 1973 |
|  | rep. No. 60, 1976 |
| Eighth Schedule | ad. No. 114, 1972 |
|  | am. No. 1, 1975; No. 99, 1976 |
|  | rep. No. 100, 1977 |
| Heading to Schedule | rep. No. 141, 1990 |
| Heading to Schedule 1 | ad. No. 141, 1990 |
|  | rep. No. 32, 2007 |
| Schedule 1 | ad. No. 132, 1978 |
|  | am. No. 54, 1979; No. 118, 1981; No. 49, 1982 |
|  | rs. No. 54, 1983 |
|  | am. No. 63, 1984; Nos. 70 and 167, 1985; No. 94, 1986; No. 79, 1988; No. 95, 1989; Nos. 88 and 136, 1992; No. 80, 1994; No. 41, 1995 (as am. by No. 149, 1995); No. 37, 1998; Nos. 21 and 130, 1999; No. 72, 2000; Nos. 63 and 76, 2002; No. 1, 2004 (as am. by No. 31, 2005); Nos. 31, 111 and 155, 2005 |
|  | rep. No. 32, 2007 |
| Schedule 2 | ad. No. 141, 1990 |
|  | rep. No. 114, 1997 |
|  | ad. No. 130, 1999 |
|  | am. No. 6, 2001; No. 1, 2004; Nos. 9 and 111, 2005 |
|  | rep. No. 32, 2007 |
| Schedule 3 | ad. No. 83, 1991 |
|  | am. Statutory Rules 1991 No. 310; 1993 No. 274 |
|  | rep. No. 114, 1997 |
| **Schedule 4** |  |
| Schedule 4 | ad. No. 211, 1991 |

Note 2

Subsection 84AAD(4) (note)—Schedule 1 (item 78) of the *Health Legislation Amendment (Midwives and Nurse Practitioners) Act 2010* (No. 29, 2010) provides as follows:

Schedule 1

78 Subsection 84AAD(4) (note)

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

The proposed amendment was misdescribed and is not incorporated in this compilation.

Note 3

National Health Amendment (Pharmaceutical Benefits Scheme) Act 2010 (No. 126, 2010)

The following amendments commence on 1 April 2012:

Schedule 5

1 At the end of Division 2 of Part VII

Add:

98AC Information about supplies

(1) An approved supplier that supplies a pharmaceutical benefit (including a supply taken, because of subsection 99(2A), to be a supply otherwise than under this Part):

(a) must give to the Secretary, in relation to the supply of that benefit, the information specified in rules made by the Minister under paragraph (4)(a); and

(b) must give the information in accordance with the rules made by the Minister under paragraph (4)(b).

(2) Subsection (1) does not apply if the approved supplier makes, or proposes to make, a claim for payment in relation to the supply of the pharmaceutical benefit under section 99AAA.

(3) Subject to the rules made by the Minister under paragraph (4)(b), subsections 99AAA(4) and (5) and section 99AAB (about the procedures for giving information) apply in relation to the giving of information under this section in the same way as they apply in relation to the giving of information under section 99AAA.

(4) The Minister must, by legislative instrument, make:

(a) rules specifying the information to be given to the Secretary by approved suppliers in relation to the supply by them of pharmaceutical benefits; and

(b) rules defining the procedures to be followed by approved suppliers in giving information to the Secretary in relation to the supply by them of pharmaceutical benefits.

(5) In making rules for the purposes of paragraph (4)(b), the Minister may define different procedures:

(a) for the giving of information by electronic means; and

(b) for the giving of information otherwise than by electronic means.

(6) Rules made under this section may be set out in the same document as rules made under subsection 99AAA(8).

2 Subsection 99AAA(8)

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

3 Subsection 99AAA(9)

Repeal the subsection.

4 Paragraph 135AA(1)(c)

Repeal the paragraph, substitute:

(c) was obtained by the agency or any other agency in connection with:

(i) a claim for payment of a benefit under the Medicare Benefits Program or the Pharmaceutical Benefits Program; or

(ii) a supply of a pharmaceutical benefit to which subsection 98AC(1) applies.

5 Subparagraph 135AA(2)(a)(i)

After “made”, insert “, or who provided the pharmaceutical benefit”.

6 Subparagraph 135AA(2)(a)(ii)

After “goods”, insert “or the pharmaceutical benefit”.

7 After subsection 135AA(5A)

Insert:

(5B) Nothing in this section, or in the guidelines issued by the Information Commissioner, precludes the inclusion, in a database of information:

(a) held by the Medicare Australia CEO; and

(b) relating to supplies of pharmaceutical benefits to which subsection 98AC(1) applies;

of the pharmaceutical entitlements number applicable to the person to whom each such supply relates:

(c) as a person covered by a benefit entitlement card; or

(d) as a person included within a class identified by the Minister in a determination under subsection 86E(1).

As at 1 February 2011 the amendments are not incorporated in this compilation.

Table A

Application, Saving or Transitional Provisions

Aged Care (Consequential Provisions) Act 1997 (No. 114, 1997)

Schedule 1

45A Application—power to extend period

Despite the repeal of subsection 52C(3) of the *National Health Act 1953* by item 45 of this Schedule, that subsection continues to apply, in relation to AIPs that were in force immediately before the repeal, as if the repeal had not happened.

49A Application—power to extend period

Despite the repeal of subsection 58CA(3) of the *National Health Act 1953* by item 49 of this Schedule, that subsection continues to apply, in relation to AIPs that were in force immediately before the repeal, as if the repeal had not happened.

Social Security Legislation Amendment (Parenting and Other Measures) Act 1997 (No. 197, 1997)

Schedule 1

346 Saving: person transferred from sole parent pension to benefit PP (partnered)

(1) This item applies to a person:

(a) who, immediately before the introduction of parenting payment, was a pensioner within the meaning of the *National Health Act 1953* by virtue of receiving sole parent pension under subparagraph 249(1)(a)(ii) or (iv) (illness separated couple or partner in gaol) of the *Social Security Act 1991*; and

(b) to whom, immediately after the introduction of parenting payment, benefit PP (partnered) is payable.

