**NATIONAL HEALTH AMENDMENT ACT 1976**

**No. 60 of 1976**

An Act to amend the National Health Act 1953-1975, as amended by the National Health Act 1976, and for purposes connected therewith.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

**Short title and citation.**

**1.** (1) This Act may be cited as the National Health Amendment Act 1976.

(2) The National Health Act 1953-1975, as amended by the National Health Act 1976,is in this Act referred to as the Principal Act.

(3) Section 1 of the National Health Act 1976 is amended by omitting sub-section (3).

(4) The Principal Act, as amended by this Act, may be cited as the National Health Act 1953-1976.

**Commencement.**

**2.** (1) Sections 1, 2, 28, 31, 41 and 42 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 1 October 1976.

**Interpretation.**

**3.** Section 4 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “approved” and substituting the following definition:—

“‘approved’, in relation to a nursing home, means approved, or deemed to be approved, under Division 2 of Part V, and ‘approval’ has a corresponding meaning;

(b) by inserting in sub-section (1), after the definition of “Committee of Inquiry”, the following definitions:—

“‘contributor’, in relation to a medical benefits fund or a hospital benefits fund conducted by a registered organization, means a person who is a contributor to that fund in accordance with the rules of that organization;

‘dependant’, in relation to a contributor to a medical benefits fund or a hospital benefits fund conducted by a registered organization, means a person who is a dependant of that contributor in accordance with the rules of that organization;”;

(c) by omitting from sub-section (1) the definition of “gross fees” and substituting the following definition:—

“‘gross fees’, in relation to the nursing home care of a qualified nursing home patient, means the amount of fees that would be payable by or on behalf of the patient to the proprietor of the home in respect of the care without deduction of the amount of Commonwealth benefit under Part V or of any nursing home fund benefit;

(d) by omitting from sub-section (1) the definitions of “hospital”, “hospital fund benefit” and “hospital treatment”;

(e) by omitting from sub-section (1) the definitions of “medical practitioner” and “nursing care”;

(f) by omitting the definition of “professional attention”;

(g) by omitting the definition of “proprietor” and substituting the following definition:—

“‘proprietor’ means—

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

(b) in relation to a private nursing home—the owner of the business or undertaking carried on at the nursing home; ”;

(h) by omitting from sub-section (1) the definition of “qualified hospital patient”;

(i) by omitting from the definition of “registered hospital benefits organization” in sub-section (1) the words “for the purposes of Part V of this Act” and substituting the words “for the purpose of conducting a hospital benefits fund or hospital benefits funds”;

(j) by omitting from the definition of “registered medical benefits organization” in sub-section (1) the words “for the purposes of Part III of this Act” and substituting the words “for the purpose of conducting a medical benefits fund or medical benefits funds”;

(k) by omitting from sub-section (1) the definition of “registered nurse”;

(l) by omitting from sub-section (1) the definition of “Territory” and substituting the following definitions:—

“‘Territory’ means an internal Territory;

‘the standard hospital benefits table’ or ‘the standard table’ means, in relation to a registered hospital benefits organization, in respect of a State or Territory—benefits of the following kinds:—

(a) benefits equal to the fees charged for the provision of hospital treatment in a recognized hospital in that State or Territory in respect of a private patient in other than a single room, being a patient who is not entitled to receive compensation or damages in respect of the cost of that hospital treatment;

(b) in respect of professional services rendered to persons as in-patients of a recognized hospital by medical practitioners employed by, or under arrangements made by, the hospital—benefits equal to the charges made by the hospital for the provision of those services to patients who are not entitled to receive compensation or damages in respect of the cost of those services;

(c) in the case of a State or Territory in which recognized hospitals make charges for out-patient services—benefits equal to so much of the charges made by those hospitals for the provision of those services as is equal to the charges made by the recognized hospitals in that State or Territory for the provision of services of that kind to persons who are not entitled to receive compensation or damages in respect of the cost of those services;

(d) benefits of the kind referred to in sub-section (1) of section 73c; and

(e) such other benefits (if any) as are prescribed in relation to a registered hospital benefits organization under sub-section (2) of section 73ba;

 ‘the standard medical benefits table’ or ‘the standard table’ means, in relation to a registered medical benefits organization, in respect of a State or Territory—a range of benefits corresponding to the medical benefits payable in respect of services rendered to eligible persons in that State or Territory under Part II of the Health Insurance Act 1973-1976 and such other benefits (if any) as are prescribed in relation to a registered medical benefits organization under sub-section (2) of section 73ba;”;

(m) by omitting from sub-section (1) the definition of “the common form of pensioner medical service agreement”;

(n) by omitting the definition of “the proclaimed date”;

(o) by inserting after sub-section (1) the following sub-sections:—

“(1a) In this Act, unless the contrary intention appears, a word or phrase defined for the purposes of the Health Insurance Act 1973-1976 has the meaning that it would have if used in that Act.

“(1b) For the purposes of this Act, where the Government of a State or an institution conducted by a State pays, or has paid, contributions to a hospital benefits fund conducted by a registered hospital benefits organization on behalf of a person other than a person employed by that Government or by that institution, that person shall not, by reason of the payment of those contributions, be deemed to be, or to have been, a contributor to that fund.”; and

(p) by omitting sub-sections (3) and (4).

**Repeal of Parts III and IV.**

**4.** Parts III and IV of the Principal Act are repealed.

**Heading of Part V.**

**5.** The heading of Part V is amended by omitting the word “Hospital” and substituting the words “Nursing Home”.

**Interpretation.**

**6.** Section 38 of the Principal Act is amended by omitting from sub-section (1) the definitions of “contributor” and “dependant”.

**Commonwealth benefit, &c., to cease to be payable.**

**7.** Section 38a of the Principal Act is repealed.

**Period of nursing home care**.

**8.**  Section 39 of the Principal Act is amended by omitting the words “a qualified hospital patient or of”.

**Approval of hospitals.**

**9.** Section 40 of the Principal Act is repealed.

**10.** Sections 41 to 45 (inclusive) of the Principal Act are repealed and the following sections substituted:—

**Certificate of approval.**

“41. (1) Upon the approval of premises as an approved nursing home, the Permanent Head shall cause to be issued to the proprietor of the nursing home a certificate of approval in the authorized form, being a certificate that, in the case of a nursing home that is not a Government nursing home, specifies the conditions applicable to the nursing home.

“(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.

“(4) The proprietor of an approved nursing home who applies to the Permanent Head for revocation of the approval of the nursing home, or the proprietor, or the legal personal representative of the proprietor, of an approved nursing home who gives notice to the Permanent Head in accordance with section 43, 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, the proprietor of the nursing home shall forward the certificate of approval to the Permanent Head.

Penalty: $40.

**Inspection of nursing homes.**

“42. (1) The Permanent Head may, by writing signed by him, authorize an officer or other person to inspect approved nursing homes or any premises in respect of which an application for approval under this Part has been made.

“(2) The proprietor of an approved nursing home or of premises in respect of which an application for approval under this Part has been made shall permit an officer or other person authorized under sub-section (1) to inspect the nursing home or the premises, as the case may be, at any reasonable time.

Penalty: $40.

**Notice of retirement or deat**h **of the proprietor of an approved nursing home.**

“43. (1) If the proprietor of an approved nursing home ceases to be the proprietor of the nursing home, he shall, by notice in writing, notify the Permanent Head accordingly within 1 month after that cessation.

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

Penalty: $40.

**Variation or revocation of approval by Permanent Head.**

“44. (1) The Permanent Head may, at any time, review the approval of a nursing home under this Division.

“(2) If the Permanent Head 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,

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

“(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 in respect of an approved nursing home,

the Permanent Head may revoke the approval of the nursing home.

