

# HEALTH INSURANCE AMENDMENT ACT (No. 2) 1978

No. 133 of 1978

An act to amend the *Health Insurance Act* 1973, and for other purposes.

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

Short title,  
&c.

1. (1) This Act may be cited as the *Health Insurance Amendment Act* (No. 2) 1978.<sup>1</sup>

(2) The *Health Insurance Act* 1973<sup>2</sup> is in this Act referred to as the Principal Act.

2. (1) Subject to this section, this Act shall come into operation on 1 November 1978.

Commence-  
ment

(2) The following provisions of this Act shall come into operation on the day on which this Act receives the Royal Assent:<sup>1</sup>

Sections 1 and 2, paragraph 3 (1) (e), sub-sections 3 (2) and 21 (2) and sections 22, 42 and 44.

(3) Sub-section 21 (1), section 23 and paragraph 24 (a) shall come into operation on a date to be fixed by Proclamation.

Interpret-  
ation

3. (1) Section 3 of the Principal Act is amended—

(a) by inserting in sub-section (1), after the definition of “approved bed”, the following definition:

“ ‘approved form’ means a form approved by the Minister, by writing signed by him, for the purposes of the provision in which the expression occurs; ”;

(b) by omitting the definition of “Australian resident” in sub-section (1) and substituting the following definition:

“ ‘Australian resident’ means a person who is residing in Australia and includes—

(a) a person whose domicile is in Australia, other than a person in respect of whom the Minister is satisfied that the person’s permanent place of abode is outside Australia; and

(b) a person who has been in Australia, whether continuously or intermittently, during more than one-half of the year ending on the day on which the

question whether he is or is not an Australian resident arises, other than a person in respect of whom the Minister is satisfied that—

- (i) the person's usual place of abode is outside Australia; and
- (ii) the person does not intend to take up residence in Australia,

but does not include a person who is—

- (c) the head of a diplomatic mission, or the head of a consular post, established in Australia;
- (d) a member of the staff of a diplomatic mission, or a member of the consular staff of a consular post, established in Australia; or
- (e) a member of the family of a person referred to in paragraph (c) or (d), being a member who forms part of the household of that person,

being a person who is not an Australian citizen and is not a person to whom paragraph (a) or (b) applies;”;

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

“ ‘Commonwealth medical benefit’ means a Commonwealth medical benefit under Part II;”;

- (d) by inserting in sub-section (1), after the definition of “dental practitioner”, the following definition:

“ ‘Department’ means the Department of Health;”;

- (e) by adding at the end of sub-paragraph (i) of paragraph (c) of the definition of “dependant” in sub-section (1) “but is under the age of 25 years”;

- (f) by inserting in sub-section (1), after the definition of “hospital”, the following definition:

“ ‘hospital insured person’ means a person who is deemed to be a hospital insured person for the purposes of this Act by virtue of sub-section 3A (1);”;

- (g) by omitting from sub-section (1) the definition of “medical benefit”;

- (h) by inserting in sub-section (1), after the definition of “medical practitioner”, the following definitions:

“ ‘medically insured person’ means a person who is deemed to be a medically insured person for the purposes of this Act by virtue of sub-section 3A (2);

‘month’ means a month of the year;”;

- (j) by inserting in sub-section (1), after the definition of “pathology service”, the following definition:

“ ‘Permanent Head’ means the Permanent Head of the Department;”;

(k) by omitting from sub-section (1) the definition of “privately insured person”;

(l) by inserting in sub-section (1), after the definition of “registered nurse”, the following definition:

“ ‘registered person’ means a person registered with a registered medical benefits organization in accordance with the procedures maintained by that organization in accordance with an agreement in force under section 20C;”;

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

“(1A) In this Act, unless the contrary intention appears, a word or phrase defined for the purposes of the *National Health Act* 1953 has the meaning that it would have if used in that Act.”; and

(n) by omitting sub-sections (7), (8) and (8A).

(2) Where, immediately before the commencement of paragraph (1)(e), a dependant of an eligible pensioner was a person who had attained the age of 25 years, that person shall, on and after the commencement of that paragraph, continue to be treated as a dependant of that eligible pensioner for the purposes of the *Health Insurance Act* 1973 notwithstanding the amendment made by that paragraph.