(2) For the purposes of the definition of ***pensioner*** in section 4 of the *National Health Act 1953*, the person is taken to be a person to whom a social security pension is being paid until:

(a) the benefit PP (partnered) ceases to be payable to the person; or

(b) 31 December 1998;

whichever occurs first.

(3) In this item:

***introduction of parenting payment*** means the day on which Schedule 1 to the *Social Security Legislation Amendment (Parenting and Other Measures) Act 1997* commences.

Health Legislation Amendment Act (No. 2) 1998 (No. 37, 1998)

Schedule 2

8 Agreements entered into before commencement need not be disclosed

Section 73ABC of the *National Health Act 1953* as inserted by this Act does not apply in relation to hospital purchaser‑provider agreements, practitioner agreements and medical purchaser‑provider agreements entered into before the commencement of this item.

9 Hospital purchaser‑provider agreements entered into before commencement

If:

(a) a hospital purchaser‑provider agreement was entered into before the commencement of this item; and

(b) the agreement includes provisions to the effects referred to in subsection 73BDAA(2) of the *National Health Act 1953*; and

(c) the agreement does not comply with subsection 73BDAA(2A) of the *National Health Act 1953* as inserted by this Act;

the fact that the agreement does not so comply does not affect the agreement’s validity or prevent the application, after that commencement, of the *National Health Act 1953* (as amended by this Act) in relation to the agreement or to hospital treatment to which the agreement applies.

10 Practitioner agreements entered into before commencement

If:

(a) a practitioner agreement was entered into before the commencement of this item; and

(b) the agreement does not comply with paragraph 73BDAA(1)(d) of the *National Health Act 1953* as added by this Act;

the fact that the agreement does not meet those requirements does not affect the agreement’s validity or prevent the application, after that commencement, of section 73BDAA or any other provision of the *National Health Act 1953* (as amended by this Act) in relation to the agreement or to a professional service to which the agreement applies.

11 Medical purchaser‑provider agreements entered into before commencement

If:

(a) a medical purchaser‑provider agreement was entered into before the commencement of this item; and

(b) the agreement does not comply with paragraph 73BDA(2)(d) of the *National Health Act 1953* as added by this Act;

the fact that the agreement does not so comply does not affect the agreement’s validity or prevent the application, after that commencement, of the *National Health Act 1953* (as amended by this Act) in relation to the agreement or to a professional service to which the agreement applies.

Schedule 4

14 Person holding office of Director as at commencement

A person who, immediately before the commencement of this Part, held office as the Director under subsection 82PH(1) of the *National Health Act 1953*, continues, subject to that Act, to hold office for the remainder of the person’s term of office as if the person had been appointed to the office of Chief Executive Officer of the Council under that subsection as in force after the commencement of this Part.

Schedule 5

47 Private Health Insurance Complaints Commissioner as at commencement

A person who, immediately before the commencement of this Part, held office under subsection 82ZRA(1) of the *National Health Act 1953*, continues to hold office, subject to that Act, for the remainder of the person’s term of office as if the person had been appointed to the office of Private Health Insurance Ombudsman under that subsection as in force after the commencement of this Part.

48 Continuation of conciliation after commencement

Section 82ZSF of the *National Health Act 1953* as in force immediately before the commencement of this Part continues to apply in relation to a request made by a complainant under that section before that commencement as if that section had not been repealed.

49 Application of new subsection 82ZSG(5)

Subsection 82ZSG(5) of the *National Health Act 1953* as substituted by this Act applies only to complaints made after the commencement of this Part.

Schedule 6

13 Waiting periods applying as at commencement to be preserved

After the commencement of this item, the amendments made to the *National Health Act 1953* by items 1 to 5 of this Schedule do not apply, and paragraphs (bc), (j), (kc) and (kd) of Schedule 1 to that Act as in force immediately before that commencement continue to apply, in relation to a contributor’s membership of a health benefits fund if:

(a) immediately before the commencement of this item, the contributor was a member of that fund or any other health benefits fund; and

(b) at all times since that commencement, the contributor has been a member of that fund or any other health benefits fund; and

(c) at all times since that commencement, any waiting periods to which the contributor’s membership has been subject have been affected by the contributor’s membership, before that commencement, of that fund or any other health benefits fund.

Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 1998 (No. 45, 1998)

Schedule 13

46 Application

The amendments made by items 44 and 45 apply for the purposes of working out whether a person is a social security beneficiary (within the meaning of the *National Health Act 1953*) at a time after the commencement of those items.

Assistance for Carers Legislation Amendment Act 1999 (No. 13, 1999)

Schedule 3

3 Transitional—time limits for making a request for review of an adverse domiciliary nursing care benefit decision

Review of an adverse domiciliary nursing care benefit decision made before 1 July 1999

(1) If:

(a) before 1 July 1999, the Secretary to the Health Department made a decision to refuse a person’s application for approval as an approved person for the purposes of Part VB of the *National Health Act 1953*; and

(b) immediately before 1 July 1999, the person had not requested the Health Minister to review the decision under section 58F of that Act;

then:

(c) the person may, at any time before 1 October 1999, request the Health Minister to review the decision under section 58F of that Act; and

(d) the Health Minister must deal with the request;

as if the repeal of Part VB of the *National Health Act 1953* made by Schedule 2 to this Act had not occurred.

Review of an adverse domiciliary nursing care benefit decision made on or after 1 July 1999

(2) If, on or after 1 July 1999, the Secretary to the Health Department makes a decision to refuse a person’s application for approval as an approved person for the purposes of Part VB of the *National Health Act 1953*, then:

(a) the person may request the Health Minister to review the decision under section 58F of that Act at any time within 3 months after the day on which the person was notified of the decision; and

(b) the Health Minister must deal with the request;

as if the repeal of Part VB of the *National Health Act 1953* made by Schedule 2 to this Act had not occurred.

