



Dental Benefits Act 2008

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About this compilation

This compilation

This is a compilation of the *Dental Benefits Act 2008* that shows the text of the law as amended and in force on 5 December 2025 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to provide a framework for the provision of dental benefits, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Dental Benefits Act 2008*.

2 Commencement

This Act commences on the day after it receives the Royal Assent.

3 Simplified outline

The following is a simplified outline of this Act:

- This Act sets up a framework for the provision of dental benefits.
- Dental benefit is payable if dental expenses are incurred in respect of a dental service rendered to an eligible dental patient.
- The amount of dental benefit payable is the amount specified in, or determined in accordance with, the Dental Benefits Rules.
- If dental benefit is payable, it is payable by the Chief Executive Medicare to the person who incurs the dental expenses in respect of the dental service. In some circumstances, dental benefit is payable to the dental provider.
- Claims for dental benefit must be lodged with the Chief Executive Medicare.

Section 4

- The Chief Executive Medicare is to issue vouchers in relation to a dental service to persons who qualify for a voucher.
- A person qualifies for a voucher if the person meets the requirements of this Act or if the Dental Benefits Rules provide that the person qualifies for a voucher.
- A person in respect of whom a voucher is in effect is an eligible dental patient. The Dental Benefit Rules may also provide that certain eligible persons are eligible dental patients.
- The Minister may make Dental Benefit Rules which may provide for a Dental Benefits Schedule.
- This Act also makes provision in relation to the obtaining of documents relevant to ascertaining whether amounts should have been paid, the disclosure of information, offences against this Act and other matters.

4 Definitions

In this Act:

ABSTUDY scheme means the scheme known as ABSTUDY.

approved form means a form approved, in writing, by the Chief Executive Medicare.

associate, in relation to a corporation, means:

- (a) a director (within the meaning of the *Corporations Act 2001*), secretary or manager of the corporation; or
- (b) a receiver, or a receiver and manager, of any part of the undertaking of the corporation appointed under a power contained in any instrument; or
- (c) a liquidator of the corporation appointed in a voluntary winding up.

Australia, when used in a geographical sense, includes Norfolk Island, the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island.

authorised disclosure has the meaning given by subsection 34(4).

bank includes, but is not limited to, a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*.

Chief Executive Centrelink has the same meaning as in the *Human Services (Centrelink) Act 1997*.

Chief Executive Medicare has the same meaning as in the *Human Services (Medicare) Act 1973*.

clinically relevant service means a service that is generally accepted in the dental profession as being necessary for the appropriate care or treatment of the patient to whom it is rendered.

dental benefit means dental benefit payable under Part 3.

Dental Benefits Rules means the Dental Benefits Rules referred to in section 60.

Dental Benefits Schedule means the Dental Benefits Schedule referred to in section 61.

dental expenses means an amount payable in respect of a dental service.

dental practitioner has the same meaning as in the *Health Insurance Act 1973*.

dental provider has the meaning given by section 6.

dental service means a clinically relevant service specified in an item, being a service rendered by or on behalf of a dental provider.

disclose, in relation to information, includes divulge or communicate.

Section 4

disqualified practitioner: a dental practitioner is a ***disqualified practitioner*** if:

- (a) the dental practitioner is fully disqualified under an agreement in effect under section 92 of the *Health Insurance Act 1973*; or
- (b) the dental practitioner is fully disqualified under section 105 of that Act; or
- (c) a final determination under section 106TA of that Act containing a direction under paragraph 106U(1)(h) of that Act that the dental practitioner be fully disqualified is in effect.

Note: Under section 106ZPM of the *Health Insurance Act 1973* (which deals with failure to produce certain documents or give certain information), a person may be taken to be a disqualified practitioner for the purposes of sections 20B to 20E of this Act.

eligible dental patient has the meaning given by section 5.

eligible person means:

- (a) a person who is an eligible person within the meaning of section 3 of the *Health Insurance Act 1973*; or
- (b) a person who is treated as such a person because of section 6, 6A or 7 of that Act.

entrusted public official has the meaning given by subsection 34(2).

FTB(A) person has the meaning given by subsection 24(2).

Human Services employee means a Departmental employee, within the meaning of the *Human Services (Medicare) Act 1973*.

item means an item in the Dental Benefits Schedule.

making a statement, when used in Division 3 of Part 6, includes a reference to issuing or presenting a document.

medical practitioner has the same meaning as in the *Health Insurance Act 1973*.

medicare number has the same meaning as in subsection 84(1) of the *National Health Act 1953*.

medicare program has the same meaning as in the *Human Services (Medicare) Act 1973*.

partly disqualified practitioner: a dental practitioner is a **partly disqualified practitioner** in relation to a dental service if:

- (a) the dental practitioner is partly disqualified under an agreement in effect under section 92 of the *Health Insurance Act 1973* in respect of the service; or
- (b) a final determination under section 106TA of that Act containing a direction under paragraph 106U(1)(g) of that Act that the dental practitioner be partly disqualified is in effect in respect of the service.

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

protected information has the meaning given by subsection 34(3).

qualifies for a voucher has the meaning given by sections 23 and 26.

rendered on behalf of a dental provider has the meaning given by section 7.

satisfies the means test has the meaning given by section 24.

Secretary means the Secretary of the Department.

this Act includes:

- (a) the regulations; and
- (b) the Dental Benefits Rules.

use, in relation to information, includes make a record of.

voucher means a voucher issued under Part 4.

youth allowance means a payment under Part 2.11 of the *Social Security Act 1991*.

Section 5

5 Meaning of *eligible dental patient*

- (1) An *eligible dental patient*, in relation to a dental service, is:
 - (a) a person in respect of whom a voucher in relation to the dental service is in effect; or
 - (b) an eligible person included in a class of eligible persons specified in the Dental Benefits Rules to be eligible dental patients in relation to the dental service; or
 - (c) if the Dental Benefits Rules provide that all eligible persons are eligible dental patients in relation to the dental service—an eligible person.
- (2) Without limiting the way in which a class of eligible persons may be described for the purposes of paragraph (1)(b), the class may be described by reference to one or both of the following:
 - (a) age;
 - (b) receipt of a specified pension, benefit or allowance at a specified time or throughout a specified period.