4. After section 3 of the Principal Act the following section is inserted:

Hospital  
insured  
persons and  
medically  
insured  
persons

“3A. (1) Where an eligible person is, or has been, a contributor to a hospital benefits fund conducted by a registered hospital benefits organization, being a contributor for benefits in accordance with a basic table or an optional table, and, by reason of being or having been such a contributor, would, if there were rendered to him or, if he has a dependant or dependants, to that dependant or to any of those dependants, any service, treatment or care to which that table relates, be entitled to benefits in accordance with that table, then—

(a) the eligible person shall, for the purposes of this Act, be deemed to be a hospital insured person; and

(b) that dependant or each of those dependants shall, for the purposes of this Act, be deemed to be a hospital insured person.

“(2) Where an eligible person is, or has been, a contributor to a medical benefits fund conducted by a registered medical benefits organization, being a contributor for benefits in accordance with a basic table, an optional table or any other table providing benefits in respect of professional services, and, by reason of being or having been such a contributor, would, if there were rendered to him or, if he has a dependant

or dependants, to that dependant or to any of those dependants, any service, treatment or care to which that table relates, be entitled to benefits in accordance with that table, then—

- (a) the eligible person shall, for the purposes of this Act, be deemed to be a medically insured person; and
- (b) that dependant or each of those dependants shall, for the purposes of this Act, be deemed to be a medically insured person.

“(3) For the purposes of sub-sections (1) and (2), where a contributor with respect to an organization would, but for the rules of the organization (other than rules providing for a waiting period or making any other prescribed provision), be entitled to benefits in respect of any service, treatment or care rendered to him or to his dependants, that contributor shall be deemed to be entitled to those benefits.”.

**5. Sections 5 and 5A of the Principal Act are repealed.**

Repeal of  
sections 5  
and 5A

**6. (1) Section 6 of the Principal Act is amended—**

Persons in  
Australia  
may apply  
for  
application  
of Act to  
them

- (a) by omitting from sub-section (1) “apply to the Commission” and substituting “lodge with the Department an application”; and
- (b) by omitting sub-section (2) and substituting the following sub-section:

“(2) The Minister may approve an application under sub-section (1) subject to such conditions as he determines, including the payment of a premium by the applicant.”.

(2) An approval in force under section 6 of the Principal Act immediately before the commencement of this section continues in force, after the commencement of this section, as if it had been given under section 6 of the Principal Act, as amended by this section.

**7. The heading of Part II of the Principal Act is amended by inserting “COMMONWEALTH ” before “MEDICAL ”.**

Heading of  
Part II

**8. Section 8 of the Principal Act is amended by omitting sub-section (2).**

Interpretation

**9. Section 10 of the Principal Act is repealed and the following section substituted:**

“ 10. (1) Where, on or after 1 November 1978, medical expenses are incurred by a person (in this section referred to as ‘ the person incurring expense ’) in respect of a professional service rendered in Australia to an eligible person, a Commonwealth medical benefit calculated in accordance with sub-section (2) is payable, subject to and in accordance with this Act, in respect of that professional service.

Entitlement  
to Common-  
wealth  
medical  
benefit

“(2) A Commonwealth medical benefit under sub-section (1) in respect of a professional service is an amount equal to—

- (a) where the person incurring expense is an eligible pensioner and the service is rendered to him or his dependant—
  - (i) 85% of the fee specified in respect of the service in the table in relation to the State in which the service is rendered; or
  - (ii) if the amount calculated under sub-paragraph (i) is less by more than \$5 than the fee from which it is calculated—an amount that is less by \$5 than that fee;
- (b) where—
  - (i) the person incurring expense is a person who may enter into an agreement, in accordance with sub-section 20A (2), with respect to the Commonwealth medical benefit; and
  - (ii) he enters into such an agreement,  
75% of the fee specified in respect of the service in the table in relation to the State in which the service is rendered; or
- (c) in any other case—
  - (i) 40% of the fee specified in respect of the service in the table in relation to the State in which the service is rendered; or
  - (ii) if the amount calculated under sub-paragraph (i) is less by more than \$20 than the fee from which it is calculated—an amount that is less by \$20 than that fee.

“(3) Where an amount calculated in accordance with sub-section (2) is not a multiple of 5 cents, the amount of cents shall be increased to the nearest higher amount that is a multiple of 5 cents.”.