Definitions

(3) In this item:

***Health Department*** means the Department administered by the Health Minister.

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

4 Transitional—Secretary to Health Department to continue to issue certain certificates relating to domiciliary nursing care benefit

(1) Despite the repeal of paragraph 139A(1)(fa) of the *National Health Act 1953* made by Schedule 2 to this Act, the Secretary to the Health Department may, on or after 1 July 1999, give a certification under that paragraph in relation to any period before that day as if the repeal had not occurred.

(2) In this item:

***Health Department*** means the Department administered by the Minister administering the *National Health Act 1953*.

Health Legislation Amendment Act (No. 2) 1999 (No. 21, 1999)

Schedule 1

3 Saving provision

If, under an applicable benefits arrangement of an organization in force immediately before the commencement of items 1 and 2 of this Schedule, the organization purported to allow a contributor to the health benefits fund conducted by that organization an entitlement to a discount in the rate of contribution payable by that contributor, that entitlement continues to be available after that commencement on the terms originally agreed between the organization and the contributor despite the fact that it is not consistent with the conditions to which registrations are subject applying after that commencement.

15 Saving provision

If, immediately before the commencement of items 6 to 14 of this Schedule, a waiting period was applicable to a person under an applicable benefits arrangement of a particular registered organization, the amendments made by those items do not affect the circumstances in which that waiting period applies to that person or the duration of that waiting period.

Statute Stocktake Act 1999 (No. 118, 1999)

Schedule 2

44 Application

The amendments made by items 42 and 43 apply only for the purpose of working out whether premises are a nursing home at a time after the commencement of this item.

National Health Amendment (Lifetime Health Cover) Act 1999 (No. 130, 1999)

4 Review of operation of Act

(1) The Minister must cause an independent review of the Lifetime Health Cover Scheme to be undertaken as soon as practicable after the third anniversary of the commencement of this Act.

(2) A person who undertakes such a review must give the Minister a written report of the review.

(3) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament not later than 31 December 2003.

(4) In this section:

***independent review*** means a review undertaken by persons who:

(a) in the Minister’s opinion possess appropriate qualifications to undertake the review; and

(b) include one or more persons who are not employed by a registered organization, the Commonwealth or a Commonwealth authority and have not, since the commencement of this Act, provided services to a registered organization, the Commonwealth or a Commonwealth authority under or in connection with a contract.

Health Legislation Amendment Act (No. 3) 1999 (No. 159, 1999)

Schedule 1

13 Transitional provision

The Register of Health Benefits Organizations maintained in accordance with subsection 73(2AA) of the *National Health Act 1953* is to be transferred, on the date of commencement of this Schedule, to the Council so that the Council can, on and after that date, comply with the requirements of that subsection in relation to any organizations in respect of which the Council grants an application for registration.

21 Saving and transitional provisions

(1) Any term or condition of registration imposed by the Minister under section 73 or 73B of the *National Health Act 1953* that is in force immediately before the commencement of this Schedule has effect, on and after that commencement, as if it were a term or condition imposed by the Minister under section 73B as amended by this Act. However, subsections 73B(1A) and (2) do not apply to the imposition of a term or condition originally imposed under section 73.

(2) A form of record approved by the Secretary for the purposes of paragraph 73A(1)(b) of the *National Health Act 1953* as in force immediately before the commencement of this Schedule has effect, on and after that commencement, as if it were a form of record approved by the Council for the purposes of that paragraph as amended by this Act.

51 Saving provision pending establishment of new prudential standards

(1) In this item:

***new prudential standards day*** has the same meaning as in subsection 4(1) of the Principal Act as amended by this Act.

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

(2) Despite the insertion of paragraph 72A(ca) of the Principal Act by item 11, the Principal Act continues to have effect until the new prudential standards day as if that insertion had not been made.

52 Other saving and transitional provisions

(1) The registration of a registered organization that was in force immediately before the commencement of this Schedule continues in force, subject to the provisions of the *National Health Act 1953*, on and after that commencement, as if that registration had been granted by the Council under the *National Health Act 1953* as amended by this Schedule.

(2) If, before the commencement of this Schedule:

(a) an application by an organization for registration as a health benefits organization had been lodged with the Secretary; but

(b) the application had not been referred to the Registration Committee as constituted in accordance with the *National Health Act 1953* as in force before that commencement;

the Secretary must refer the application and all supporting documents and information to the reconstituted Registration Committee to be considered and dealt with as if it were an application made after the commencement of this Schedule.

(3) If, before the commencement of this Schedule:

(a) an application by an organization for registration as a health benefits organization had been referred to the old Registration Committee; but

(b) the Committee had not made a report under section 72 of the *National Health Act 1953*;

the Secretary must arrange for the application to be transferred to the reconstituted Registration Committee for the purpose of preparation of a report as if the application were an application made after the commencement of this Schedule and the reconstituted committee may, for that purpose, undertake such further inquiry (if any) as it considers necessary.

(4) If, before the commencement of this Schedule:

(a) a report had been made to the Minister concerning the application by an organization for registration as a health benefits organization by the old Registration Committee; but

(b) the Minister had not considered that report;

the Minister must refer the report to the Council and the Council must deal with the matter as if it were a report duly made to the Council by the reconstituted Registration Committee.

(5) In this item:

***old Registration Committee*** means the registration committee constituted in accordance with the *National Health Act 1953* as in force before the commencement of this Schedule.

***reconstituted Registration Committee*** means the registration committee constituted in accordance with the *National Health Act 1953* as in force after the commencement of this Schedule.

Schedule 2

43 Transitional provision

Any delegation in force under section 82X of the *National Health Act 1953* immediately before the commencement of Part 1 of this Schedule has effect, on and after that commencement, as if it were a delegation in force under that section as renumbered.

45 Transitional provision

Any proceedings commenced but not completed under section 82Y of the *National Health Act 1953* as in force before the commencement of Part 1 of this Schedule have effect, on and after that commencement, as if they were proceedings that had been commenced under that section as renumbered.