6 Meaning of *dental provider*

- (1) A *dental provider*, in relation to a dental service, means the following:
 - (a) a dental practitioner who has general registration, or specialist registration, in the dentists division of the dental profession under a law of a State or Territory;
 - (b) if the Dental Benefits Rules specify a class of persons to be dental providers in relation to the dental service—a person included in that class.
- (2) Despite subsection (1), a dental practitioner is not a dental provider in relation to a dental service, if:
 - (a) the dental practitioner is included in a class of dental practitioners specified in the Dental Benefits Rules not to be dental providers in relation to the dental service; or
 - (b) the Dental Benefits Rules specify that dental practitioners are not dental providers in relation to the dental service.

7 Meaning of *rendered on behalf of a dental provider*

For the purposes of this Act, a dental service is taken to be rendered on behalf of a dental provider if, and only if:

- (a) the dental service is rendered by another person included in a class of persons specified in the Dental Benefits Rules for the purposes of this paragraph; and
- (b) the other person provides the dental service, in accordance with accepted dental practice, under the supervision of the dental provider.

7A Extension to external Territories

This Act extends to every external Territory.

Part 2—Entitlement to dental benefits

8 Simplified outline

The following is a simplified outline of this Part:

- This Part creates a basic entitlement to dental benefit in respect of a dental service.
- Dental benefit is payable if dental expenses are incurred in respect of the dental service.
- The amount of dental benefit payable is the amount specified in, or determined in accordance with, the Dental Benefit Rules.

9 Entitlement to dental benefits

Basic entitlement

- (1) If dental expenses are incurred in respect of a dental service rendered in Australia to an eligible dental patient, dental benefit is payable under section 11 in respect of the dental service.

Amount payable

- (2) The amount of dental benefit payable in respect of a dental service is the amount specified in, or determined in accordance with, the Dental Benefits Rules.

Note: See also sections 61 and 62.

- (3) The amount of dental benefit payable in respect of a dental service must not exceed the dental expenses incurred in respect of the dental service.

Part 3—Payment of dental benefits

Division 1—Introduction

10 Simplified outline

The following is a simplified outline of this Part:

- This Part deals with the payment of dental benefit in respect of a dental service.
- Dental benefit is payable by the Chief Executive Medicare to:
 - (a) the person who incurs the dental expenses in respect of the dental service; or
 - (b) the dental provider, if there has been an assignment of dental benefits or if there has been a request that the dental provider be paid.
- Claims for dental benefit must be lodged with the Chief Executive Medicare.
- Dental benefit is not payable in certain circumstances, including where a dental service is provided by a practitioner who has been disqualified under the *Health Insurance Act 1973*.
- The Minister may direct a disqualified practitioner to give notice of his or her disqualification.

Division 2—Payment of dental benefits

11 Payment of dental benefits to persons who incur dental expenses

- (1) Subject to this Part, dental benefit in respect of a dental service:
 - (a) is payable by the Chief Executive Medicare on behalf of the Commonwealth to the person who incurs the dental expenses in respect of the dental service; and
 - (b) is to be paid in such manner as the Chief Executive Medicare determines.
- (2) A determination under paragraph (1)(b) may provide for the amount of dental benefit to be paid to the credit of a bank account in such circumstances (if any), and subject to such conditions (if any), as are specified in the Dental Benefits Rules.
- (3) Subsection (2) does not limit paragraph (1)(b).

12 Assignment of dental benefits

Scope

- (1) This section applies if dental benefit is payable under section 11 to a person in respect of a dental service.

Assignment of dental benefits

- (2) The person and the dental provider by whom, or on whose behalf, the dental service is rendered may enter into an agreement, in accordance with the approved form, under which:
 - (a) the person assigns his or her right to the payment of the dental benefit to the dental provider; and
 - (b) the dental provider accepts the assignment in full payment of the dental expenses incurred by the person in respect of the dental service.
- (3) An assignment of a dental benefit must not be made except in accordance with this section.

Agents

- (4) If a person renders a dental service on behalf of a dental provider, the person may enter into an agreement under subsection (2) on behalf of the dental provider only if the person is authorised to do so by the dental provider.

13 Payment of assigned dental benefits

- (1) If an assignment under section 12 takes effect with respect to a dental benefit, the dental benefit is, subject to section 15, payable in accordance with the assignment.
- (2) Dental benefit payable under subsection (1) is to be paid in such manner as the Chief Executive Medicare determines.
- (3) A determination under subsection (2) may provide for the amount of dental benefit to be paid to the credit of a bank account in such circumstances (if any), and subject to such conditions (if any), as are specified in the Dental Benefits Rules.
- (4) Subsection (3) does not limit subsection (2).

14 Payment of dental benefits to dental providers if a request is made

Scope

- (1) This section applies if:
 - (a) dental benefit is payable under section 11 to a person in respect of a dental service; and
 - (b) the person has not paid the dental expenses that the person incurred in respect of the dental service.

Dental benefit not to be paid to the person

- (2) Dental benefit is not to be paid to the person.

Section 14

Dental benefit to be paid to the dental provider if a request is made

- (3) The person may request the Chief Executive Medicare to:
 - (a) give the person personally; or
 - (b) send by post to the address specified by the person;
a cheque for the amount of dental benefit payable in respect of the dental service in lieu of a payment to the person under section 11 in respect of the dental service.
- (4) The Chief Executive Medicare must comply with a request under subsection (3).
- (5) A cheque given or sent as requested under subsection (3) must be drawn in favour of the dental provider by whom, or on whose behalf, the dental service was rendered.