**Review by Minister.**

“45. (1) The proprietor of an approved nursing home may, at any time, by writing signed by him, request the Minister to vary the nature of an approval under this Division.

“(2) The proprietor of premises in respect of which—

(a) an application for approval as an approved nursing home has not been granted by the Permanent Head; or

(b) approval as an approved nursing home has been revoked by the Permanent Head,

may, by writing signed by him, request the Minister to review the matter.

“(3) Upon receipt of a request under sub-section (1) or (2), the Minister shall, after such investigation of the matter as he considers necessary, either confirm the decision of the Permanent Head or grant such approval as he considers justified in the circumstances of the case.”.

**Repeal of Divisions 3, 4 and 4a.**

**11.** Divisions 3, 4 and 4a of Part V of the Principal Act are repealed.

**Additional benefit payable in respect of nursing home care.**

**12.** Section 57b of the Principal Act is amended—

(a) by omitting from sub-section (1) the words “pensioner or a dependant of a pensioner” and substituting the words “prescribed person”; and

(b) by inserting after sub-section (1) the following sub-section:—

“(1a) In sub-section (1), ‘prescribed person’ means an eligible person for the purposes of Part II of the Health Insurance Act 1973-1976, but does not include a person who is a contributor to a hospital benefits fund conducted by a registered organization, being a contributor for benefits in accordance with the standard table or benefits relating to nursing home care.”.

**Direction that additional Commonwealth benefit and fund benefit in respect of nursing home care not be subject to reduction.**

**13.** Section 57c of the Principal Act is amended by omitting from paragraph (a) the words “pensioners or dependants of pensioners” and substituting the words “prescribed persons for the purposes of sub-section (1) of section 57b”.

**14.** Section 59 of the Principal Act is repealed and the following section substituted:—

**Commonwealth benefit not payable where compensation, &c., is payable to patient.**

“59. (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 his 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 sub-section (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 sub-section (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) 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 sub-section (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.

“(5) If and when a determination under sub-section (1) is made with respect to a claim referred to in sub-section (4), the claimant is liable to repay to the Commonwealth—

(a) where, by virtue of sub-section (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 sub-section (5) is recoverable as a debt due to the Commonwealth.

“(7) In this section, ‘injury’ includes a disease.

**Monthly statement by proprietor of approved hospital.**

**15.** Section 60 of the Principal Act is repealed.

**Records to be kept by approved nursing homes.**

**16.** Section 61 of the Principal Act is repealed and the following section substituted: —

“61. 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, and shall permit those records to be inspected at any reasonable time by an officer or person authorized to make inspections of those records.

Penalty: $40”.

**Repeals of sections 63 and 64.**

**17.** Sections 63 and 64 of the Principal Act are repealed.

**Interpretation.**

**18.** Section 66 of the Principal Act is amended—

(a) by omitting the definitions of “Commonwealth benefit”, “contract arrangement” and “contributor”;

(b) by omitting the definitions of “medical benefits fund”, “medical expenses” and “medical fund benefit”;

(c) by omitting the definitions of “professional service” and “registered organization”; and

(d) by omitting sub-section (5).

**Application by organizations for registration as medical benefits organizations.**

**19.** Section 67 of the Principal Act is amended—

(a) by adding at the end of paragraph (b) of sub-section (2) the word “and”;

(b) by omitting sub-paragraphs (iii) and (iv) of paragraph (c) of sub-section (2) and substituting the following sub-paragraphs:—

“(iii) costs incurred by the organization wholly and exclusively in providing, or arranging to provide, in that State, professional services or other allied health services for contributors, or contributors included in a class of contributors, to that fund or dependants of such contributors or if, in accordance with the rules of the organization, the Northern Territory is to be treated as part of that State, incurred by the organization wholly and exclusively in providing, or arranging to provide, such services in that State and in the Northern Territory;

“(iv) such proportion of any costs incurred by the organization in the carrying on of business referred to in sub-paragraph (ii) or in providing or arranging to provide services referred to in sub-paragraph (iii), not being costs incurred wholly and exclusively in relation to such business or such activities, as is approved by the Permanent Head as being an equitable proportion; and

“(v) any amount transferred, with the approval of the Minister or in accordance with a direction of the Minister, to another fund (whether a medical benefits fund or a hospital benefits fund) conducted by the organization.”;

(c) by omitting paragraph (d) of sub-section (2);

(d) by omitting from sub-paragraph (i) of paragraph (c) of sub-section (4) the word “and”;

(e) by omitting sub-paragraph (ii) of paragraph (c) of sub-section (4) and substituting the following sub-paragraphs:—

“(ii) costs incurred by the organization in the carrying on of business as a registered medical benefits organization;

“(iii) costs incurred by the organization in providing, or arranging to provide professional services or other allied health services for contributors, or contributors included in a class of contributors, to that fund or dependants of such contributors; or

“(iv) any amount transferred, with the approval of the Minister or in accordance with a direction of the Minister, to a hospital benefits fund conducted by the organization.”; and

(f) by omitting paragraph (d) of sub-section (4).

**Application by organizations for registration as hospital benefits organizations.**

**20.** Section 68 of the Principal Act is amended—

(a) by omitting sub-paragraphs (iii) and (iv) of paragraph (c) of sub-section (2) and substituting the following sub-paragraphs:—

“(iii) costs incurred by the organization wholly and exclusively in providing, or arranging to provide, in that State professional services, hospital treatment, nursing home care, out-patient services or other allied health services for contributors, or contributors included in a class of contributors, to that fund or dependants of such contributors or if, in accordance with the rules of the organization, the Northern Territory is to be treated as part of that State, incurred by the organization wholly and exclusively in providing, or arranging to provide, such professional services, hospital treatment, nursing home care, out-patient services or other allied health services in that State and in the Northern Territory;

“(iv) such proportion of any costs incurred by the organization in the carrying on of business referred to in sub-paragraph (ii) or in providing or arranging to provide professional services, hospital treatment, nursing home care, out-patient services or other allied health services referred to in sub-paragraph (iii), not being costs incurred wholly and exclusively in relation to such business or such activities, as is approved by the Permanent Head as being an equitable proportion;

“(v) any amount paid from that fund to the Hospital Benefits Reinsurance Trust Fund in accordance with a determination of the Trustees under section 73bc; or

“(vi) any amount transferred, with the approval of the Minister or in accordance with a direction of the Minister, to another fund (whether a medical benefits fund or a hospital benefits fund) conducted by the organization.”;

(b) by omitting from sub-paragraph (i) of paragraph (c) of sub-section (4) the word “and”; and

(c) by adding at the end of paragraph (c) of sub-section (4) the following sub-paragraphs:—

“(iii) costs incurred by the organization in providing, or arranging to provide, professional services, hospital treatment, nursing home care, out-patient services or other allied health services for contributors, or contributors included in a class of contributors, to that fund or dependants of such contributors;

“(iv) any amount paid from that fund to the Hospital Benefits Reinsurance Trust Fund in accordance with a determination of the Trustees under section 73bc; or

“(v) any amount transferred, with the approval of the Minister or in accordance with a direction of the Minister, to a medical benefits fund conducted by the organization.”.

**Registration.**

**21.** Section 73 of the Principal Act is amended—

(a) by inserting after sub-section (2) the following sub-sections:—

“(2a) The Minister shall not grant an application for registration by an organization if, under the rules of the organization, enrolment of persons as contributors to the relevant fund may be refused by reason of their state of health.

“(2b) The Minister shall not grant an application for registration by a restricted membership organization unless he is satisfied that the rules of the organization restricting membership are not designed to achieve a membership having a higher level of health than the level of health of the community generally”; and

(b) by omitting sub-sections (6) and (9).