**10.** (1) Section 11 of the Principal Act is repealed and the following section substituted:

Increased fee  
in complex  
cases

“ 11. (1) Where—

- (a) a claim for a Commonwealth medical benefit in respect of a professional service—
  - (i) is referred by a registered medical benefits organization to the Department to be dealt with under this section; or
  - (ii) is lodged with the Department by the person by whom, or on whose behalf, the professional service was rendered; and
- (b) there is forwarded with, or included in, the claim a statement by the person by whom, or on whose behalf, the professional service was rendered that the service was of unusual length or complexity,

the Permanent Head shall deal with the claim in accordance with the succeeding provisions of this section.

“(2) Where the Permanent Head considers that the professional service referred to in the claim is of unusual length or complexity, the Permanent Head shall—

- (a) if the Permanent Head considers that the service is of a kind in respect of which an increased fee may be fixed in accordance with principles furnished to the Permanent Head under paragraph (b) of this sub-section or under sub-section 12 (5)—fix an increased fee for that service, in accordance with those principles, for the purposes of this section; or
- (b) in any other case—refer to the Medical Benefits Advisory Committee for its consideration and recommendation the question whether the fee specified in the item that relates to that service should, for the purpose of calculating the Commonwealth medical benefit in respect of that service, be increased, having regard to the unusual features of that service, and, if it is to be increased, what principles are to be followed in fixing the amount of the increased fee for that service for the purposes of this section.

“(3) Where the Permanent Head receives a recommendation of the Committee under paragraph (2) (b) in favour of an increased fee for a professional service, the Permanent Head may fix an increased fee for that service, in accordance with the principles set out in that recommendation, for the purposes of this section.

“(4) Where an increased fee is fixed for a professional service for the purposes of this section, the amount of the Commonwealth medical benefit in respect of the service shall be calculated as if the increased fee so fixed were set out in the item that relates to the service.

“(5) Where the Permanent Head, in relation to a claim referred to in sub-section (1)—

- (a) fixes an increased fee for the professional service to which the claim relates; or
- (b) forms the opinion that the professional service to which the claim relates is not of unusual length or complexity,

the Permanent Head shall, by notice in writing—

- (c) inform the claimant; and
- (d) where the claim was referred to the Department by a registered medical benefits organization—inform that organization,

accordingly.

“(6) This section does not apply in relation to a claim for a Commonwealth medical benefit in respect of a professional service covered by an item that is expressed to relate to a professional attendance by a participating optometrist.”

(2) Where a claim for a medical benefit was received by the Health Insurance Commission under section 11 of the *Health Insurance Act*

1973 but was not finally dealt with by the Commission in accordance with that section before the commencement of this section, then, after the commencement of this section—

- (a) the Permanent Head shall deal with the claim as if it were a claim for a Commonwealth medical benefit received by him under section 11 of the *Health Insurance Act 1973*;
- (b) where the claim was referred by the Health Insurance Commission to the Medical Benefits Advisory Committee—that Committee shall deal with the claim as if it were a claim for a Commonwealth medical benefit referred to it by the Permanent Head in accordance with that section; and
- (c) the amount of the medical benefit to which the claim relates shall be calculated by reference to any increased fee fixed with respect to the claim by the Permanent Head.

Appeal from  
decision on  
increased fee

**11. (1) Section 12 of the Principal Act is amended—**

- (a) by omitting sub-section (1) and substituting the following sub-section:

“(1) Where the Permanent Head notifies a claimant under sub-section 11 (5) of a decision of the Permanent Head, the claimant may, within one month after the receipt of that notification, lodge with the Minister an appeal against that decision.”; and

- (b) by omitting from sub-sections (3), (5) and (6) “Commission” and substituting “Permanent Head”.

(2) The amendments made by sub-section (1) do not affect any appeal under section 12 of the *Health Insurance Act 1973* that was lodged with the Minister, but not finally dealt with, before the commencement of this section but, if the Minister allows the appeal, he shall give such directions to the Permanent Head as are necessary to give effect to the relevant recommendations of the Medical Benefits Advisory Committee.

**(3) Where—**

- (a) the Health Insurance Commission has, before the commencement of this section, notified a person under sub-section 11 (4) or (5) of the *Health Insurance Act 1973* of a decision of the Commission; and
- (b) the notification was received by the person within the period of one month ending on the date of commencement of this section, the person may, within one month after the receipt of that notification, lodge with the Minister an appeal against that decision.