Division 3—Claims for dental benefits

15 Claims for dental benefits

Claims for unassigned dental benefits

- (1) A claim for a dental benefit (other than a dental benefit assigned under section 12) must be made in accordance with the approved form and:
 - (a) lodged with the Chief Executive Medicare; or
 - (b) sent, in such circumstances (if any), and subject to such conditions (if any), as are specified in the Dental Benefits Rules, to the Chief Executive Medicare in such manner as he or she determines.

Claims for assigned dental benefits

- (2) A claim for a dental benefit assigned under section 12 must be made in accordance with the approved form and:
 - (a) lodged with the Chief Executive Medicare; or
 - (b) sent, in such circumstances (if any), and subject to such conditions (if any), as are specified in the Dental Benefits Rules, to the Chief Executive Medicare in such manner as he or she determines;within the period of 1 year, or such longer period as is allowed under subsection 16(2), after the rendering of the dental service to which the dental benefit relates.
- (3) A claim referred to in subsection (2) must not be paid unless the claimant satisfies the Chief Executive Medicare that, after signing the relevant agreement under subsection 12(2), the assignor retained in his or her possession a copy of the agreement.
- (4) A determination under paragraph (2)(b) may provide for a claim for a dental benefit to be sent by electronic transmission.
- (5) Subsection (4) does not limit paragraph (2)(b).

Section 16

16 Application for a longer period to lodge claims for assigned dental benefits

- (1) A person may, in accordance with the approved form, apply to the Chief Executive Medicare for a longer period within which to lodge a claim referred to in subsection 15(2).
- (2) If an application under subsection (1) is made, the Chief Executive Medicare may, by notice in writing given to the person, allow a longer period for the lodgment of the claim.
- (3) The Chief Executive Medicare must, in exercising his or her power under subsection (2), have regard to all matters that the Chief Executive Medicare considers relevant including, but not limited to, any hardship that might be caused to the person if a longer period is not allowed.

Division 4—When dental benefit is not payable

17 Dental benefit is not payable unless particulars are recorded on the account etc.

- (1) Dental benefit is not payable in respect of a dental service unless subsection (2) is satisfied.
- (2) This subsection is satisfied if:
 - (a) the dental provider by whom, or on whose behalf, the dental service was rendered; or
 - (b) an employee of that dental provider;has recorded on one or more of the following:
 - (c) the account or receipt for fees in respect of the dental service;
 - (d) the voucher that relates to the dental service;
 - (e) if an assignment has been made in accordance with section 12 in relation to the dental benefit in respect of the dental service—on the form of the assignment;such particulars (if any) as are specified in the Dental Benefits Rules in relation to dental services generally or in relation to a class of dental services in which the dental service is included.

18 Dental benefit is not payable unless conditions specified in the Dental Benefits Rules are satisfied

- (1) The Dental Benefits Rules may provide that dental benefit is not payable in respect of a dental service unless the conditions specified in the Dental Benefits Rules are satisfied.
- (2) Conditions specified in the Dental Benefits Rules for the purposes of subsection (1) may include, but are not limited to, conditions relating to:
 - (a) the dental service; or
 - (b) the circumstances in which the dental service is rendered; or
 - (c) the dental provider by whom, or on whose behalf, the dental service is rendered; or

Part 3 Payment of dental benefits

Division 4 When dental benefit is not payable

Section 19

- (d) the eligible dental patient to whom the dental service is rendered; or
- (e) dental services rendered by, on behalf of or under an arrangement with:
 - (i) the Commonwealth; or
 - (ii) a State; or
 - (iii) a Territory; or
 - (iv) a local governing body; or
 - (v) an authority established by a law of the Commonwealth, a law of a State or a law of a Territory.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

19 Dental benefit is not payable if a benefit has been received etc. under a complying health insurance policy

- (1) Dental benefit is not payable to a person in respect of a dental service if:
 - (a) under a complying health insurance policy with a private health insurer, the person is covered, in whole or in part, for the liability to pay fees and charges in respect of the dental service; and
 - (b) the person has received, or chooses to receive, a benefit from the private health insurer in respect of the dental service.
- (2) In this section:

complying health insurance policy has the same meaning as in the *Private Health Insurance Act 2007*.

cover, in relation to a complying health insurance policy, has the same meaning as in the *Private Health Insurance Act 2007*.

20 Dental benefit is not payable in respect of a dental service rendered as part of an episode of hospital treatment etc.

- (1) Dental benefit is not payable in respect of a dental service rendered to an eligible dental patient if the dental service is rendered:
 - (a) as part of an episode of hospital treatment provided to the eligible dental patient; or
 - (b) as part of hospital-substitute treatment provided to the eligible dental patient in respect of which the eligible dental patient chooses to receive a benefit from a private health insurer.
- (2) In this section:

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

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

20A Dental benefit is not payable in respect of a dental service rendered by a disqualified practitioner

Dental benefit is not payable in respect of a dental service if, at the time when the service was rendered, the person who rendered the service, or the dental provider on whose behalf the service was rendered, was:

- (a) a disqualified practitioner; or
- (b) a partly disqualified practitioner in relation to the service.

20B Minister may direct disqualified practitioner to give notice of disqualification

- (1) The Minister may, by written instrument served on a disqualified practitioner or a partly disqualified practitioner (the *practitioner*), direct the practitioner, and persons acting on behalf of the practitioner, not to render a specified dental service in respect of which, under section 20A of this Act or section 106ZPM of the

Part 3 Payment of dental benefits

Division 4 When dental benefit is not payable

Section 20B

Health Insurance Act 1973, dental benefit is not payable unless, before beginning to render the service, the practitioner or a person acting on behalf of the practitioner:

- (a) gives a copy of the notice under subsection (2) to the person (the *service recipient*) to whom the dental service is to be rendered; and
- (b) if the practitioner or person acting on behalf of the practitioner has reasonable grounds for believing that the service recipient is, or may be, unable to read and understand the notice—takes reasonable steps to explain the contents of the notice to the service recipient or to another person who has care of the service recipient.

Note: Failure to comply with a direction given under this section is an offence (see section 20C).