**Additional conditions of registration of organization that may be imposed.**

**22.** Section 73a of the Principal Act is amended by omitting from sub-section (1) the words “the last preceding section” and substituting the reference “section 73b”.

**23.** Section 73b of the Principal Act is repealed and the following sections are substituted:—

**Revocation, &c., of conditions imposed by Minister.**

“73b. (1) The Minister may, at any time—

(a) revoke or vary a condition imposed by the Minister as a condition to which the registration of an organization is subject; or

(b) impose a condition or a further condition as a condition to which the registration of an organization is subject.

“(2) Where the Minister revokes, varies or imposes a condition under sub-section (1) in relation to an organization, he shall, within 1 month after taking that action, publish in the Gazette a notification setting out—

(a) the name of the organization;

(b) the particulars of the action so taken, including—

(i) where a condition has been revoked—the condition so revoked;

(ii) where a condition has been varied—the condition as so varied; or

(iii) where a condition has been imposed—the condition so imposed; and

(c) the date on which the action was taken.

“(3) In this section, ‘condition’ includes a term.

**Conditions of registration.**

“73ba. (1) The registration of an organization shall be deemed to be subject to each of the following conditions:—

(a) a condition that the organization will not carry on business in Australia as a registered medical benefits organization or as a registered hospital benefits organization except in a State or Territory in respect of which it is registered as a registered medical benefits organization or a registered hospital benefits organization, as the case may be;

(b) a condition that, where the organization conducts a medical benefits fund, the organization will permit any contributor to that fund to contribute for benefits in respect of himself and his dependants (if any) in accordance with the standard medical benefits table;

(c) a condition that, where the organization conducts a hospital benefits fund, the organization will permit any contributor to that fund to contribute for benefits, in respect of himself and his dependants (if any) in accordance with the standard hospital benefits table;

(d) a condition that the amount of medical benefit or hospital benefit payable to a contributor by the organization in respect of a professional service or hospital treatment is not to exceed the amount of the fees or charges incurred in respect of that professional service or hospital treatment;

(e) a condition that, where the organization conducts a medical benefits fund, the organization will not offer to the contributors to that fund medical benefits in respect of professional services that exceed the amounts of the fees applicable to those professional services in accordance with the table of medical services in force for the purposes of the Health Insurance Act 1973-1976;

(f) a condition that the organization will not offer health insurance, whether on its own behalf or on behalf of another person or organization, under which the liability of the insurer is to pay medical benefits in respect of professional services of such amount that, if they were offered to contributors to a medical benefits fund conducted by the organization, the organization would be in breach of the condition set out in paragraph (e);

(g) a condition that, where, under the rules of the organization, the benefits to which a contributor to a medical benefits fund or a hospital benefits fund conducted by the organization, being a contributor for benefits in accordance with the standard table, is entitled are benefits in respect of services, treatment or care only if given after the expiration of a waiting period commencing on the day on which the contributor became a contributor, that waiting period does not exceed 2 months;

(h) a condition that, where there is in force, with respect to a medical benefits fund or a hospital benefits fund conducted by the organization a waiting period of the kind referred to in the condition set out in paragraph (g), that waiting period is not to apply in relation to a person who, on or before 30 November 1976, becomes a contributor to that fund in respect of the standard table;

(i) a condition that a contributor to a medical benefits fund or a hospital benefits fund conducted by the organization, being a contributor for benefits in accordance with the standard table, who ceases to pay contributions is, under the rules of the organization, to continue to be eligible for benefits, in respect of the period of 2 months commencing on the expiration of the period in respect of which he has paid contributions, as if he had not ceased to pay contributions;

(j) a condition that the organization maintain, in such form and manner as are determined by the Minister from time to time, a record of the contributors, and the dependants of the contributors, to the medical benefits fund or hospital benefits fund conducted by it or, if it conducts more than one such fund, the contributors, and the dependants of the contributors, to each of those funds;

(k) a condition that the organization will comply with any direction of the Minister under this Act served on the organization.

“(2) The regulations may provide that it is a condition of registration of a registered medical benefits organization or of a registered hospital benefits organization that the organization will permit any contributor to a medical benefits fund or hospital benefits fund conducted by the organization to contribute for such health benefits as are prescribed in relation to medical benefits funds or hospital benefits funds, as the case may be.

**Reinsurance Account in hospital benefits fund.**

“73bb. (1) It is a condition of registration of a registered hospital benefits organization that, as on and from 1 October 1976 or the date of its registration, whichever is the later, it shall establish and maintain a Reinsurance Account in the hospital benefits fund, or in each of the hospital benefits funds, from time to time conducted by it.

“(2) Where hospital benefits have been paid, or are payable, by a registered organization, in accordance with the standard table, to a contributor to a hospital benefits fund in respect of hospital treatment, or both hospital treatment and professional services, for a period of, or periods amounting in the aggregate to, 60 days in any year of the contributor—

(a) the organization may debit to the Reinsurance Account maintained by it in that fund the amounts of any payments of benefits made by it out of that fund, in accordance with the standard table, to that contributor in respect of any subsequent period in that year; and

(b) where such a debit is made—the organization shall credit to that Reinsurance Account the amounts of any contributions in respect of the standard table made by that contributor to the fund in respect of the remainder of that year after the expiration of that period of 60 days or the last of the periods amounting in the aggregate to 60 days.

“(3) A registered organization may debit to the Reinsurance Account maintained by it in a hospital benefits fund the amount of any reasonable management expenses approved by the Minister after consultation with the Trustees appointed under section 73bc.

“(4) A registered organization—

(a) shall maintain such records relating to the operation of the Reinsurance Account maintained by it in a hospital benefits fund as the Minister determines from time to time;

(b) shall keep the records referred to in paragraph (a) separate and distinct from any other records maintained by the organization; and

(c) shall furnish to the Permanent Head, at such times as the Minister determines, such information drawn from the records referred to in paragraph (a) as the Minister requires.

“(5) In this section, ‘year’, in relation to a contributor to a hospital benefits fund, means—

(a) the period of 12 months commencing on the first day after 30 September 1976 on which hospital treatment, or both hospital treatment and professional services, is or are provided for the contributor or a dependant of the contributor, being hospital treatment in respect of which hospital benefits are payable, in accordance with the standard table, to the contributor from the hospital benefits fund; or

(b) any period of 12 months commencing on the anniversary of that first day.

**Hospital Benefits Reinsurance Trust Fund.**

“73bc. (1) The purpose of this section is to make provision for registered organizations that conduct hospital benefits funds and the Commonwealth to share the burden of meeting any deficits in Reinsurance Accounts in those funds.

“(2) The Minister may appoint such number of Trustees as he considers necessary to establish and operate a Hospital Benefits Reinsurance Trust Fund.

“(3) The Trustees hold office at the pleasure of the Minister.

“(4) The property in the money in the Fund is vested in the Trustees.

“(5) The Trustees shall establish, operate and administer the Fund in accordance with principles determined by the Minister from time to time and notified to the Trustees.

“(6) It is a condition of registration of a registered hospital benefits organization that, on and after 1 October 1976 or the date of its registration, whichever is the later, it shall participate with other registered hospital benefits organizations in the operation of the Fund by making such payments into the Fund as the Trustees determine from time to time to be appropriate payments in relation to that organization.

“(7) The Commonwealth shall pay into the fund, out of such moneys as are appropriated by the Parliament from time to time for the purpose, such amounts as the Minister determines from time to time.

“(8) Where the Trustees determine an amount to be paid into the Fund by a registered hospital benefits organization, they shall notify the organization accordingly and shall specify in the notification the date on or before which the payment is to be made.