49 Transitional provision relating to persons holding office as administrator under State or Territory law on commencement of item 46

(1) If a person has been appointed as administrator of a registered organization under a law of a State or Territory and holds office as such an administrator immediately before the commencement of Part 1 of this Schedule, then, despite sections 82QC and 82XB of the *National Health Act 1953* as in force after that commencement and subject to subitems (2) and (3), that administrator may continue to conduct the administration as if the law of that State or Territory relating to the administration of that registered organization had not ceased.

(2) If the Council appoints a person as administrator of a registered organization while an administration to which subitem (1) applies is continuing, then, with effect from the appointment of that person as administrator, the administration to which subitem (1) applies ceases.

(3) If the Council appoints a person as administrator of a health benefits fund while an administration to which subitem (1) applies is continuing, then, with effect from the appointment of that person as administrator, the administration to which subitem (1) applies has effect as if it were an administration only of such of the business of the conducting organization as relates to matters other than the business of the fund.

50 Transitional provision relating to applications for judicial management or winding up

(1) If an application has been made under section 82Z of the *National Health Act 1953* as in force before the commencement of Part 1 of this Schedule for the judicial management of the fund of a registered organization but the Court has not, before that commencement, appointed a judicial manager, that application lapses with effect from that commencement.

(2) If, on an application for the judicial management of the fund of a registered organization made under section 82Z of the *National Health Act 1953* as in force before the commencement of Part 1 of this Schedule, a person has, before that commencement, been duly appointed by the Court, sections 82Z to 82ZM of the *National Health Act* *1953* as so in force continue to apply in relation to that judicial management, and to any orders of the Court that may be sought by that judicial manager, on and after the commencement of Part 1 of this Schedule, as if those sections had not been repealed.

(3) If an application has been made under section 82Z of the *National Health Act 1953* as in force immediately before the commencement of Part 1 of this Schedule for the winding up of the fund conducted by a registered organization, sections 82Z to 82ZM of that Act as so in force continue to apply in relation to that winding up, on and after that commencement, as if those sections had not been repealed.

(4) In this item:

***Court*** means the Federal Court of Australia.

51 Saving provisions relating to new prudential standards

(1) In this item:

***new prudential standards day*** has the same meaning as in subsection 4(1) of the Principal Act as amended by this Act.

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

(2) Despite the repeal of section 73BAB of the Principal Act by item 3:

(a) that section is taken to have continued in force in relation to registered organizations until the new prudential standards day as if it had not been so repealed; and

(b) any regulation or other subordinate instrument made under or for the purposes of that section that was in force immediately before the repeal of the section continues in force until the new prudential standards day unless, before that day, that regulation is disallowed, or that regulation or other instrument is revoked or varied in accordance with the section as so continued in force.

(3) Despite the repeal of section 73BAC of the Principal Act by item 3:

(a) that section is taken to have continued in force in relation to registered organizations until the new prudential standards day as if it had not been so repealed; and

(b) any exemption under that section that was in force immediately before the repeal of the section continues to have effect, according to its tenor, until the end of the period specified in the exemption or until the new prudential standards day, whichever first occurs, unless that exemption is earlier revoked under the section as so continued in force; and

(c) any application for such an exemption made before the repeal of the section that had not been dealt with before the repeal is to be dealt with, on and after the repeal, in accordance with the section as continued in force.

(4) Despite:

(a) the amendment of subsection 73BEB(1) of the Principal Act by item 5; and

(b) the repeal of paragraph 82G(1)(c) of the Principal Act by item 8; and

(c) the repeal of paragraph 82G(1)(q) of the Principal Act by item 11;

the Principal Act continues to have effect, until the new prudential standards day, as if that amendment and those repeals had not been made.

(5) Despite the repeal of paragraphs 82G(1)(f) and (g) of the Principal Act by item 10, the Principal Act continues to have effect until the new prudential standards day as if item 10 had not repealed and replaced those provisions but had provided instead solely for the repeal of subparagraph 82G(1)(g)(ii) and the substitution of the following subparagraph:

(ii) to take such action as is appropriate;

64 Regulations dealing with transitional etc. matters

The Governor‑General may make regulations dealing with matters of a transitional, saving or application nature relating to the amendments and repeals made by this Part.

Health Legislation Amendment (Gap Cover Schemes) Act 2000 (No. 72, 2000)

4 Review of operation of Act

(1) The Minister must cause an independent review of the operation of gap cover schemes to be undertaken as soon as practicable after 1 July 2002.

(2) A person who undertakes such a review must give the Minister a written report of the review.

(3) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament not later than 31 December 2002.

(4) In this section:

***independent review*** means a review undertaken by persons who:

(a) in the Minister’s opinion possess appropriate qualifications to undertake the review; and

(b) include one or more persons who are not employed by a registered organization, the Commonwealth or a Commonwealth authority and have not, since the commencement of this Act, provided services to a registered organization, the Commonwealth or a Commonwealth authority under or in connection with a contract.

National Health Amendment Act (No. 1) 2000 (No. 75, 2000)

Schedule 1

9 Saving

A rule made under paragraph 99L(1)(a) of the *National Health Act 1953* that is in force immediately before the commencement of this item is taken to be a rule made under subsection 99L(1) of that Act (as substituted by this Act).

12 Application

The repeal of Division 4C of Part VII of the *National Health Act 1953* made by item 11 applies in relation to:

(a) payments of isolated pharmacy allowance and remote pharmacy allowance in respect of periods commencing on or after 1 July 2000; and

(b) payments of professional allowance in respect of the provision of professional services on or after 1 July 2000.

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)

Schedule 2

418 Transitional—pre‑commencement offences

(1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:

(a) an offence committed before the commencement of this item; or

(b) proceedings for an offence alleged to have been committed before the commencement of this item; or

(c) any matter connected with, or arising out of, such proceedings;

as if the amendment or repeal had not been made.

(2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre‑commencement notices

If:

(a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and

(b) any or all of those other provisions are repealed by this Schedule; and

(c) the first‑mentioned provision is amended by this Schedule;

the amendment of the first‑mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

Health Legislation Amendment Act (No. 1) 2001 (No. 6, 2001)

4 Application of amendment made by Schedule 2

The amendment made by Schedule 2 applies in relation to the disclosure of information on or after the commencement of that Schedule.