- (2) The instrument must:
 - (a) be accompanied by a notice:
 - (i) setting out particulars of the disqualification; and
 - (ii) explaining such of the effects of the disqualification as the Minister considers appropriate; and
 - (b) specify the day on which the direction comes into effect, which must not be before the instrument is served on the practitioner.

Period during which direction remains in force

- (3) Unless sooner revoked, a direction under subsection (1) in relation to a disqualified practitioner, or a partly disqualified practitioner, remains in force until the practitioner ceases to be a disqualified practitioner or a partly disqualified practitioner.

Legislative instrument

- (4) An instrument made under subsection (1), or a notice accompanying the instrument under subsection (2), is not a legislative instrument.

20C Strict liability offence—failure to comply with direction to give notice of disqualification

- (1) A person (the *first person*) commits an offence if:
- (a) the first person is a disqualified practitioner or a partly disqualified practitioner; and
 - (b) an instrument is served on the first person under section 20B; and
 - (c) the instrument contains a direction; and
 - (d) the first person:
 - (i) fails to comply with the direction; or
 - (ii) causes or permits a person acting on his or her behalf to fail to comply with the direction.

Penalty: 1 penalty unit.

- (2) An offence against subsection (1) is an offence of strict liability.

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

- (3) Subsection (1) does not apply if the first person has a reasonable excuse.

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

20D Minister may direct disqualified practitioner to display notice of disqualification

- (1) The Minister may, by written instrument served on a disqualified practitioner or a partly disqualified practitioner (the *practitioner*), direct the practitioner to display one or more notices under subsection (2):
- (a) in a specified place or places; and
 - (b) in a specified manner.

Note: Failure to comply with a direction given under this subsection is an offence (see section 20E).

- (2) The instrument must:

Part 3 Payment of dental benefits

Division 4 When dental benefit is not payable

Section 20E

- (a) be accompanied by one or more notices:
 - (i) setting out particulars of the disqualification; and
 - (ii) explaining such of the effects of the disqualification as the Minister considers appropriate; and
 - (b) specify the day on which the direction comes into effect, which must not be before the instrument is served on the practitioner.
- (3) No more than one direction under subsection (1) may be in force in relation to the practitioner at any time.

Period during which direction remains in force

- (4) Unless sooner revoked, a direction under subsection (1) in relation to a disqualified practitioner, or a partly disqualified practitioner, remains in force until the practitioner ceases to be a disqualified practitioner or a partly disqualified practitioner.

Legislative instrument

- (5) An instrument made under subsection (1), or a notice accompanying the instrument under subsection (2), is not a legislative instrument.

20E Strict liability offence—failure to comply with direction to display notice of disqualification

- (1) A person commits an offence if:
- (a) the person is a disqualified practitioner or a partly disqualified practitioner; and
 - (b) an instrument is served on the practitioner under section 20D; and
 - (c) the instrument contains a direction; and
 - (d) the person fails to comply with the direction.

Penalty: 1 penalty unit.

- (2) An offence against subsection (1) is an offence of strict liability.

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

- (3) A person who commits an offence against subsection (1) commits a separate offence in respect of each day (including the day of a conviction under this section or any later day) during which the offence continues.
- (4) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

21 Dental Benefits Rules may provide that dental benefit is not payable

- (1) The Dental Benefits Rules may provide that dental benefit is not payable in respect of a dental service.
- (2) Without limiting subsection (1), the Dental Benefits Rules may provide that:
 - (a) dental benefit is not payable in respect of a specified dental service; or
 - (b) dental benefit is not payable in respect of a dental service provided in specified circumstances; or
 - (c) dental benefit is not payable in respect of a dental service rendered by, or on behalf of, a specified dental provider; or
 - (d) dental benefit is not payable in respect of a dental service rendered to a specified eligible dental patient; or
 - (e) dental benefit is not payable in respect of a dental service rendered by, on behalf of or under an arrangement with:
 - (i) the Commonwealth; or
 - (ii) a State; or
 - (iii) a Territory; or
 - (iv) a local governing body; or
 - (v) an authority established by a law of the Commonwealth, a law of a State or a law of a Territory.

Part 3 Payment of dental benefits

Division 4 When dental benefit is not payable

Section 21

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

Part 4—Dental benefits vouchers

Division 1—Introduction

22 Simplified outline

The following is a simplified outline of this Part:

- This Part sets up a framework for the issuing of vouchers in relation to a dental service to persons who qualify for a voucher.
- A person qualifies for a voucher for a calendar year if the person is aged under 18 years at any time during the calendar year, is an eligible person and satisfies the means test.
- The Dental Benefit Rules may also provide that an eligible person qualifies for a voucher for a calendar year.
- The Chief Executive Medicare must issue a voucher to a person if the person qualifies for the voucher on or before 31 October in a calendar year.
- A person who qualifies for a voucher may request the Chief Executive Medicare to issue the voucher.
- Unless the Dental Benefit Rules provide otherwise:
 - (a) only one voucher may be issued in relation to a dental service in respect of a person for a calendar year; and
 - (b) a voucher for a calendar year remains in effect until the end of the calendar year.

Division 2—Qualification for vouchers

23 Qualification for a voucher

Persons to whom this section applies

- (1) This section applies to a person, in relation to a calendar year, if the person is aged under 18 years on 1 January in the calendar year.

Point in time at which person qualifies for a voucher

- (2) The person **qualifies for a voucher** for the calendar year, in relation to a dental service specified in the Dental Benefits Rules for the purposes of this section, at the first time in the calendar year when:
 - (a) the person is an eligible person; and
 - (b) the person satisfies the means test set out in section 24.

24 When a person satisfies the means test

Basic rule

- (1) For the purposes of section 23, a person **satisfies the means test** at a particular time if, at that time:
 - (a) the person is receiving a payment under the ABSTUDY scheme, or another person is receiving such a payment in respect of the person; or
 - (b) the person is receiving youth allowance; or
 - (c) the person is an FTB(A) person; or
 - (d) the person is included in a class of persons specified in the Dental Benefits Rules as satisfying the means test for the purposes of this paragraph.