“(9) Where a registered hospital benefits organization fails to pay an amount into the Fund in accordance with a notification under sub-section (8), the Trustees may determine that, in addition to that amount, a further amount be paid into the Fund, by way of penalty, by the organization, being an amount calculated at the prescribed rate upon the first-mentioned amount, or such part of that first-mentioned amount as from time to time remains unpaid, to be computed from the time when that first-mentioned amount became payable.

“(10) Where the Trustees make a determination under sub-section (9) in relation to a registered hospital benefits organization, they shall notify the organization, in writing, accordingly.

“(11) A notification under sub-section (8) or (10) shall be served either personally or by post by the Trustees on the public officer of the organization.

“(12) For the purposes of this section, the Trustees may pay an amount out of the fund to a registered hospital benefits organization on the condition that that amount, except to the extent that the Trustees otherwise direct, be credited to the Reinsurance Account kept in a hospital benefits fund conducted by it, and the organization shall deal with that amount accordingly.

“(13) In this section—

‘Fund’ means the Hospital Benefits Reinsurance Trust Fund;

‘Trustee’ means a Trustee appointed under sub-section (2).

**Remuneration and allowances of Trustees of Hospital Benefits Reinsurance Fund.**

“73bd. (1) A Trustee of the Hospital Benefits Reinsurance Fund shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

“(2) A Trustee referred to in sub-section (1) shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the Remuneration Tribunals Act 1973-1975.

**Directions by the Minister to a registered organization.**

“73be. The Minister may give a direction to a registered organization with respect to any of the following matters: —

(a) the rates of contributions to be paid by contributors, or contributors included in a class of contributors, to a medical benefits fund or a hospital benefits fund conducted by the organization;

(b) the scope and level of benefits that are to be available to contributors, or to contributors included in a class of contributors, to a medical benefits fund or a hospital benefits fund conducted by the organization;

(c) the provision of a service provided, or to be provided, by the organization to a contributor to a medical benefits fund or a hospital benefits fund conducted by the organization or to the dependants of such contributors;

(d) the transfer by the organization of moneys between funds, being medical benefits funds or hospital benefits funds or a medical benefits fund and a hospital benefits fund, conducted by the organization;

(e) any other matter that is prescribed.

**Direction to admit person as contributor to a registered organization.**

“73bf. (1) Where a registered organization refuses to admit a person as a contributor in respect of the standard table to a medical benefits fund or a hospital benefits fund conducted by it the person may request the Minister to direct that organization or another registered organization to admit the person as a contributor in respect of the standard table to a medical benefits fund or a hospital benefits fund, as the case may be, conducted by it.

“(2) Where the Minister receives a request from a person under sub-section (1), he shall—

(a) conduct an inquiry into the matter;

(b) determine the medical benefits fund or the hospital benefits fund, as the case may be, that he considers is the most appropriate fund with respect to the person; and

(c) direct the registered organization that conducts that fund to admit the person as a contributor to that fund.

“(3) Before making a determination under paragraph (b) of sub-section (2) with respect to a particular medical benefits fund or hospital benefits fund, the Minister shall give the registered organization conducting that fund an opportunity to make representations concerning the matter the subject of the inquiry being conducted by the Minister and take into account any representations made by the organization in that behalf.

“(4) Where a direction under this section is given to a restricted membership organization, the direction shall not require the organization to admit as a contributor to a medical benefits fund or a hospital benefits fund as the case may be, conducted by it a person who is not eligible, in accordance with the rules of the organization, for membership of that fund.

**Information for Health Insurance Commission.**

“73bg. (1) The object of this section is to ensure that payments of benefits under the Health Insurance Act 1973-1976 are not made to persons who, or to organizations which, are not entitled to them.

“(2) The Minister may direct a registered medical benefits organization or a registered hospital benefits organization to furnish to the Health Insurance Commission such information in the possession, or under the control, of the organization that relates to the contributors, or dependants of contributors, to a medical benefits fund or a hospital benefits fund conducted by the organization as the Minister considers necessary to be furnished to achieve the object of this section.

**Directions by Minister.**

“73bh. A direction given by the Minister under this Act to a registered medical benefits organization or a registered hospital benefits organization—

(a) shall be in writing signed by the Minister; and

(b) may be served on the organization by serving a copy of it, either personally or by post, on the public officer of the organization.”.

**24.** After section 73c of the Principal Act the following section is inserted:—

**Provision of services by organizations.**

“73d. Where a registered organization provides, or arranges for the provision of, services or treatment of any kind for all or any of its contributors or dependants of those contributors, the Minister may, if he thinks fit, direct that, to such extent as he directs, the provision of those services shall be treated, for the purposes of this Act, as the payment by the organization of benefits in respect of those services.”.

**Public officer of registered organizations.**

**25.** (1) Section 74 of the Principal Act is amended by omitting sub-section (5) and substituting the following sub-section:—

“(5) Where a registered organization contravenes, or fails to comply with, a provision of this Act or the regulations or a term or condition of registration imposed by or under this Act or a direction under this Act served on the organization, that contravention or failure shall, without limiting in any way the liability of the organization, be deemed to be a contravention or failure by the public officer, and the public officer is punishable for that contravention or failure by a fine not exceeding $2,000.”.

(2) The provision inserted in the Principal Act by sub-section (1) applies in relation to any contravention or failure of the kind referred to in the provision that occurs after the commencement of this section, or having occurred before the commencement of this section, continues after the commencement of this section.

**26.** After section 74 of the Principal Act the following sections are inserted:—

**Registered organization not to be wound up.**

“74a. A registered organization shall not, so long as it continues to be a registered organization, be wound up under a law of a State or Territory.

**Conduct of medical benefits funds or hospital benefits funds.**

“74b. A registered organization shall conduct a medical benefits fund or hospital benefits fund in accordance with—

(a) the provisions of this Act and the regulations;

(b) any term or condition of registration that is imposed by or under this Act relating to the fund;

(c) any direction of the Minister given under this Act relating to the fund that has been served on the organization; and

(d) the provisions of the constitution, articles of association and rules of the organization other than provisions that are inconsistent with—

(i) this Act or the regulations;

(ii) a term or condition referred to in paragraph (b); or

(iii) a direction referred to in paragraph (c),

and not otherwise.

**Registered organizations to keep records and furnish information.**

“74c. (1) A registered organization shall keep such financial and other records concerning the operation of a medical benefits fund or a hospital benefits fund conducted by it as the Minister requires, from time to time, by a direction served on the organization.

“(2) A registered organization shall furnish to the Permanent Head such information drawn from the records kept by the organization relating to the operation of a medical benefits fund or a hospital benefits fund conducted by it as the Minister requires, from time to time, by a direction served on the organization.”.

**Examination of records, books and accounts of registered organizations.**

**27.** Section 75 of the Principal Act is amended by omitting sub-section (6) and substituting the following sub-section:—

“(6) In this section ‘registered organization’ includes an organization the registration of which was cancelled under section 79 within 12 months before the date of the authority under sub-section (1) or the notice under sub-section (3), as the case may be, of this section.”.

**Particulars may be referred to Committee.**

**28.** Section 77 of the Principal Act is amended by omitting from sub-section (1) the words “the last preceding section” and substituting the words “section 76”.

**Changes of rules, &c., by registered organizations.**

**29.** (1) Section 78 of the Principal Act is amended—

(a) by adding at the end of paragraph (b) of sub-section (1) the word “or”;

(b) by omitting from paragraph (c) of sub-section (1) the word “or” (last occurring);

(c) by omitting paragraph (d) of sub-section (1); and

(d) by omitting sub-sections (12) to (15) (inclusive).

(2) The amendment made by paragraph (1) (d) does not affect an appeal made under section 78 of the Principal Act, but not decided, before the commencement of this section, and sub-sections (12) to (15) (inclusive) of that section continue to apply in relation to that appeal.