(4) Where an appeal is lodged with the Minister under sub-section (3), that appeal shall be treated, for the purposes of section 12 of the *Health Insurance Act 1973*, as an appeal lodged under that section.

12. Section 16 of the Principal Act is amended by omitting from sub-section (1) "Commission" and substituting "Minister".

Adminis-  
tration of  
anaesthetic  
and  
assistance at  
operation

13. Section 16A of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

Pathology  
services

"(2) There shall be recorded on the account, or on the receipt, for fees in respect of the service or, if an assignment has been made, or an agreement has been entered into, in accordance with section 20A, in relation to the medical benefit in respect of the service, on the form of the assignment or agreement, as the case may be, such particulars as are prescribed."

14. Section 17 of the Principal Act is amended by omitting from paragraph (c) of sub-section (1) "or an approved organization for the purposes of Part IV".

Medical  
benefit not  
payable in  
respect of  
certain  
medical  
expenses

15. Section 18 of the Principal Act is amended by omitting sub-sections (8), (9) and (10).

Common-  
wealth  
medical  
benefit not  
payable  
where com-  
pensation,  
&c., is  
payable

16. Section 20 of the Principal Act is repealed and the following sections are substituted:

"20. Subject to this Part, Commonwealth medical benefit in respect of a professional service is payable to the person who incurs the medical expenses in respect of that service.

Persons  
entitled to  
Common-  
wealth  
medical  
benefits

"20A. (1) Where—

(a) a Commonwealth medical benefit is payable to an eligible pensioner in respect of a professional service rendered to the pensioner or his dependant; and

Assignment  
of Common-  
wealth  
medical  
benefit

(b) the eligible pensioner is not, when the professional service is rendered, a medically insured person,

the eligible pensioner may, in accordance with the approved form, assign his right to the payment of that benefit to the person by whom, or on whose behalf, the professional service is rendered.



“(2) Where—

- (a) a Commonwealth medical benefit is payable to a person (in this sub-section referred to as ‘the beneficiary’) in respect of a professional service rendered to the person or his dependant;
- (b) the beneficiary is not, when the professional service is rendered, an eligible pensioner or a medically insured person; and
- (c) the person by whom, or on whose behalf, the professional service is rendered (in this sub-section referred to as ‘the practitioner’) is of the opinion that the beneficiary is a disadvantaged person,

the beneficiary and the practitioner may enter into an agreement, in accordance with the approved form, under which—

- (d) the beneficiary assigns his right to the payment of the Commonwealth medical benefit to the practitioner; and
- (e) the practitioner accepts the assignment in full payment of the medical expenses incurred in respect of the professional service by the beneficiary.

“(3) Where an assignment is made under sub-section (1), or an agreement is entered into under sub-section (2), with respect to a Commonwealth medical benefit, the Commonwealth medical benefit is, subject to section 20B, payable in accordance with the assignment or the agreement, as the case may be.

“(4) A reference in sub-section (1) or sub-section (2) to a person by whom a professional service is rendered shall be read as not including a reference to a person (in this sub-section referred to as ‘the agent’) who renders a professional service on behalf of another person or an organization, but the agent may, if so authorized by that other person or that organization, enter into, on behalf of that other person or that organization, an agreement under sub-section (2).

“(5) An assignment of a Commonwealth medical benefit shall not be made except in accordance with this section.

Claims for  
Common-  
wealth  
medical  
benefit

“20B. (1) Subject to sub-section (2), a claim for a Commonwealth medical benefit shall be lodged with the relevant registered medical benefits organization.

“(2) A claim for a Commonwealth medical benefit assigned under section 20A shall—

- (a) be made in accordance with the approved form; and
- (b) be lodged with the Department.

“(3) A claim referred to in sub-section (2) shall not be paid unless the claimant satisfies the Permanent Head that, when the relevant assignment under sub-section 20A (1) was made or the relevant agreement under sub-section 20A (2) was entered into, the assignor retained

in his possession a copy of the assignment or agreement, as the case may be.

“(4) In this section, ‘relevant registered medical benefits organization’, in relation to a claimant, means—

- (a) where the claimant was a medically insured person when the professional service to which the claim relates was rendered—the registered medical benefits organization that, at that time, conducted the medical benefits fund by virtue of his contributions to which the claimant was, at that time, a medically insured person; or
- (b) where the person is a registered person—the registered medical benefits organization with which he is registered.