5 Application of amendments made by Schedule 4

The *National Health Act 1953* as amended by Schedule 4 applies to any changes intended to come into effect at or after the commencement of Schedule 4, including changes notified to the Secretary before the commencement of Schedule 4.

Health and Aged Care Legislation Amendment (Application of Criminal Code) Act 2001 (No. 111, 2001)

4 Application of amendments

(1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.

(2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001   
(No. 159, 2001)

Schedule 1

97 Application of amendments

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.

National Health Amendment (Private Health Insurance Levies) Act 2003  
(No. 69, 2003)

Schedule 1

29 Saving of existing Ministerial principles

(1) This item applies if:

(a) principles determined by the Minister under subsection 73BC(5B) of the National Health Act were in force immediately before 1 July 2004; and

(b) the principles were principles for determining the method of, and the matters to be taken into account in, calculating the amounts to be paid into the Reinsurance Trust Fund by registered health benefits organizations.

(2) The principles:

(a) continue in force despite the amendment made by item 19 of this Schedule to section 73BC of the National Health Act; and

(b) apply for the purpose of determining the rate of the Reinsurance Trust Fund levy imposed on a levy day but only until the principles are varied under that section.

(3) In this item:

***levy day*** means:

(a) a Reinsurance Trust Fund levy day specified in the regulations made for the purposes of section 6 of the *Private Health Insurance (Reinsurance Trust Fund Levy) Act 2003*; or

(b) a supplementary Reinsurance Trust Fund levy day specified in a determination by the Minister under section 6 of that Act.

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

***Reinsurance Trust Fund*** means the Health Benefits Reinsurance Trust Fund established by subsection 73BC(2) of the National Health Act.

***Reinsurance Trust Fund levy*** means a Reinsurance Trust Fund levy imposed on registered health benefits organizations under section 6 of the *Private Health Insurance (Reinsurance Trust Fund Levy) Act 2003*.

***registered health benefits organization*** means an organization registered under Part VI of the National Health Act for the purpose of conducting a health benefits fund.

Health Legislation Amendment (Private Health Insurance Reform) Act 2004  
(No. 1, 2004)

Schedule 1

17 Saving provisions

(1) Any determinations made for the purposes of subsection 73BA(2A) of the *National Health Act 1953* that were in force immediately before the day of commencement of item 16 of this Schedule continue in force, on and after that day, as if they had been made under and for the purposes of subsection 73AAG(2) of that Act as amended by item 10 of this Schedule.

(2) Any determinations made for the purposes of subsection 73BA(4) of the *National Health Act 1953* that were in force immediately before the day of commencement of item 16 of this Schedule continue in force, on and after that day, as if they had been made under and for the purposes of subsection 73AAG(4) of that Act as amended by item 10 of this Schedule.

28A Saving provision

A form approved by the Minister under subsection 78(1C) of the *National Health Act 1953* that was in force immediately before the day of commencement of item 27 of this Schedule continues in force, on and after that day, as if it had been approved by the Minister under and for the purposes of subsection 78(2) of that Act as amended by item 27 of this Schedule.

54 Application and transitional provisions

(1) The amendments made by Part 2 of this Schedule apply in relation to:

(a) any complaint in relation to a registered organization:

(i) that is made to the Health Insurance Ombudsman under section 82ZS of the *National Health Act 1953* on or after the day on which this Act receives the Royal Assent; or

(ii) that is made to the Health Insurance Ombudsman under that section before that day but that is not acted on before that day; or

(b) any investigation of the practices and procedures of a registered organization that is commenced by the Health Insurance Ombudsman on his or her own initiative under section 82ZT of that Act on or after the day on which this Act receives the Royal Assent; or

(c) any investigation of the practices and procedures of a registered organization:

(i) that is the subject of a request by the Minister made under section 82ZTA of that Act on or after the day on which this Act receives the Royal Assent; or

(ii) that is the subject of such a request made before that day but that has not been acted on before that day.

(2) The provisions of the *National Health Act 1953* continue to apply in relation to:

(a) any complaint made to the Health Insurance Ombudsman under section 82ZS of the *National Health Act 1953* that is not covered by paragraph (1)(a); or

(b) any investigation of the practices and procedures of a registered organization commenced by the Health Insurance Ombudsman on his or her own initiative under section 82ZT of that Act that is not covered by paragraph (1)(b); or

(c) any investigation of the practices and procedures of a registered organization commenced by the Health Insurance Ombudsman at the request of the Minister under section 82ZTA of that Act that is not covered by paragraph (1)(c);

as if the amendments made by Part 2 of this Schedule had not been made.

59 Saving provision

Despite the amendment of clause 1 of Schedule 2 to the *National Health Act 1953* made by item 58 of this Schedule, clause 1 of Schedule 2 to the *National Health Act 1953* as in force immediately before that amendment comes into effect continues to apply in relation to a person who first takes out hospital cover before the day on which that item comes into effect as if that amendment had never been made.

64 Saving provisions

(1) Any regulations made for the purposes of subclause 4(2) of Schedule 2 to the *National Health Act 1953* that were in force immediately before the day of commencement of item 63 of this Schedule continue in force, on and after that day, as if they had been made under and for the purposes of paragraph 4(2)(b) of that Schedule as amended by that item.

(2) Despite the amendment made by item 63 of this Schedule, if, in respect of any period between 1 July 2000 and the commencement of that amendment, the base rate of hospital cover provided by a registered organization to a person who is holding, or has held, a gold card has been increased in accordance with clause 1 of Schedule 2 to the *National Health Act 1953*, that increase is taken to have been validly applied in relation to that period.

(3) In this item:

***gold card*** has the same meaning as it has for the purposes of subclause 4(3) of Schedule 2 to the *National Health Act 1953*.