**30.** Sections 79 and 80 of the Principal Act are repealed and the following section is substituted:—

**Cancellation of registration of organization.**

“79. (1) The Minister shall cancel the registration of a registered medical benefits organization in respect of a State or Territory if the medical benefits fund conducted by the organization in respect of that State or Territory has been wound up in accordance with Part VIa.

“(2) The Minister shall cancel the registration of a registered medical benefits organization, being a restricted membership organization, if the medical benefits fund conducted by the organization has been wound up in accordance with Part VIa.

“(3) The Minister shall cancel the registration of a registered hospital benefits organization in respect of a State or Territory if the hospital benefits fund conducted by the organization in respect of that State or Territory has been wound up in accordance with Part VIa.

“(4) The Minister shall cancel the registration of a registered hospital benefits organization, being a restricted membership organization, if the hospital benefits fund conducted by the organization has been wound up in accordance with Part VIa.”.

**Limits in respect of management expenses of funds.**

**31.** Section 80a of the Principal Act is repealed.

**Notification of registrations, &c.**

**32.** Section 81 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:—

“(2) Whenever an organization is registered or the registration of an organization is cancelled, the Minister shall publish in the Gazette a notice of the registration or cancellation, as the case may be.”.

**33.** (1) Section 82a of the Principal Act is repealed and the following section substituted:—

**Exclusion of certain debits and credits from special account.**

“82a. (1) There shall not be credited to a special account any contributions paid in respect of a period after 30 September 1976.

“(2) There shall not be debited to a special account—

(a) any payment to a contributor in respect of any service or treatment rendered or given after 30 September 1976; or

(b) any payment to a contributor made by a registered organization after 30 September 1978.”.

(2) Notwithstanding the repeal effected by sub-section (1), a special account maintained by a registered organization immediately before the commencement of this section continues to be a special account for the purposes of Part VI of the Principal Act as amended by this Act.

**34.** After Part VI of the Principal Act the following Part is inserted:—

“PART VIa—CONDUCT AND SUPERVISION OF THE

AFFAIRS OF REGISTERED ORGANIZATIONS

**Interpretation.**

“82q. (1) In this Part, unless the contrary intention appears—

‘affairs’, in relation to a registered organization, means such of the affairs of the organization as relate to, or affect, the conducting of a fund by the organization;

‘Court’ means the Australian Industrial Court;

‘fund’ means a medical benefits fund or a hospital benefits fund;

‘inspector’ means a person appointed as an inspector under section 82r;

‘records’, in relation to a registered organization, includes—

(a) books, accounts and other documents; and

(b) tapes, discs, films and other media,

in or on which matters are recorded that relate to or affect the affairs of the organization.

“(2) A reference in this Part (other than section 82x) to an inspector shall be read as including a reference to a person exercising powers in pursuance of a delegation under section 82x.

**Investigation of organization by inspector.**

“82r. (1) Where it appears to the Minister that a registered organization—

(a) is, or is about to become, unable to meet its liabilities; or

(b) has contravened, or failed to comply with, a provision of this Act or the regulations, a term or condition of registration imposed on it by or under this Act or a direction under this Act served on it,

the Minister may, by notice in writing served on the organization, require it to show cause within such period after service of the notice, being a period of not less than 14 days, as he specifies in the notice, why, on such grounds as he specifies in the notice, an inspector should not be appointed to investigate the affairs of the organization.

“(2) If an organization referred to in sub-section (1) fails, within the period specified in the notice under that sub-section, to show cause to the satisfaction of the Minister why an inspector should not be appointed in respect of the organization, the Minister may, if he is satisfied that it is in the interests of the contributors to a fund conducted by the organization that an inspector be so appointed, appoint, by writing under his hand, an inspector to make an investigation in respect of the affairs of the organization.

“(3) An inspector so appointed may be an officer of the Australian Public Service.

“(4) The Minister shall, in the instrument appointing an inspector, specify the matters into which the investigation is to be made, being the whole or some part of the affairs of the organization.

**Powers of inspector.**

“82s. (1) An inspector may, by notice in writing given to a person whom the inspector believes to have some knowledge of the affairs of the registered organization that the inspector is investigating, require that person—

(a) to produce to the inspector all or any of the records relating to the affairs of the organization that are in the custody, or under the control, of that person;

(b) to give to the inspector all reasonable assistance within the person’s power in connexion with the investigation; or

(c) to appear before the inspector for examination concerning matters that are relevant to the investigation and are within the knowledge of the person.

“(2) Where records are produced to an inspector under sub-section (1) , the inspector may take possession of them for such period as he thinks necessary for the purposes of the investigation and may make copies of, and take extracts from, them.

“(3) An inspector is not entitled to refuse to permit a person to inspect records that are in the possession of the inspector under sub-section (2) if the person would be entitled to inspect those records if the inspector had not taken possession of them.

“(4) A person who complies with a requirement of an inspector under sub-section (1) does not incur any liability to any other person by reason only of that compliance.

**Person may be represented by legal practitioner.**

“82t. A barrister or solicitor acting for a person being examined by an inspector—

(a) may attend the examination; and

(b) may, to the extent that the inspector allows—

(i) address the inspector; and

(ii) examine the person,

in relation to matters in respect of which the inspector has questioned the person.

**Persons to comply with requirements of inspector.**

“82u. (1) A person shall not—

(a) refuse, or fail to comply with, a requirement of an inspector under section 82s that is applicable to him, to the extent to which he is able to comply with it;

(b) in purported compliance with such a requirement, furnish information, or make a statement, that he knows to be false or misleading in a material particular; or

(c) when appearing before an inspector for examination in pursuance of such a requirement, make a statement that he knows to be false or misleading in a material particular.

Penalty: $1,000 or imprisonment for 3 months.

“(2) A person being examined by an inspector is not excused from answering a question put to him by the inspector on the ground that the answer might tend to incriminate him but, where the person informs the inspector before answering the question that the answer might tend to incriminate him, neither the question nor the answer is admissible in evidence against him in criminal proceedings other than proceedings in relation to an offence under sub-section (1).

**Access to premises.**

“82v. (1) An inspector may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an inspector under this section in relation to the organization concerned.

“(2) Where—

(a) an occupier of premises has refused or failed to grant upon request consent to the entry, at a reasonable time, on the premises of an inspector; and

(b) an inspector has reason to believe that there are on the premises records relating to the affairs of the organization concerned,

the inspector referred to in paragraph (b) may, within 1 month after the request for consent was made, make application to a Magistrate for a warrant authorizing him to enter the premises for the purpose of exercising the functions of an inspector under this section in relation to the organization concerned.

“(3) If, on an application under sub-section (2), the Magistrate is satisfied by information on oath—

(a) that there is reasonable ground for believing that there are on the premises to which the application relates any records relating to the affairs of the organization concerned; and

(b) that the issue of a warrant is reasonably required for the purposes of this Act,

the Magistrate may grant a warrant, which may be in accordance with the prescribed form, authorizing the inspector, with such assistance as he thinks necessary, to enter the premises during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the functions of an inspector under this section in relation to the organization concerned.

“(4) Where an inspector has entered any premises in pursuance of sub-section (1) or in pursuance of a warrant granted under sub-section (3), he may exercise the functions of an inspector under this section in relation to the organization concerned.

“(5) A person shall not, without reasonable excuse, obstruct or hinder an inspector acting in pursuance of a warrant under sub-section (3) or in pursuance of sub-section (4).

Penalty: $1,000 or imprisonment for 3 months.

“(6) The functions of an inspector under this section in relation to the organization concerned are to search for, inspect, take extracts from, or make copies of, any records that relate, or that he believes, on reasonable grounds, to relate, to the affairs of that organization.