When a person is an FTB(A) person

- (2) A person is an **FTB(A) person** at a particular time if, at that time:

- (a) there is in force a section 16 determination that the person, or the person's partner, is entitled to be paid family tax benefit at a Part A rate that is greater than nil; or
- (b) there is in force a section 16 determination that an FTB recipient in relation to the person is entitled to be paid family tax benefit in respect of the person at a Part A rate that is greater than nil; or
- (c) the person, or the person's partner, has received an FTB lump sum payment in respect of the last income year ending before the start of the calendar year during which the time occurs; or
- (d) an FTB recipient in relation to the person has received an FTB lump sum payment that is:
 - (i) in respect of the person; and
 - (ii) in respect of the last income year ending before the start of the calendar year during which the time occurs; or
- (e) the person is included in a class of person specified in the Dental Benefits Rules to be an FTB(A) person for the purposes of this paragraph.

Definitions

- (3) In this section:

approved care organisation has the same meaning as in the *A New Tax System (Family Assistance) Act 1999*.

FTB child, in relation to family tax benefit, has the same meaning as in the *A New Tax System (Family Assistance) Act 1999*.

FTB lump sum payment means a payment of family tax benefit under section 24 of the *A New Tax System (Family Assistance) (Administration) Act 1999* that has a Part A rate that is greater than nil.

FTB recipient, in relation to a person (the **child**), means:

- (a) a person of whom the child is an FTB child in relation to family tax benefit; or

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- (b) an approved care organisation of which the child is a client (within the meaning of the *A New Tax System (Family Assistance) Act 1999*).

income year has the same meaning as in subsection 3(1) of the *A New Tax System (Family Assistance) Act 1999*.

Part A rate means the Part A rate calculated under the *A New Tax System (Family Assistance) Act 1999*.

partner has the same meaning as in the *A New Tax System (Family Assistance) Act 1999*.

receive:

- (a) in relation to a payment under the ABSTUDY scheme—has the meaning given by subsection (4); and
- (b) in relation to youth allowance—has the same meaning as in section 23 of the *Social Security Act 1991*.

section 16 determination means a determination under section 16 of the *A New Tax System (Family Assistance) (Administration) Act 1999*.

When a person is receiving ABSTUDY

- (4) For the purposes of this section, a person is taken to be receiving a payment under the ABSTUDY scheme:
- (a) from the earliest day on which the payment is payable to the person, even if an instalment of the payment, or the payment, it is not paid until a later day; and
- (b) until the latest day on which the payment is payable to the person, even if the last instalment of the payment, or the payment, is not paid until a later day.

25 Dental Benefits Rules must specify certain matters

- (1) Dental Benefits Rules made for the purposes of paragraph 24(1)(d) must specify the time, or how to work out the time, at which a person satisfies the means test for the purposes of the paragraph.
- (2) Dental Benefits Rules made for the purposes of paragraph 24(2)(e) must specify the time, or how to work out the time at which, a person is an FTB(A) person for the purposes of the paragraph.

26 Qualification for a voucher—other persons

The Dental Benefits Rules may provide that each eligible person included in a specified class of eligible persons *qualifies for a voucher* for a calendar year in relation to a specified dental service.

Division 3—Issue of vouchers and other matters

27 Chief Executive Medicare must issue vouchers

Persons who qualify on or before 31 October

- (1) The Chief Executive Medicare must issue a voucher for a calendar year in respect of a person, in relation to a dental service, if:
 - (a) the person qualifies for the voucher on or before whichever of the following dates is applicable:
 - (i) 31 October in the calendar year;
 - (ii) if an earlier or later date in the calendar year is specified in the Dental Benefits Rules for the purposes of this paragraph—the specified date; and
 - (b) subject to subsection (5), the Chief Executive Medicare has not already issued a voucher for the calendar year in respect of the person in relation to the dental service.

Persons who request a voucher

- (2) The Chief Executive Medicare must issue a voucher for a calendar year in respect of a person, in relation to a dental service, if:
 - (a) the person qualifies for the voucher; and
 - (b) the Chief Executive Medicare is requested by or on behalf of the person to issue the voucher; and
 - (c) subject to subsection (5), the Chief Executive Medicare has not already issued a voucher for the calendar year in respect of the person in relation to the dental service.

Timing and form of a request

- (3) A request under subsection (2):
 - (a) must be made not later than 15 days, or such other number of days as is specified in the Dental Benefits Rules for the purposes of this paragraph, before the end of the calendar year; and

(b) must be in the approved form.

Voucher to be issued as soon as reasonably practicable

- (4) The Chief Executive Medicare must issue a voucher under subsection (1) or (2) as soon as reasonably practicable after the person qualifies for the voucher or the request for the voucher is made, as the case requires.

Exception to the one voucher per year rule

- (5) The Dental Benefits Rules may specify circumstances in which more than one voucher in relation to a dental service, may be issued in respect of a person for a calendar year.

When voucher is not required to be issued

- (6) This section has effect subject to sections 28 and 29.

28 When voucher is not required to be issued—person dies

Despite section 27, if:

- (a) a person qualifies for a voucher for a calendar year; and
 - (b) the person dies before the Chief Executive Medicare issues the voucher for the calendar year in respect of the person;
- the Chief Executive Medicare is not required to issue the voucher.

29 When voucher is not required to be issued—circumstances specified in the Dental Benefit Rules

The Dental Benefit Rules may specify circumstances in which the Chief Executive Medicare is not required to issue a voucher for a calendar year in respect of a person who qualifies for the voucher.

30 Voucher must specify dental service

A voucher must specify the dental service to which it relates.

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Division 3 Issue of vouchers and other matters

Section 31

31 Voucher remains in effect until the end of a calendar year

A voucher for a calendar year takes effect on the day on which it is issued and remains in effect until the end of the calendar year, unless the Dental Benefits Rules provide for a different period of effect.