“(5) Nothing in this section requires a registered medical benefits organization to accept a claim for a Commonwealth medical benefit in respect of a professional service in respect of which an exemption granted by the Minister to the organization is in force under section 73F of the *National Health Act 1953*.

“20C. (1) The Minister may, on behalf of the Commonwealth, enter into an agreement with a registered medical benefits organization under which—

Agreements  
with  
registered  
organizations  
for registra-  
tion of  
persons

- (a) the organization agrees to institute and maintain procedures satisfactory to the Minister for the registration of eligible persons (other than medically insured persons) who wish to lodge with the organization, in accordance with section 20B, claims for Commonwealth medical benefit; and
- (b) the Minister agrees to pay to the organization such amounts as are fixed by the agreement towards meeting the expenses incurred by the organization in dealing with those claims.

“(2) Except where the registered organization that is a party to an agreement under sub-section (1) is a restricted membership organization, the agreement shall require the organization to register all persons (other than medically insured persons) who apply to the organization for registration in accordance with the procedures maintained under the agreement.

“(3) An agreement under sub-section (1)—

- (a) may provide for any matters ancillary to the subject matter of the agreement as set out in sub-section (1); and
- (b) may be varied at any time by agreement between the parties.

“(4) An agreement in force under sub-section (1) may be terminated at the option of either party to the agreement by the service on the other party of a notice of termination.

“(5) A notice of termination under sub-section (4) shall fix a date for the termination of the agreement that is not earlier than 6 months after the date on which the notice is served.

“(6) A notice of termination under sub-section (4) shall be served as follows:

- (a) where the notice is a notice by the Commonwealth, the notice shall be served on the registered organization concerned by being delivered personally or by post to the public officer of the organization;
- (b) where the notice is a notice by a registered organization, the notice shall be served on the Commonwealth by being delivered personally or by post to the Director in relation to the State or Territory in respect of which the organization is registered as a registered medical benefits organization.

“(7) A claim for a payment in accordance with an agreement in force under sub-section (1)—

- (a) shall be lodged with the Department as soon as practicable after the end of each month or such other period as the Minister approves by writing signed by him;
- (b) shall be in accordance with the approved form; and
- (c) shall be accompanied by such further information relating to the claim as is shown in the form to be required or as the Minister requests.

Claims for  
reimburse-  
ment on  
account of  
payments of  
Common-  
wealth  
medical  
benefits

“20D. (1) A registered medical benefits organization that has paid Commonwealth medical benefits in accordance with claims lodged with it in accordance with section 20B, may claim reimbursement from the Commonwealth for those payments.

“(2) A claim for reimbursement under sub-section (1)—

- (a) shall be lodged with the Department as soon as practicable after the end of each month or such other period as the Minister approves by writing signed by him;
- (b) shall be in accordance with the approved form; and
- (c) shall be accompanied by such further information relating to the claim as is prescribed.

Advances

“20E. (1) The Minister may, on behalf of the Commonwealth, on such security, and on such terms and conditions, as he thinks fit, make advances to a registered medical benefits organization for the purpose of enabling the organization to pay Commonwealth medical benefits in accordance with claims lodged with the organization in accordance with section 20B.

“(2) Where a registered medical benefits organization has received an advance under sub-section (1), it shall open, and maintain, an

account (in this section referred to as ‘the separate account’) with a bank for the purposes of this section.

“(3) Where a registered organization receives an advance under sub-section (1) it shall pay the amount of that advance into the separate account.

“(4) Where moneys paid out of the separate account by a registered organization are repaid to, or recovered by, the organization, those moneys shall be paid into the separate account.

“(5) Moneys standing to the credit of the separate account shall, for all purposes, be deemed to be held by the organization for and on behalf of the Commonwealth.

“(6) The *Audit Act* 1901 does not apply in relation to moneys standing to the credit of the separate account.

“(7) Moneys standing to the credit of the separate account shall be dealt with only in accordance with the terms and conditions fixed by the Minister under sub-section (1).

“(8) A claim for an advance under sub-section (1)—

- (a) shall be lodged with the Department as soon as practicable after the end of each month or such other period as the Minister approves by writing signed by him;
- (b) shall be in accordance with the approved form; and
- (c) where the advance is a second or subsequent advance—shall be accompanied by a statement, in accordance with the approved form, of the manner of disbursement of any earlier such advance received by the organization concerned and such other information with respect to any earlier such advance as is prescribed.