73 Transitional provisions

(1) If an adult beneficiary:

(a) enters Australia as a new arrival to whom paragraph 5(1)(cb) of Schedule 2 to the *National Health Act 1953* applies; and

(b) the adult beneficiary has hospital cover immediately before the special categories amendment day; and

(c) the base rate of that hospital cover has been increased in accordance with clause 1 of Schedule 2 to the *National Health Act 1953*;

then, with effect from the special categories amendment day, the base rate of hospital cover is to be altered to the rate that would have applied if that cover had been obtained before the adult beneficiary had turned 31 years of age.

(2) If:

(a) an adult beneficiary is a person to whom paragraph 5(1)(e) of Schedule 2 to the *National Health Act 1953* applies; and

(b) the adult beneficiary returned to Australia before the special categories amendment day; and

(c) the adult beneficiary had hospital cover immediately before the special categories amendment day; and

(d) the base rate of that hospital cover has been increased in accordance with clause 1 of Schedule 2 to the *National Health Act 1953*;

then, with effect from the special categories amendment day, the base rate of hospital cover is to be altered to the rate that would have applied if that cover had been obtained before the adult beneficiary had turned 31 years of age.

(3) In this item:

***adult beneficiary*** has the same meaning as in subsection 4(1) of the *National Health Act 1953*.

***base rate*** has the same meaning as in subclause 1(2) of Schedule 2 to the *National Health Act 1953*.

***hospital cover*** has the same meaning as in clause 4 of Schedule 2 to the *National Health Act 1953*.

***special categories*** ***amendment day*** has the same meaning as in subclause 5(3) of Schedule 2 to the *National Health Act 1953*.

(4) A reference in this item to the return to Australia of an adult beneficiary is to be construed in the same manner as that reference is construed for the purposes of clause 5 of Schedule 2 to the *National Health Act 1953*.

Health and Ageing Legislation Amendment Act 2004 (No. 50, 2004)

Schedule 1

10 Saving current special arrangements

(1) A special arrangement that, immediately before the commencement of this Part, was in force under section 100 of the *National Health Act 1953* is taken to be, immediately after that commencement, in force under that section as in force immediately after that commencement.

(2) This item does not prevent a special arrangement covered by subitem (1) from being varied or revoked by the Minister after the commencement of this Part.

35 Application

The amendment of subsections 98(2), (3) and (3A) and 98AA(2) and (3) of the *National Health Act 1953* made by this Schedule applies to cancellation for stopping, after the commencement of this item:

(a) the carrying on of a business; or

(b) a practice; or

(c) the conduct of a hospital.

National Health Amendment (Pharmaceutical Benefits—Budget Measures) Act 2004 (No. 119, 2004)

Schedule 1

24 Transitional provision relating to section 99G

The indexed amount for an amount to be indexed under section 99G of the *National Health Act 1953* on 1 January 2006 is to be worked out as if:

(a) the amount to be indexed were the current figure for the purposes of the formula in subsection (3) of that section; and

(b) the index number for the September quarter in 2004 were the previous index number for the purposes of the formula in subsection (4) of that section.

Private Health Insurance Incentives Amendment Act 2005 (No. 9, 2005)

Schedule 2

3 Application of amendment

The amendment made by item 2 of this Schedule applies to a card held in respect of a period beginning on or after 1 July 2004.

National Health Amendment (Prostheses) Act 2005 (No. 31, 2005)

Schedule 1

8 Application of item 7

(1) Section 73BDAAA of the *National Health Act 1953* (as inserted by item 7 of this Schedule) applies in relation to a hospital purchaser‑provider agreement made after the commencement of this Schedule.

(2) That section (other than subsection (6) of that section) also applies in relation to a hospital purchaser‑provider agreement made before the commencement of this Schedule, but only if the agreement is in force immediately before that commencement.

12 Review of operation of this Schedule

(1) The Minister must cause an independent review of the operation of the amendments made by this Schedule to be undertaken as soon as practicable after 1 July 2007.

(1A) The review must include:

(a) an assessment of the adequacy of informed financial consent arrangements; and

(b) an examination of the extent of out‑of‑pocket costs experienced by patients for clinically appropriate prostheses.

(2) A person who undertakes such a review must give the Minister a written report of the review not later than 1 October 2007.

(3) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

(4) In this item:

***independent review*** means a review undertaken by persons who:

(a) in the Minister’s opinion possess appropriate qualifications to undertake the review; and

(b) include one or more persons who are not and have not been in the last 5 years employed by a registered organization, the Commonwealth or a Commonwealth authority and have not, since the commencement of this Act, provided services to a registered organization, the Commonwealth or a Commonwealth authority under or in connection with a contract.

National Health Amendment (Immunisation Program) Act 2005 (No. 140, 2005)

Schedule 1

9 Transition to full‑time office—Chairperson of the Pharmaceutical Benefits Advisory Committee

(1) This item applies to a person who was the Chairperson of the Pharmaceutical Benefits Advisory Committee immediately before the commencement of this item.

(2) After the commencement of this item, the person is taken to hold office as Chairperson of the Pharmaceutical Benefits Advisory Committee on a full‑time basis.

(3) Subitem (2) does not prevent the person from ceasing to hold that office.

National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Act 2005 (No. 151, 2005)

Schedule 1

13 Application

The amendments made by this Schedule apply to an early supply of a specified pharmaceutical benefit made on or after 1 January 2006, regardless whether it is an early supply of a specified pharmaceutical benefit because of another supply of a pharmaceutical benefit or repatriation pharmaceutical benefit that was made before 1 January 2006.

Health Legislation Amendment (Pharmacy Location Arrangements) Act 2006 (No. 37, 2006)

Schedule 2

13 Application

The amendments of section 90 of the *National Health Act 1953* made by this Part apply to an application for approval under that section made on or after 1 July 2006.

Australian Participants in British Nuclear Tests (Treatment) (Consequential Amendments and Transitional Provisions) Act 2006 (No. 136, 2006)

Schedule 2

1 Claims made on or after 19 June 2006—eligibility to be provided with treatment

(1) If:

(a) a person made a claim on or after 19 June 2006 but before the commencement of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*; and

(b) had the claim been made after that commencement, it would have been a claim made, in accordance with section 6 of that Act, for a determination that he or she is an eligible person (within the meaning of that Act);

the claim is taken, for the purposes of that Act, to be a claim made under section 8 of that Act for such a determination.