“(7) In this section—

‘inspector’, in relation to a registered organization, means an inspector empowered to investigate the whole or a part of the affairs of that organization, and ‘the organization concerned’, in relation to that inspector, means that organization;

‘occupier’, in relation to premises, includes the person in charge of the premises.

**Report of inspector.**

“82w. (1) An inspector—

(a) may make one or more reports in writing to the Minister during the investigation of the whole or a part of the affairs of a registered organization and shall, if so directed in writing by the Minister, make such reports as are specified in the direction; and

(b) shall, on the completion or termination of an investigation, report in writing to the Minister on the result of the investigation.

“(2) A report made on the completion of an investigation shall include—

(a) where the matters investigated included the question whether the organization is, or is about to become, unable to meet its liabilities—a statement of the opinion of the inspector in relation to that question and the facts on which that opinion is based; and

(b) the recommendations of the inspector with respect to—

(i) the question whether the organization should be permitted to continue to conduct a fund;

(ii) the question whether the affairs of the organization should be reorganized to enable it better to conduct a fund and, if so, the way in which they should be so reorganized; and

(iii) such other matters affecting the organization or the interests of contributors to a fund conducted by the organization as he thinks fit.

“(3) An inspector shall not include in a report under this section a recommendation relating to the institution of criminal proceedings or a statement to the effect that, in his opinion, a specified person has committed a criminal offence but, where an inspector is of the opinion that criminal proceedings ought to be instituted or that a person has committed a criminal offence, he shall state that opinion in writing given to the Minister.

“(4) On the receipt by the Minister of a report under sub-section (1), the Minister may refer the report to the Registration Committee established by section 70 for examination and report to the Minister.

“(5) Subject to sub-section (6), the Minister shall give a copy of a report made to him under this section to the organization to which the report relates.

“(6) The Minister shall seek the advice of the Attorney-General before giving a copy of a report to an organization under sub-section (5) and shall not give the copy to the organization if the Attorney-General advises him that, having regard to proceedings that have been or might be instituted, a copy of the report should not be so given.

“(7) Where a copy of a report has been given to an organization under sub-section (5), the Minister may, if he considers it is in the public interest to do so and after taking into consideration any advice he has received from the Attorney-General, cause the whole or some part of the report to be published.

“(8) A court before which proceedings under this Act are brought against a registered organization or other person in respect of matters dealt with in a report under this section may order that a copy of the report be given to that organization or that person.

“(9) 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 under sub-section (7).

“(10) For the purposes of sub-section (9), 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 a person affected by the publication or by any other improper motive.

**Delegation by inspector.**

“82x. (1) An inspector appointed to investigate the whole or a part of the affairs of a registered organization may, by writing under his hand, delegate to an officer of the Australian Public Service any of his powers under this Act, except this power of delegation.

“(2) A delegate who proposes to exercise his delegated powers shall, at the request of any person who may be affected by the proposed exercise, produce for the inspection of that person the instrument of delegation or a copy of that instrument.

“(3) A delegation under this section is revocable at will and does not prevent the exercise of a power by the inspector.

**Records, &c., not to be concealed.**

“82y. (1) A person shall not conceal, destroy, mutilate or alter records relating to the affairs of a registered organization the affairs of which are being investigated under this Act.

Penalty: $1,000 or imprisonment for 3 months.

“(2) In a prosecution for an offence against sub-section (1) it is a defence for the person charged to prove that he did not act with intent to defeat the purposes of this Act and did not act with intent to delay or obstruct the carrying out of the investigation under this Act.

**Application for judicial management or winding up of a fund.**

“82z. (1) Where the Minister, after consideration of a report made under section 82w on the completion or termination of an investigation of a registered organization, is of the opinion that it is necessary or proper to do so, he may apply to the Court for an order that the fund, or one or more of the funds, conducted by the organization be placed under judicial management or be wound up.

“(2) Where the Minister is satisfied that a registered organization has, in respect of a medical benefits fund or a hospital benefits fund conducted by it, contravened, or failed to comply with—

(a) a provision of this Act or the regulations;

(b) a term or condition of registration imposed on the organization by or under this Act; or

(c) a direction under this Act served on it,

he may apply to the Court for an order that that fund be placed under judicial management or be wound up.

“(3) Where the Minister makes application to the Court under sub-section (1) or (2) for the winding-up of a fund he shall forward with the application a scheme for the winding-up of the fund.

“(4) The organization is entitled to be heard on any application made to the Court under this section.

**Judicial management.**

“82za. (1) An order for the judicial management of a fund of an organization made on an application under section 82z is subject to the provisions of this section and of sections 82zb, 82zc, 82zd, 82ze and 82zf.

“(2) The Court shall appoint a judicial manager, who shall receive such remuneration as the Court directs, and the Court may, at any time, cancel the appointment and appoint some other person as judicial manager.

“(3) The Court may direct how and by whom the remuneration, charges and expenses of the judicial manager shall be borne and may, if it thinks fit, charge that remuneration and those charges and expenses on the property of the organization in such order of priority in relation to any existing charges on that property as it thinks fit.

“(4) On and after a date specified in the order of the Court appointing a judicial manager of a fund of a registered organization—

(a) the management of the fund shall vest in the judicial manager;

(b) the judicial manager shall be deemed to be the public officer of the organization in relation to the fund;

(c) any person vested with the management of the fund immediately before that date is, by force of this sub-section, divested of that management; and

(d) the person who was the public officer of the organization immediately before that date ceases to be the public officer of the organization in relation to the fund.

“(5) The Court shall issue such directions to the judicial manager as to his powers and duties as it deems desirable in the circumstances of the case, including directions as to the making of reports to the Court from time to time on the progress of the business of the fund.

“(6) The judicial manager shall act under the control of the Court and may apply to the Court at any time for instructions as to the manner in which he shall conduct the judicial management or in relation to any matter arising in the course of the judicial management.

“(7) The judicial manager shall give to the Minister such information as the Minister requires from time to time and shall report to the Minister whenever he intends to apply to the Court for instructions and shall, at the same time, furnish to the Minister particulars of the application.

“(8) The Minister is entitled to be heard on any application under sub-section (6) and may himself make application to the Court with reference to the conduct of the judicial management.

**Cancellation of judicial management order.**

“82zb. (1) The Minister, the judicial manager or any other person interested may, at any time, make application to the Court for the cancellation of an order for the judicial management of a fund.

“(2) The Minister or the judicial manager, if he is not the applicant on an application under sub-section (1), is entitled to be heard on that application.

“(3) Where, in proceedings under sub-section (1), it appears to the Court that the purpose of the order for the judicial management of a fund has been fulfilled or that for any reason it is undesirable that the order should remain in force, the Court may cancel the order and, thereupon—

(a) the judicial manager is divested of the management of the fund, which again vests in the management of the organization; and

(b) the judicial manager shall cease to be deemed to be the public officer of the organization in relation to the fund and that responsibility again vests in the public officer of the organization.

**Indemnity.**

“82zc. The judicial manager is not subject to any action, claim or demand by, or liable to, any person in respect of anything done, or omitted to be done, in good faith in the exercise, or in connexion with the exercise, of the powers conferred on the judicial manager by this Act.

**Cancellation of certain contracts.**

“82zd. The Court may, either of its own motion or on the application of the judicial manager, at any time while an order for judicial management is in force with respect to a fund of a registered organization, after hearing the Minister and any other person who, in the opinion of the Court, is entitled to be heard, cancel or vary, either unconditionally or subject to such conditions as the Court thinks just, any contract or agreement (other than a contract by virtue of which a person is a contributor to the fund) between the organization and any other person, being a contract or agreement entered into before the management of the fund was vested in the judicial manager, that the Court is satisfied is detrimental to the interests of the contributors to the fund.