“(9) Where—

- (a) a registered organization notifies the Minister that it no longer wishes to receive advances under sub-section (1); and
- (b) the Minister is satisfied that all outstanding advances under sub-section (1) made to the organization have been properly accounted for,

he may direct, by writing signed by him, that this section does not apply in relation to that organization.

“20F. (1) This section applies to the following claims:

- (a) claims for payment under an agreement in force under section 20C;
- (b) claims for reimbursement under section 20D;
- (c) claims for an advance under section 20E.

Payment of  
claims under  
sections 20C,  
20D and 20E

“(2) Notwithstanding the *Audit Act* 1901, claims to which this section applies shall be dealt with in accordance with procedures approved by the Minister by writing signed by him.”.

Medical  
services  
outside  
Australia

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

- (a) by omitting from sub-section (1) “the date fixed for the purposes of section 10” and substituting “1 November 1978”;
- (b) by omitting sub-section (2) and substituting the following sub-section:
 

“(2) A Commonwealth medical benefit under sub-section (1) is payable to the person who has incurred the medical expenses in respect of the medical service and shall be paid to that person in such manner as the Minister determines.”;
- (c) by omitting paragraph (b) of sub-section (3) and substituting the following paragraph:
 

“(b) any other person approved by the Minister, by writing signed by him, for the purposes of this definition.”; and
- (d) by omitting sub-sections (3C) and (3D).

Claims for  
medical  
benefits

**18. Section 22 of the Principal Act is repealed.**

Undertakings  
with respect  
to pensioners

**19. (1) Section 23 of the Principal Act is amended—**

- (a) by omitting from paragraphs (a) and (b) of sub-section (1) “20 (3)” and substituting “20A (1)”;
- (b) by omitting from paragraph (a) of sub-section (1) “medical benefit” and substituting “Commonwealth medical benefit”.
- (2) On and after the commencement of this section—
  - (a) a reference in any undertaking in force under section 23 of the Principal Act immediately before the commencement of this section to sub-section 20 (3) of the *Health Insurance Act* 1973 shall be read as a reference to sub-section 20A (1) of that Act; and
  - (b) a reference in any such undertaking to a medical benefit shall be read as a reference to a Commonwealth medical benefit.

Common  
form of  
undertaking

**20. (1) Section 23A of the Principal Act is amended—**

- (a) by omitting paragraph (d) of sub-section (2) and substituting the following paragraph:
 

“(d) an assurance by the optometrist (in this paragraph referred to as ‘the practitioner’) that, where—

  - (i) a professional service, not being—
    - (A) a service covered by item 186 that is included in a course of attention to which section 13 applies; or

- (B) a service rendered at premises owned by, or in the possession of, the optometrist that are not covered by the undertaking,  
is rendered by the practitioner on his own behalf or by another optometrist acting on his behalf;
  - (ii) Commonwealth medical benefit in respect of that service is payable to a person (in this paragraph referred to as 'the beneficiary') who—
    - (A) identifies himself to the optometrist rendering the service as an eligible pensioner; or
    - (B) is a person who, in the opinion of the practitioner, is a disadvantaged person; and
  - (iii) the person to whom the service is rendered is the beneficiary or his dependant,  
the practitioner will ensure that—
    - (iv) in the case of a person referred to in clause (ii) (A)—the person is asked whether he wishes to assign his right to the payment of the Commonwealth medical benefit, being an assignment in accordance with sub-section 20A (1), in full payment of the medical expenses in respect of the professional service; or
    - (v) in the case of a person referred to in clause (ii) (B)—the person is asked whether he wishes to enter into an agreement, in accordance with sub-section 20A (2), for an assignment of his right to the payment of the Commonwealth medical benefit,  
and, if the person indicates that he so wishes, arrangements are made for making the appropriate assignment or entering into the appropriate agreement;"; and
- (b) by inserting in sub-section (4) "under sub-section (3)" after "variation".
- (2) On the commencement of this section—
  - (a) the common form of undertaking in force for the purposes of the Principal Act immediately before the commencement of this section shall, by force of this paragraph, be deemed to have been varied to conform with the requirements of sub-section 23A (2) of the Principal Act, as amended by this section; and
  - (b) undertakings in relation to participating optometrists in force for the purposes of the Principal Act immediately before the

commencement of this section shall, by force of this paragraph, be deemed to have been varied to accord with the common form of undertaking as deemed to have been varied by force of paragraph (a).