(2) The Commission may, under section 13 of that Act, approve the provision of treatment that was provided before the claim was made, but must not approve the provision of treatment that was provided before 19 June 2006.

2 Claims made on or after 19 June 2006—entitlement to travelling expenses

(1) If:

(a) a person made a claim on or after 19 June 2006 but before the commencement of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*; and

(b) had the claim been made after that commencement, it would have been a claim made, in accordance with section 6 of that Act, for a determination that he or she is entitled to be paid travelling expenses under Part 3 of that Act;

the claim is taken, for the purposes of that Act, to be a claim made under section 21 of that Act for such a determination.

(2) The person can, under Part 3 of that Act, be entitled to be paid travelling expenses in connection with travel that occurred before the claim was made, but not in connection with travel that occurred before 19 June 2006.

National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007 (No. 111, 2007)

Schedule 1

94 Transitional provision—determination under subsection 84C(7) of the *National Health Act 1953*

A determination in force immediately before the commencement of this Schedule under subsection 84C(7) of the *National Health Act 1953* is taken to have been made under that subsection as in force immediately after that commencement.

95 Application of amendments to section 85 of the *National Health Act 1953*

The amendments made by this Schedule to section 85 of the *National Health Act 1953* apply to declarations or determinations under that section that come into force on and after the commencement of this Schedule.

96 Transitional provision—determinations under subsection 85(6) of the *National Health Act 1953*

(1) This item applies if, on the day before this Schedule commences, a determination (the ***brand determination***) under subsection 85(6) of the *National Health Act 1953* was in force in relation to a drug or medicinal preparation (the ***drug***) in a form in relation to which a declaration under subsection 85(2), and a determination under subsection 85(3), of that Act was in force on that day.

(2) The brand determination is taken to have been in force on that day in relation to a pharmaceutical item that has the drug in that form for the purposes of the following:

(aa) subsections 85AB(4) and (5);

(a) subsections 99ACB(1), (5) and (6);

(b) subsection 99ACC(1);

(c) subsections 99ACD(1), (5) and (7);

(d) subsections 99ACE(2), (3) and (4);

(e) subsections 99ACF(1) and (2);

(f) subsection 99ADD(1);

(g) subsection 99AEC(2).

(3) If the determination day or reduction day referred to in subsection 99ACB(1), 99ACC(1), 99ACD(1), 99ADD(1) or 99AEC(2) is the day this Schedule commences, then:

(a) subparagraphs 99ACC(1)(e)(ii) and 99ACD(1)(c)(iv) are to be disregarded; and

(b) subparagraphs 99ACB(1)(c)(iii), 99ADD(1)(d)(iii) and 99AEC(2)(c)(iii) are to be disregarded to the extent that they refer to the manner of administration of a pharmaceutical item.

97 Application of amendments relating to prescriptions

The amendments made by this Schedule that insert subsections 4(2), 84(1B), 88(1AA), 88(1B) and 88(8) of the *National Health Act 1953* apply to prescriptions written on and after the commencement of this Schedule.

98 Application of amendments to section 84AAA of the *National Health Act 1953*

The amendments made by this Schedule to section 84AAA of the *National Health Act 1953* apply in relation to supplies made on or after the commencement of this Schedule of pharmaceutical benefits that have pharmaceutical items that are specified in a legislative instrument made under that section on or after the commencement of this Schedule.

99 Transitional provision—approved price to pharmacists, agreed price, determined price and claimed price

Approved price to pharmacists

(1) If the determination day or reduction day referred to in subsection 99ACB(5) or (6), 99ACD(5) or (7), 99ACE(2) or 99ACF(2) of the *National Health Act 1953* is the day this Schedule commences, then the reference in those subsections to the approved price to pharmacists on the day (the ***relevant day***) before the determination day or reduction day is a reference to the approved price to pharmacists within the meaning of subsection 98B(3) of that Act as in force on the relevant day.

Agreed price

(2) If the reduction day referred to in subsection 99ACC(2), 99ACE(3) or 99ACF(1) of the *National Health Act 1953* is the day this Schedule commences, then the reference in those subsections to the agreed price on the day (the ***relevant day***) before the determination day or reduction day is a reference to the amount that is:

(a) referred to in paragraph (a) of the definition of ***approved price to pharmacists*** in subsection 98B(3) of that Act as in force on the relevant day; and

(b) in force on the relevant day.

Determined price

(3) If the reduction day referred to in subsection 99ACE(4) or 99ACF(1) of the *National Health Act 1953* is the day this Schedule commences, then the reference in those subsections to the determined price on the day before the reduction day is a reference to the amount that is:

(a) specified in a determination under paragraph 85B(1)(d) of that Act as in force on the day before the reduction day; and

(b) in force on the day before the reduction day.

Claimed price

(4) If the reduction day referred to in subsection 99ACE(2), 99ACE(4), 99ACF(1) or 99ACF(2) of the *National Health Act 1953* is the day this Schedule commences, then the reference in those subsections to the claimed price on the day before the reduction day is a reference to the amount that is:

(a) specified in a determination under paragraph 85B(1)(e) of that Act as in force on the day before the reduction day; and

(b) in force on the day before the reduction day.

99A Transitional provision—approved price to pharmacists

If the determination day or reduction day referred to in subsection 99ACD(6) or 99ACE(5) of the *National Health Act 1953* is a day that is on or after this Schedule commences, then the reference in those subsections to the approved price to pharmacists on a day (the ***relevant day***) before the determination day or reduction day is a reference to the approved price to pharmacists within the meaning of subsection 98B(3) of that Act as in force on the relevant day.

100 Transitional provision—agreements under section 98B

An agreement:

(a) referred to in paragraph (a) of the definition of ***approved price to pharmacists*** in subsection 98B(3) of the *National Health Act 1953* as in force immediately before the commencement of this Schedule; and

(b) that is in force immediately before that commencement;

continues in force, and may be dealt with, as if it had been made under section 85AD of that Act as inserted by this Schedule.