32 Dental Benefits Rules may provide for other matters

The Dental Benefits Rules may provide for the following:

- (a) matters relating to requests for vouchers;
- (b) altering the period of effect of vouchers;
- (c) the persons to whom vouchers are to be issued;
- (d) lost vouchers.

Part 4A—Power to obtain documents etc. relevant to ascertaining whether amounts should have been paid

32A Simplified outline

The following is a simplified outline of this Part:

- The Chief Executive Medicare may require the production of documents etc. relevant to ascertaining whether amounts should have been paid.
- A failure to comply may lead to debt recovery action or to a civil penalty.
- The Chief Executive Medicare and Human Services employees may deal with documents etc. produced.

32B When this Part applies

- (1) This Part applies if the Chief Executive Medicare:
 - (a) has a reasonable concern that an amount paid, purportedly by way of dental benefit, in respect of one or more dental services, may exceed the amount (if any) that should have been paid; and
 - (b) has taken into account advice given to him or her by a dental practitioner, or a medical practitioner, who is a Human Services employee about the types of documents that contain information relevant to ascertaining whether amounts paid in respect of dental services of the same kind or kinds as the service or services referred to in paragraph (a) should have been paid; and
 - (c) has taken reasonable steps to consult with a relevant professional body about the types of documents that contain

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information relevant to ascertaining whether amounts paid in respect of dental services of the same kind or kinds as the service or services referred to in paragraph (a) should have been paid.

Note: For the purposes of paragraph (a), the Chief Executive Medicare may, for example, have a reasonable concern about payments made in respect of:

- (a) dental services rendered by or on behalf of individual dental providers; or
 - (b) dental services rendered by or on behalf of particular kinds of dental providers; or
 - (c) the rendering of dental services to which specific items, or groups of items, relate.
- (2) In forming a reasonable concern for the purposes of subsection (1), the Chief Executive Medicare is not to take account of whether the service is clinically relevant.

Definition

- (3) In this section:

relevant professional body means a body declared by the Minister under subsection (4) to be a relevant professional body.

- (4) The Minister may, by legislative instrument, declare a body to be a relevant professional body for the purposes of this section.

32C Chief Executive Medicare may require person to produce documents etc.

Power to give notice requiring production of documents etc.

- (1) If the Chief Executive Medicare believes on reasonable grounds that:
- (a) a person:
 - (i) who rendered a dental service in respect of which an amount has been paid that is the subject of the Chief

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Executive Medicare's concern referred to in paragraph 32B(1)(a); or

- (ii) on whose behalf such a dental service was rendered; or
- (b) another person, not being:
 - (i) the person in respect of whom the dental service was rendered; or
 - (ii) the person who incurred the dental expenses in respect of the service;

has possession, custody or control of one or more documents relevant to ascertaining whether the amount paid in respect of the dental service should have been paid, the Chief Executive Medicare may, by written notice given to the person, require the person to do any or all of the things mentioned in subsection (2) within a period specified in the notice.

Note: For a person referred to in paragraph (a), failure to comply with a notice may lead to debt recovery action (see section 56A). For a person referred to in paragraph (b), failure to comply with a notice may lead to a civil penalty (see section 32D).

- (2) The Chief Executive Medicare may require the person, in relation to each dental service specified in the notice:
 - (a) subject to subsection (3), to produce to the Chief Executive Medicare, or a Human Services employee, any document, or extract of any document, that is relevant for the purpose set out in subsection (1); or
 - (b) to make a copy of any such document or extract and to produce that copy to the Chief Executive Medicare or a Human Services employee.
- (3) If a document, extract or copy contains clinical details relating to an individual, the person to whom the notice is given is not required to produce the document, extract or copy to a person other than a Human Services employee who is a dental practitioner or a medical practitioner.

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Limitations on power to give notice: person must first have been given opportunity to respond to a request

- (4) The Chief Executive Medicare must not give a notice to a person under subsection (1) in respect of a dental service unless the Chief Executive Medicare has given the person a reasonable opportunity to respond to a written request to produce to the Chief Executive Medicare, or a Human Services employee, documents relevant to ascertaining whether the amount paid, purportedly by way of dental benefit, in respect of the service, should have been paid.

Limitations on power to give notice

- (5) A notice under subsection (1) can only be given in respect of a dental service for which an amount was claimed under this Act in the period of 2 years immediately before the day a written request under subsection (4) was first given to the person in relation to one or more dental services specified in the notice.

Content of notice

- (6) A notice under subsection (1) must:
- (a) specify details of each dental service (including the item, date on which the service was rendered and medicare number of the person in respect of whom the service was rendered) in relation to which the document, extract or copy is to be produced; and
 - (b) specify the reason or reasons for the Chief Executive Medicare's concern that an amount paid, purportedly by way of dental benefit, in respect of each such service may exceed the amount (if any) that should have been paid; and
 - (c) specify the information relevant to ascertaining whether amounts paid in respect of each such service should have been paid; and
 - (d) specify how the document, extract or copy is to be produced; and
 - (e) contain a statement to the effect that the person to whom the notice is given is not expected to produce a document, extract

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or copy containing clinical details relating to an individual unless the document, extract or copy is necessary to ascertaining whether the amount paid in respect of the service should have been paid; and

- (f) specify the period within which, and place at which, the document, extract or copy is to be produced.

The period specified under paragraph (f) must be a period ending at least 21 days after the day on which the notice is given.

Note: For the purpose of paragraphs (b) and (c) the notice will include the reason for the Chief Executive Medicare's concern about the payment and explain the factual issue that the person is required to substantiate.

Health information within the meaning of the Privacy Act 1988

- (7) The power under this section to require a document, extract or copy to be produced includes the power to require the production of a document, extract or copy containing health information (within the meaning of the *Privacy Act 1988*) about an individual.
- (7A) If requested to do so under subsection (4), a person is authorised to produce any document relevant to the request, including a document containing health information (within the meaning of the *Privacy Act 1988*) about an individual.