**21.** (1) After section 23D of the Principal Act the following section is inserted in Part III:

Interpretation

“23E. For the purposes of this Part (including Schedule 2), the Northern Territory shall be regarded as a State.”.

(2) At any time after the commencement of this sub-section, the Commonwealth may enter into an agreement with the Northern Territory under section 30 of the *Health Insurance Act* 1973 as if the Northern Territory were a State, but such an agreement shall not come into operation before the commencement of sub-section (1).

Approval of premises as hospital

**22.** Section 24 of the Principal Act is amended by adding at the end of paragraph (b) of sub-section (3) “or the *Nursing Homes Assistance Act* 1974”.

Daily bed payments to private hospitals

**23.** Section 33 of the Principal Act is amended by omitting from sub-section (1) “an internal Territory” and substituting “the Australian Capital Territory”.

Supplementary daily bed payments to private hospitals

**24.** Section 34 of the Principal Act is amended—

- (a) by omitting from sub-section (2) “an internal Territory” and substituting “the Australian Capital Territory”; and
- (b) by omitting from sub-section (10) the definition of “eligible person” and substituting the following definition:

“‘eligible person’ does not include a hospital insured person.”.

**25.** Section 35 of the Principal Act is repealed and the following section is substituted:

Claims by proprietors of private hospitals

“35. A claim for a payment under this Part in respect of a private hospital—

- (a) shall be made in accordance with the approved form;
- (b) shall be lodged with the Department;
- (c) shall relate to such periods, and shall be submitted at such times, as the Minister determines by writing signed by him; and
- (d) shall be accompanied by such information relating to the claim as is shown in the approved form to be required or as is prescribed.”.

**26.** Section 35A of the Principal Act is amended by omitting sub-sections (8), (9) and (10).

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**27.** (1) Section 38 of the Principal Act is repealed and the following section substituted:

“38. (1) The Minister may make such advances in respect of amounts that may become payable under this Part as the Minister thinks fit. Advances

“(2) Advances under sub-section (1) may be made subject to such conditions as the Minister determines.”.

(2) Any advance made, before the commencement of this section, under section 38 of the *Health Insurance Act* 1973 shall, after the commencement of this section, be treated as if it had been made under section 38 of the *Health Insurance Act* 1973 as in force at any time after the commencement of this section.

**28.** Section 39 of the Principal Act is amended by omitting the definition of “eligible person” and substituting the following definition: Interpret-  
ation

“‘eligible person’ does not include a person who is a medically insured person by reason of being or having been a contributor to a basic table or an optional table;”.

**29.** Section 45 of the Principal Act is amended by omitting from sub-section (1) “Commission” and substituting “Department”. Claims for  
grants

**30.** Section 46 of the Principal Act is amended by omitting from sub-section (1) “direct the Commission to”. Advances

**31.** Section 61 of the Principal Act is amended by omitting sub-section (5) and substituting the following sub-section: Recognition  
of consultant  
physician,  
&c.

“(5) Where the Minister makes a determination under sub-section (3) that a medical practitioner is not to be recognized as a consultant physician, or as a specialist, in a particular speciality, he shall notify the medical practitioner, in writing, accordingly.”.

**32.** Section 67 of the Principal Act is amended by omitting from paragraph (b) of sub-section (1) “Commission” (wherever occurring) and substituting “Permanent Head”. Functions of  
Committee

**33.** Section 79 of the Principal Act is amended by omitting paragraph (d) of sub-section (1B) and substituting the following paragraph: Interpret-  
ation

“(d) a reference to a medical benefit in relation to a professional service shall be read as a reference to—



- (i) the Commonwealth medical benefit paid or payable in respect of that professional service; and
- (ii) the fund medical benefit (if any) paid or payable in respect of that professional service.”.

Recommendation by Committee

**34.** Section 106F of the Principal Act is amended by omitting paragraph (c) of sub-section (5) and substituting the following paragraph:

“(c) a reference to a medical benefit in relation to a professional service shall be read as a reference to—

- (i) the Commonwealth medical benefit paid or payable in respect of that professional service; and
- (ii) the fund medical benefit (if any) paid or payable in respect of that professional service.”.