National Health Amendment (Pharmaceutical Benefits) Act 2007   
(No. 169, 2007)

Schedule 2

21 Application

(1) The amendments made by this Schedule to section 98 of the *National Health Act 1953* apply on and after the commencement of this Schedule to approvals granted under section 90 of that Act before, on or after that commencement.

(2) The other amendments made by this Schedule apply to approvals granted under section 90 of the *National Health Act 1953* on or after the commencement of this Schedule.

National Health Amendment (Pharmaceutical Benefits Scheme) Act 2008   
(No. 49, 2008)

Schedule 1

6 Application of amendments

The amendments made by this Schedule apply in relation to determinations under subsection 84AE(3), (3A) or (3B) of the *National Health Act 1953* (as amended by this Schedule) that are made:

(a) on or after the commencement of this Schedule; and

(b) in relation to brands that, before or after that commencement, are listed brands, or co‑marketed brands, of a pharmaceutical item.

Schedule 3

3 Application

The amendments made by this Schedule apply in relation to relevant entitlement periods beginning on or after 1 January 2009.

Schedule 4

6 Application

The amendments made by items 4 and 5 of this Schedule apply to determinations made on or after the day on which this Schedule commences.

National Health Amendment (Continence Aids Payment Scheme) Act 2010  
(No. 68, 2010)

Schedule 1

3 Transitional provisions for CAA Scheme

(1) This item applies to a person who was receiving assistance under the scheme known as the Continence Aids Assistance Scheme (***CAA Scheme***) immediately before 1 July 2010.

(2) If the person gives the following to the Medicare Australia CEO before 30 November 2010, the person is taken to participate, and to be eligible to participate, in the Continence Aids Payment Scheme (***CAP Scheme***):

(a) a transfer form, in the form authorised by the Secretary (whether before or after this item commences); and

(b) the details of a bank account into which payments under the CAP Scheme are to be made.

(3) That person is entitled to receive a payment under the CAP Scheme, for the financial year starting on 1 July 2010.

(4) Until 1 July 2011, the Medicare Australia CEO cannot decide that the person is not eligible to participate in the CAP scheme.

(5) In this item, ***bank account*** means an account at an authorised deposit‑taking institution within the meaning of the *Banking Act 1959*.

National Health Amendment (Pharmaceutical Benefits Scheme) Act 2010  
(No. 126, 2010)

Schedule 4

20 Application provision

(1) The amendments made by items 2, 12 and 19 of this Schedule apply in relation to supplies of brands of pharmaceutical items occurring on or after the commencement of this item.

(2) The amendments made by items 7 to 9 and 13 to 17 of this Schedule apply if the period in respect of which the weighted average disclosed price of the relevant brand of the relevant pharmaceutical item is determined ends on or after the commencement of this item.

Schedule 6

30 Definitions

In this Part:

***commencement*** means the commencement of this Schedule.

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

31 Application of amendments

The amendments made by this Schedule apply on and after commencement in relation to:

(a) declarations or determinations that are made on or after commencement under section 85 of the main Act(including declarations or determinations that are made in relation to a drug or medicinal preparation that is covered by special arrangements that were made before commencement under section 100 of the main Act); and

(b) special arrangements that are made on or after commencement under section 100 of the main Act.

32 Transitional provisions relating to legislative instruments made before commencement

(1) If the legislative instrument that:

(a) is known as “Instrument Number PB 14 of 2010”; and

(b) was registered on 17 March 2010 under the Federal Register of Legislative Instruments established under the *Legislative Instruments Act 2003* (registration number F2010L00659);

is in force immediately before commencement, then, on and after commencement, the drugs and medicinal preparations (the ***drugs***) that are specified in Schedule 6 to that instrument are to be treated (and may be dealt with) as if a declaration had been made in relation to the drugs under subsections 85(2) and (2A) of the main Act.

(2) If the legislative instrument that:

(a) is known as “Instrument Number PB 41 of 2010”; and

(b) was registered on 30 April 2010 under the Federal Register of Legislative Instruments established under the *Legislative Instruments Act 2003* (registration number F2010L01083);

is in force immediately before commencement, then, on and after commencement, the drug or medicinal preparation (the ***drug***) specified in Schedule 1 to that instrument is to be treated (and may be dealt with) as if a declaration had been made in relation to the drug under subsections 85(2) and (2A) of the main Act.

(3) If a legislative instrument that was made under subsection 85(2A) of the main Act is in force immediately before commencement, then, on and after commencement, that legislative instrument is to be treated (and may be dealt with) as if it had been made under subsection 85(7) of the main Act.

33 Transitional provisions relating to PBAC advice or recommendations given before commencement

(1) If, before commencement, the Minister had obtained the advice of the Pharmaceutical Benefits Advisory Committee under subsection 85(2AB) of the main Actin relation to a proposed revocation or variation under subsection 85(2AA) of that Act, then, on and after commencement, that advice is to be treated (and may be dealt with) as if:

(a) it had been obtained under subsection 101(4AAB) of that Act; and

(b) it related to a proposed revocation or variation under subsection 101(4AAA) of that Act.

(2) If, before commencement, the Pharmaceutical Benefits Advisory Committee had recommended under paragraph 100AA(4)(a) of the main Act that the Minister make a declaration in relation to a drug or medicinal preparation under subsection 100AA(2) of that Act, then, on and after commencement, that recommendation is to be treated (and may be dealt with) as if:

(a) it had been obtained under subsections 101(4) and (4AAD) of that Act; and

(b) it related to declarations under subsections 85(2) and (2A) of that Act.

(3) If, before commencement, the Minister had obtained the advice of the Pharmaceutical Benefits Advisory Committee under subsection 100AA(5) of the main Act in relation to the revocation or variation of a declaration under subsection 100AA(2) of that Act, then, on and after commencement, that advice is to be treated (and may be dealt with) as if:

(a) it had been obtained under subsection 101(4AAB) of that Act; and

(b) it related to a revocation or variation of a declaration under subsection 85(2) of that Act.