**Report by judicial manager.**

“82ze. (1) The judicial manager shall conduct the management of a fund of a registered organization with the greatest economy compatible with efficiency and shall, as soon as possible, file with the Court a report stating which of the following courses is, in the circumstances, in his opinion, most advantageous to the general interests of the contributors to the fund:—

(a) the transfer, in accordance with a scheme to be prepared by the judicial manager, of the business of the fund to a fund conducted by another registered organization;

(b) the carrying on of the fund by the organization, whether or not the carrying on of the fund is to be subject to conditions specified by the judicial manager;

(c) the winding-up of the fund in accordance with a scheme to be prepared by the judicial manager;

(d) such other course as is specified by the judicial manager.

“(2) The judicial manager shall not, in a report filed under sub-section (1), recommend the transfer of the business of a fund to a fund conducted by another registered organization unless the other registered organization has given its consent to the transfer.

“(3) The judicial manager shall forthwith after filing a report under sub-section (1) furnish a copy of the report, together with a copy of any scheme with respect to the fund, to the Minister and to the registered organization and make an application to the Court for an order to give effect to the course set out in the report.

“(4) Both the Minister and the registered organization are entitled to be heard on an application under sub-section (3).

“(5) A report, or a copy of a report, filed under sub-section (1) shall be open for inspection by any person during official hours at the registry of the Court.

“(6) On an application under sub-section (3), the Court shall make such order as it considers to be most advantageous for the interest of the contributors to the fund.

**Scheme for transfer of business to be prepared by judicial manager.**

“82zf. (1) Where an order is made by the Court under section 82ze for the transfer of the business of a fund to a fund conducted by another registered organization, the judicial manager shall—

(a) prepare a scheme for the transfer;

(b) submit the scheme so prepared to the registered organization conducting the fund to which the business is to be transferred for the approval of that organization to the scheme; and

(c) when the scheme has been so prepared and approved, apply to the Court for confirmation of the scheme.

“(2) A scheme for the transfer of the business of a fund conducted by a registered organization to a fund conducted by another registered organization shall provide for—

(a) the transfer of the contributors from the one fund to the other;

(b) the acquisition by those contributors of rights to benefits from the fund to which they are to be transferred that are substantially equivalent to the rights they had against the fund from which they are to be transferred; and

(c) the payment into the fund to which the contributors are to be transferred out of the fund from which the contributors are to be transferred of such moneys as are required to ensure the acquisition of the rights referred to in paragraph (b).

“(3) Until a scheme of transfer has been confirmed by the Court in accordance with an application under sub-section (1), the management of the fund continues to be vested in the judicial manager.

“(4) The Minister, the judicial manager, both registered organizations concerned and any other person who, in the opinion of the Court, is likely to be affected are entitled to be heard on an application made to the Court under sub-section (1).

**Application by registered organization for a judicial winding-up.**

“82zg. (1) A registered organization may apply to the Court for an order that the fund, or one or more of the funds, conducted by the organization be wound up.

“(2) An application under sub-section (1) shall be accompanied by a scheme for the winding-up of the fund or funds concerned.

“(3) The Minister is entitled to be heard on an application under sub-section (1).

**Scheme for winding-up of a fund to be prepared by judicial manager.**

“82zh. (1) Where an order is made by the Court under section 82ze for the winding-up of a fund, the judicial manager shall—

(a) prepare a scheme for the winding-up; and

(b) when the scheme has been prepared, apply to the Court for confirmation of the scheme.

“(2) The Minister, the judicial manager, the registered organization and any other person who, in the opinion of the Court, is likely to be affected are entitled to be heard on an application made to the Court under sub-section (1).

**Actions, &c., to be stayed on application for winding-up.**

“82zj. Where an application for an order for the winding-up of a fund is made under section 82z, 82ze or 82zf, all actions and the execution of all writs, summonses and other processes against the registered organization conducting the fund that may affect the fund shall, by virtue of this section, be stayed and shall not be proceeded with without the leave of the Court first obtained or unless the Court otherwise directs.

**Order of Court on applications.**

“82zk. (1) On an application under section 82z, 82zf, 82zg or 82zh, the Court shall make such order as it considers to be most advantageous for the interests of the contributors to the fund to which the application relates.

“(2) Where an application referred to in sub-section (1) is for the confirmation of a scheme, the order of the Court may confirm the scheme with or without modification.

“(3) An order of the Court under sub-section (1) for the winding-up of a fund conducted by a registered organization, shall, unless the Court considers it to be impracticable or unnecessary in the circumstances, make such provision, either in the order or in a scheme confirmed by the order, for the transfer of the business of the fund to a fund conducted by another registered organization that is prepared to accept the transfer as will comply with the requirements set out in sub-section (2) of section 82zf with respect to a scheme prepared under that section.

**Order of Court to be binding on all persons, &c.**

“82zl. An order of the Court under section 82ze or 82zk is binding on all persons and has effect notwithstanding anything in the constitution, the articles of association or the rules of the registered organization, or registered organizations, concerned.

**Jursidiction of Court.**

“82zm. (1) The Court has jurisdiction to hear and determine applications under this Part and to make orders in respect of those applications.

“(2) Subject to sub-section (3), the jurisdiction of the Court under this Part shall be exercised by a single judge.

“(3) The Chief Judge of the Court may, if in his opinion the proceedings before the Court under this Part involve the determination of a question of law of sufficient importance, direct that, for the purposes of those proceedings, the Court shall be constituted by 3 judges.

**Approved pharmaceutical chemists.**

**35.** (1) Section 90 of the Principal Act is amended by omitting sub-section (5).

(2) The amendment made by sub-section (1) does not affect an appeal made under section 90 of the Principal Act, but not decided, before the commencement of this section, and that sub-section continues to apply in relation to that appeal.

**Appeal against suspension or revocation of approval or authority.**

**36.** (1) Section 97 of the Principal Act is repealed.

(2) The amendment made by sub-section (1) does not affect an appeal made under section 95 of the Principal Act, but not decided, before the commencement of this section, and that section continues to apply in relation to that appeal.

**37.** (1) After Part VII of the Principal Act the following Part is inserted:—

“PART VIIa—REVIEWS BY ADMINISTRATIVE APPEALS TRIBUNAL

**Definition.**

“105aa. In this Part, ‘the Tribunal’ means the Administrative Appeals Tribunal.

**Applications for review by Tribunal.**

“105ab. (1) An application may be made to the Tribunal for review of a decision of the Minister under section 73 refusing an application for the registration of an organization.

“(2) An application may be made to the Tribunal for review of a decision by the Minister under section 73 imposing a term or condition of registration of an organization.

“(3) An application may be made to the Tribunal for review of—

(a) a decision of the Minister under section 73b varying a term or condition of registration of an organization; or

(b) a decision of the Minister under section 73b imposing a term or condition, or a further term or condition, of registration of an organization.

“(4) An application may be made to the Tribunal for review of a decision of the Minister under section 73be directing a registered organization with respect to a matter.

“(5) An application may be made to the Tribunal for review of a decision of the Minister under section 78 refusing to approve of a change of the kind referred to in that section.

“(6) An application may be made to the Tribunal for review of a decision of the Minister under section 78 imposing a condition of his approval under that section of a change of a kind referred to in that section, being a condition requiring the variation of the terms and conditions of registration of the organization.

“(7) An application may be made to the Tribunal for review of a decision of the Permanent Head under section 90 rejecting an application of a pharmaceutical chemist under that section.

“(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 pharmaceutical chemist”.

(2) The Schedule to the Administrative Appeals Tribunal Act 1975 is amended by omitting Part XXIII.

**38.** After section 133 of the Principal Act the following section is inserted: —

**Territories,**

“133a. There are payable towards the maintenance of a public hospital in a Territory such sums as are agreed upon between the Treasurer and the Minister”.