**35.** Section 125 of the Principal Act is repealed and the following section substituted:

Payments by the Commonwealth

“125. (1) All amounts payable by the Commonwealth under Part II (other than amounts to which section 42 of the *Health Insurance Amendment Act (No. 2)* 1978 applies) shall be paid out of amounts appropriated by the Parliament from time to time for the purpose.

“(2) All amounts (including advances) payable by the Commonwealth under Part III (including an agreement under that Part) or Part IV or under an arrangement in force under section 129A and amounts of hospital benefits payable under the regulations shall—

- (a) where the amounts are payable in respect of services, treatment or care rendered before 1 November 1978—be paid out of the Health Insurance Fund; or
- (b) in any other case—be paid out of amounts appropriated by the Parliament from time to time for the purpose.”.

Health Insurance Fund

**36.** Section 126 of the Principal Act is amended—

- (a) by omitting paragraphs (b) and (c) of sub-section (3) and substituting the following paragraphs:

“(b) amounts recovered by the Commonwealth under section 18, 35A, 43 or 129AD, being amounts originally paid by the Commonwealth before 1 November 1978; and

“(c) premiums referred to in sub-section 6 (2), being premiums relating to an approval given before 1 November 1978.”; and

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

Use of health insurance cards

**37.** Section 127 of the Principal Act is repealed.

**38.** Section 130 of the Principal Act is amended by omitting from sub-section (5) “Commission” and substituting “Commonwealth”. Officers to observe secrecy

**39.** Section 131 of the Principal Act is repealed and the following section substituted:

“131. (1) The Minister or the Permanent Head may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer of the Department of Health any of his powers under this Act, other than this power of delegation. Delegation by Minister or Permanent Head

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister or the Permanent Head, as the case may be.

“(3) A delegation under this section does not prevent the exercise of a power by the Minister or the Permanent Head, as the case may be.”.

**40.** Schedule 2 to the Principal Act is amended—

Schedule 2

- (a) by omitting from paragraphs 7 and 8 “privately insured person” (wherever occurring) and substituting “hospital insured person”;
- (b) by omitting from paragraph 7 “privately insured persons” and substituting “hospital insured persons”; and
- (c) by omitting from paragraph 10 “privately insured persons” and substituting “hospital insured persons”.

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

Con-sequential amendments

**42.** In the application of sub-section (6) of section 4 of the *Health Insurance Act* 1973 to regulations in force under that section immediately before the commencement of this section, and to any regulations under that section made after the commencement of this section that amend those regulations as so in force or as so in force and amended from time to time, the reference in that sub-section to a period of 12 months shall be read as a reference to a period of 24 months. Application of sub-section 4 (6) of Principal Act to existing regulations

**43.** (1) Where—

- (a) an amount of medical benefit became payable under Part II of the *Health Insurance Act* 1973 before the commencement of this section but that amount had not been paid at the commencement of this section; and
- (b) a claim for that amount is made after the commencement of this section and before a date fixed by Proclamation for the purposes of this section,

Claims for benefits with respect to period before 1 November 1978

payment of that claim shall be made out of the Health Insurance Fund.

(2) Subject to section 8D of the *Health Insurance Commission Act* 1973, the payment of claims referred to in sub-section (1) shall be made in such manner as the Minister determines.

Amendments  
of *Health  
Insurance  
Amendment  
Act* 1978

**44.** (1) Section 2 of the *Health Insurance Amendment Act* 1978 is amended by omitting sub-section (3).

(2) Sections 7 and 9 of the *Health Insurance Amendment Act* 1978 are repealed.

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## SCHEDULE

Section 41

### CONSEQUENTIAL AMENDMENTS OF THE PRINCIPAL ACT

1. The following provisions are amended by omitting "medical benefit" (wherever occurring) and substituting "Commonwealth medical benefit":

Sections 13, 14, 15, 16, 16A, 17, 18, 19, 21, 42B and 129AA (6).

2. The following provisions are amended by omitting "medical benefits" (wherever occurring) and substituting "Commonwealth medical benefits":

Sections 9 and 19A (1).

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## NOTES

1. Act No. 133, 1978; assented to 31 October.
2. Act No. 42, 1974, as amended. For previous amendments *see* Act No. 58, 1975; Nos. 59, 91, 101 and 109, 1976; No. 75, 1977; and No. 89, 1978.