Section is not limited by other provisions

- (8) This section is not limited by:
- (a) any other provision of this Act; or
 - (b) any provision of the *Human Services (Medicare) Act 1973* or any other Act;
- that relates to the powers of the Chief Executive Medicare to require the production of documents.

32D Civil penalty—failure to comply with requirement in notice

- (1) A person referred to in paragraph 32C(1)(b) contravenes this section if:

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- (a) the person is given a notice under section 32C requiring the person to do something in respect of a dental service; and
- (b) the person fails to comply with the requirement within the period specified in the notice.

Civil penalty:

- (a) for an individual—20 penalty units; and
 - (b) for a body corporate—100 penalty units.
- (2) It is a defence in proceedings against a person for a contravention of subsection (1) if the person proves (on the balance of probabilities) that:
- (a) the failure to comply is brought about by another person over whom the person has no control or by a non-human act or event over which the person has no control; and
 - (b) the person could not reasonably be expected to guard against the failure.
- (3) Part VIA of the *Health Insurance Act 1973* applies in relation to this section as if subsection (1) of this section were a civil penalty provision as defined in section 125B of that Act.

Note: Part VIA of the *Health Insurance Act 1973* provides a regime for the obtaining of orders for a civil penalty.

32E Self-incrimination etc.

- (1) A person is not excused from producing a document, extract or copy when required to do so under section 32C on the ground that doing so would tend to incriminate the person or expose the person to a penalty.
- (2) However, in the case of an individual:
 - (a) the document, extract or copy produced; and
 - (b) producing the document, extract or copy; and
 - (c) any information, document or thing obtained as a direct or indirect consequence of producing the document, extract or copy;

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are not admissible in evidence against the individual in:

- (d) any criminal proceedings, other than:
 - (i) proceedings for an offence against this Act dealing with false or misleading statements; and
 - (ii) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* (which deals with false or misleading information or documents) that relates to this Act; or
- (e) any civil proceedings, other than a civil proceeding arising under section 32D, or Division 4 of Part 6, of this Act.

32F Chief Executive Medicare or Human Services employee may deal with documents etc. produced

Power to inspect, copy and retain document etc.

- (1) If a document, extract or copy has been produced under section 32C in respect of a dental service, the Chief Executive Medicare, or a Human Services employee, may do all or any of the things mentioned in subsection (2) for the purpose of ascertaining whether the information contained in the document, extract or copy properly substantiates that an amount paid, purportedly by way of dental benefit, in respect of the service, should have been paid.

Note: If the information does not properly substantiate the amount, debt recovery action may be taken (see section 56A).

- (2) The Chief Executive Medicare or Human Services employee may:
 - (a) inspect the document, extract or copy; and
 - (b) make a copy of, or take an extract from, the document, extract or copy; and
 - (c) retain the document, extract or copy in his or her possession for such reasonable period as he or she thinks fit.

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Rights of person otherwise entitled to possession of document or extract

- (3) The person otherwise entitled to possession of the document or extract is entitled to be supplied, as soon as practicable, with a copy certified by the Chief Executive Medicare, or a Human Services employee, to be a true copy.
- (4) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (5) Until a certified copy is supplied, the Chief Executive Medicare, or a Human Services employee, must, at such times and places as he or she thinks appropriate, permit the person otherwise entitled to possession of the document or extract, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document or extract.

Section is not limited by other provisions

- (6) This section is not limited by:
 - (a) any other provision of this Act; or
 - (b) any provision of the *Human Services (Medicare) Act 1973* or any other Act;that relates to the powers of the Chief Executive Medicare, or a Human Services employee, to deal with a document, extract or copy as described in subsection (2) of this section.

Human Services employees

- (7) A Human Services employee referred to in this section may be an employee other than the employee to whom the document, extract or copy was required to be produced.

Part 5—Disclosure of protected information

Division 1—Introduction

33 Simplified outline

The following is a simplified outline of this Part:

- This Part authorises certain uses and disclosures of protected information.
- Except as authorised by this Part, an entrusted public official must not disclose protected information.
- An entrusted public official must not, except for the purposes of this Act, be required:
 - (a) to disclose protected information to a court or tribunal;
or
 - (b) produce documents that contain protected information in a court or tribunal.
- This Part also sets out a number of offences relating to the disclosure etc. of protected information.

Division 2—Disclosure of protected information

34 Prohibition on disclosure of protected information

Offence

- (1) A person commits an offence if:
- (a) the person is, or was at any time, an entrusted public official;
and
 - (b) the person has, or has at any time had, a duty, function or power under this Act; and
 - (c) the person discloses information to another person; and
 - (d) the information is protected information; and
 - (e) the disclosure is not an authorised disclosure.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

Entrusted public official

- (2) Each of the following persons is an ***entrusted public official***:
- (a) the Minister;
 - (b) the Chief Executive Medicare;
 - (c) the Secretary of a relevant Department;
 - (d) an APS employee in a relevant Department;
 - (e) a Departmental employee within the meaning of the *Human Services (Medicare) Act 1973*;
 - (f) any other person employed or engaged by the Commonwealth to provide services to the Commonwealth in connection with a relevant Department or Services Australia;
 - (g) any other person employed or engaged (however described) by a person described in paragraph (f) to provide services in connection with the services mentioned in that paragraph.

Relevant Department

- (2A) For the purposes of this section, each of the following is a **relevant Department**:
- (a) the Department administered by the Minister who administers this Act;
 - (b) the Department administered by the Minister who administers the *Health Insurance Act 1973*;
 - (c) the Department administered by the Minister who administers the *Human Services (Centrelink) Act 1997*;
 - (d) the Department administered by the Minister who administers the *Human Services (Medicare) Act 1973*;
 - (e) the Department administered by the Minister who administers the *National Health Act 1953*.

Protected information

- (3) Information is **protected information** if the information relates to a person (including a deceased person) other than the person who obtained it and:
- (a) the information is obtained by a person in the course of performing duties or functions, or exercising powers, under this Act; or
 - (b) the information was information to which paragraph (a) applied and is obtained by a person by way of an authorised disclosure under section 36.