**Regulations**

**39.** Section 140 of the Principal Act is amended by omitting sub-section (2).

**Repeal of First Schedule to Seventh Schedule (inclusive).**

**40.** The Schedules to the Principal Act, other than the Eighth Schedule, are repealed.

**Formal amendments.**

**41.** The Principal Act is amended as set out in the Schedule.

**Organizations registered at commencement of this Act to notify Permanent Head.**

**42.** (1) An organization that is a registered organization at the commencement of this section shall, on or before 15 August 1976, give to the Permanent Head a notification, in writing, stating, in respect of the fund, or of each of the funds, conducted by it, whether it intends to continue to conduct that fund on or after 1 October 1976 and, if so, whether it intends, and will be able, to conduct that fund in accordance with the Principal Act as amended by this Act.

(2) A notification under sub-section (1) shall be accompanied by such evidence as is required to substantiate the statements made in it.

(3) The Permanent Head may, by notice in writing served on the public officer of a registered organization that has given a notification under sub-section (1), require that organization to furnish to the Permanent Head further information in relation to that notification.

(4) The Permanent Head shall refer a notification given to him under sub-section (1), together with any evidence or information received by him in connexion with that notification, to the Registration Committee established by section 70 of the Principal Act, as amended by this Act, for examination and report to the Minister.

(5) The Registration Committee shall submit to the Minister a report on a notification referred to it under sub-section (4) and, in its report, shall recommend to the Minister whether the registration of the organization, should be continued and, if so, to what extent.

(6) Where the Minister, after consideration of a report made to him under sub-section (5) in relation to a registered organization, is satisfied that—

(a) the organization does not intend, or will not be able, to conduct any fund on or after 1 October 1976; or

(b) the organization does not intend, or will not be able, to conduct any fund in a particular State or Territory in respect of which the organization is registered,

the Minister shall cancel the registration of that organization or cancel the registration of that organization in so far as it relates to that State or Territory, as the case may be, and that cancellation shall take effect on 1 October 1976.

(7) Where the Minister is satisfied that a registered organization has failed to comply with sub-section (1) or with a notice served, under sub-section (3), on the public officer of the organization, the Minister may cancel the registration of that organization and that cancellation shall take effect on 1 October 1976.

(8) Where the registration of an organization is cancelled, either wholly or in so far as it relates to a particular State or Territory, the Minister shall publish in the Gazette a notice of the cancellation.

(9) A cancellation of a registration under this section does not prevent the organization concerned from making application, on or after 1 October 1976, under the Principal Act as amended by this Act for a new registration.

(10) In this section, “fund” means a medical benefits fund or a hospital benefits fund.

**Savings.**

**43.** Notwithstanding the amendments made by sections 4 to 11 (inclusive) and sections 14 to 17 (inclusive), the Principal Act continues to apply in relation to—

(a) a professional service which was rendered before, or in respect of which medical expenses were incurred before, 1 July 1975;

(b) a medical service rendered outside Australia before 1 July 1975;

(c) hospital treatment received by a qualified hospital patient in Australia before 1 April 1976; or

(d) hospital treatment received by a patient in a hospital outside Australia before 1 April 1976.

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SCHEDULE Section 41

FORMAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting any number expressed in words that is used, whether with or without the addition of a letter or letters, to identify a section of that Act or of another Act and substituting that number expressed in figures:—

SCHEDULE—continued

Sections 56a (3) (definition of “Commonwealth benefit”), 57a(5), 57b(2)(b)(i), 57c(b), 58(1)(b), 58e(3)(a), 62(2b), 65(1), 73(7)(d), 73c(3), 77(1), 78(7), 81(1), 81a(2), 82c(1aa) and (2), 82ca(1), 82d(4)(a), 82e(3), 82k, 83(3), 84(1) (definitions of “approved hospital authority”, “approved medical practitioner” and “approved pharmaceutical chemist”), 87(5), 88(4), 89(b), 92a(1) and (3), 94(6), 95(1), 97(1), 98(1) and (4), 99(2)(b) and (2a)(b), 101(4), 104(1a), 107(1), 111a(1) and (1a), 117b, 133(1)(d) and (e), (2), (6) and (7), 134, 134a(1), 134aa, 137(1) and 139a(1)(d), (e), (f), (fa) and (g).

2. The following provisions of the Principal Act are amended by omitting the words “of this Act”, “of this section”, “of this Part” and “of this paragraph” (wherever occurring):—

Sections 2(1), 4(1) (definition of “Committee of Inquiry”), 56a(3) (definition of “Commonwealth benefit”), 57a(5), 57b(2)(b)(i), 57c(b), 58(1)(b), 58e(3), 62(2b), 73(7)(d), 73c(3), 75(5)(a) and (6)(b), 77(1), 78(6), (7) and (8), 81(1), 81a(2), 82(4)(a), 82c(1aa) and (2), 82ca(1), 82d(4)(a), 82e(1)(g) and (3), 82k, 84(1) (definitions of “approved hospital authority”, “approved medical practitioner” and “approved pharmaceutical chemist”), 85(7), 87(5), 88(4), 89(b), 92a(1)(a) and (c) and (3), 94(1) and (6), 95(1), (4), (6) and (7), 97(1) and (7), 98(1) and (4), 99(2)(b), and (2a)(b), 101(4), 104(1a), 109, 111, 111a(1) and (1a), 112b, 114a(a), 116(a), 117b, 125(3), (4) and (5), 133(1)(a), (b), (d) and (e), (2), (4), (5) and (7), 134, 134a(1), 134aa and 139a(1)(a), (d), (e), (f), (fa) and (g).

3. The Principal Act is further amended as set out in the following table:—

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| Provision | Amendment |
| Section 57b(1)  | Omit “to this Act”. |
| Section 73c(2)  | Omit “to this Act”. |
| Section 75(b)(a)  | Omit “of this Act ”. |
| Section 76  | Omit “the thirtieth day of June, One thousand nine hundred and seventy-one” (wherever occurring), substitute “30 June 1971”. |
| Section 76a(1)  | (a) omit “the thirtieth day of June”, substitute “30 June”. |
|  | (b) Omit “One thousand nine hundred and seventy-one”, substitute" 1971”. |
| Section 82l(3)  | (a) Omit “the thirtieth day of June, One thousand nine hundred and seventy-one”, substitute “30 June 1971”. |
|  | (b) Omit “thirtieth day of June”, insert “30 June”. |
| Section 83(3)  | (a) Omit “of this section”. |
|  | (b) Omit “of this Act” (first and last occurring). |
| Section 84(1) (definition of “the British Pharmacopoeia”) | Omit “of this section” (wherever occurring). |
| Section 84(1a)  | Omit “the twenty-fourth day of April, One thousand nine hundred and sixty-four”, substitute “24 April 1964”. |
| Section 84(4)  | Omit “One thousand nine hundred and fifty-eight”, substitute “1958”. |
| Section 85(2)(d)  | Omit “of this sub-section”. |
| Section 91(3)  | Omit “of this sub-section”. |
| Section 92a(1)  | Omit “of this Act” (first occurring). |
| Section 92a(1)(e)  | Omit “the twenty-fourth day of April, One thousand nine hundred and sixty-four”, substitute “24 April 1964”. |
| Section 92a(2)  | Omit “the twenty-fourth day of April, One thousand nine hundred and sixty-four”, substitute “24 April 1964”. |
| Section 99(6)  | Omit “of this section” (second occurring). |
| Section 104(1a)(c)  | Omit “of this sub-section”. |
| Section 133(6)  | Omit “of this Act” (wherever occurring). |
| Section 134a(3)  | Omit “of this section”. |
| Section 137(1)  | Omit “of this Act” (second occurring). |
| Heading to Schedules  | Omit “THE SCHEDULES”. |