Authorised disclosure

- (4) A disclosure of information is an **authorised disclosure** if the disclosure is one that a person may make under section 35, 36, 37, 38, 39, 40, 41, 41A or 41B.

35 Authorised use or disclosure—official duties

A person may use or disclose protected information if the use or disclosure is made:

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- (a) in the course of performing a duty or function, or exercising a power, under this Act or the *Health Insurance Act 1973*; or
- (b) for the purposes of enabling another person to perform duties or functions, or exercise powers, under this Act or the *Health Insurance Act 1973*; or
- (c) for the purposes of enabling a person to perform duties or functions, or exercise powers, in connection with a medicare program.

36 Authorised use or disclosure—public interest

- (1) A person may use or disclose protected information if:
 - (a) the use or disclosure is, or is of a kind, certified, in writing by the Secretary or the Chief Executive Medicare, to be in the public interest; and
 - (b) the use or disclosure is made in accordance with any requirements specified in the Dental Benefit Rules.
- (2) An instrument made under paragraph (1)(a) is not a legislative instrument.

37 Authorised disclosure—authorisation by affected person

The Secretary or the Chief Executive Medicare may disclose protected information to a person or body if the person or body is expressly or impliedly authorised by the person to whom the protected information relates to obtain it.

38 Authorised use or disclosure—law enforcement, public revenue or integrity purposes

- (1) An entrusted public official may use or disclose protected information for a purpose specified in subsection (2) if:
 - (a) the official reasonably believes that using or disclosing the information is necessary for that purpose; and
 - (b) for a disclosure of information—the disclosure is to an agency (within the meaning of the *Privacy Act 1988*) whose functions are directed at that purpose.
-

- (2) The use or disclosure is authorised if it is for one or more of the following purposes:
- (a) the enforcement of the criminal law;
 - (b) the enforcement of a law imposing a pecuniary penalty;
 - (c) the protection of the public revenue;
 - (d) an integrity purpose (within the meaning of the *Crimes Act 1914*).

39 Authorised use or disclosure—preventing or lessening a serious and imminent threat to the life or health of a person

The Secretary or the Chief Executive Medicare may use or disclose protected information if:

- (a) the Secretary or the Chief Executive Medicare believes on reasonable grounds that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of a person; and
- (b) the use or disclosure is for the purposes of preventing or lessening that threat.

40 Authorised disclosure—professional body

- (1) The Secretary or the Chief Executive Medicare may disclose to a professional body protected information that relates to:
- (a) a dental provider; or
 - (b) the dental services rendered by or on behalf of a dental provider;
- if the Secretary or the Chief Executive Medicare believes on reasonable grounds that the dental provider should be reported to the professional body.
- (2) Subsection (1) does not apply to protected information:
- (a) that relates to a person who is a patient of the dental provider; and
 - (b) from which the identity of the person is apparent or can reasonably be ascertained;

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unless the Secretary or the Chief Executive Medicare believes on reasonable grounds that the disclosure of the protected information is necessary in connection with the reporting of the dental provider to the professional body.

(3) In this section:

professional body means a body responsible for the licensing, registration, accreditation or standards of professional conduct of dental providers generally or a class of dental providers.

41 Authorised disclosure—administration of this Act

(1) A person may disclose protected information to:

- (a) the Chief Executive Medicare; or
 - (b) the Chief Executive Centrelink; or
 - (c) the Minister who administers:
 - (i) this Act; or
 - (ii) the *Human Services (Medicare) Act 1973*; or
 - (iii) the *Social Security Act 1991* in so far as that Act relates to youth allowance; or
 - (iv) the *A New Tax System (Family Assistance) Act 1999* in so far as that Act relates to family tax benefit; or
 - (v) the ABSTUDY scheme; or
 - (vi) the *Veterans' Entitlements Act 1986*; or
 - (d) the Secretary of, or an APS employee in, the Department administered by a Minister mentioned in paragraph (c);
- if the disclosure is for the purposes of administering this Act.

Note: For the definition of **APS employee**, see section 2B of the *Acts Interpretation Act 1901*.

(2) In this section:

family tax benefit has the same meaning as in the *A New Tax System (Family Assistance) Act 1999*.

41A Authorised use or disclosure—integrity of medicare programs, patient safety etc.

- (1) A person may disclose protected information to an entrusted public official, and an entrusted public official may use or disclose protected information, for the purposes of:
- (a) the integrity or sustainability of a medicare program; or
 - (b) the protection of a person from a risk arising from, or in connection with, the provision of a benefit or service under a medicare program.

Note: For paragraph (a), subsection (4) extends the meaning of the integrity or sustainability of a medicare program.

- (2) A person or body that receives protected information under subsection (1) may use or disclose that information for the same purposes as the purposes for which the information is disclosed to the person or body under subsection (1).
- (3) However, this section does not authorise the following disclosures:
- (a) disclosure by any of the following persons of protected information obtained as a result of a review or investigation under Part VAA of the *Health Insurance Act 1973*:
 - (i) a person appointed under Division 2 of that Part;
 - (ii) a member of staff or a consultant engaged under section 106ZM or 106ZP of that Act;
 - (iii) a person whose services are made available under section 106ZN of that Act;
 - (iv) a person providing services under section 106ZPL of that Act;
 - (v) any other person engaged (whether as an employee or otherwise) by the Professional Services Review to provide services in connection with the performance of duties or functions, or the exercise of powers, under that Part;
 - (b) disclosure, by a person consulted under section 90 of that Act, of protected information obtained in connection with that consultation.

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Note: For paragraph (a), such persons include the Director or an Associate Director of Professional Services Review or a Panel member of the Professional Services Review Panel (all within the meaning of Part VAA of the *Health Insurance Act 1973*).

Integrity or sustainability of a medicare program

- (4) For the purposes of subsection (1):
- (a) a reference to the purposes of the integrity or sustainability of a medicare program includes a reference to the need to ensure that access to the program is limited to circumstances where requirements or parameters (whether or not statutory) relating to the program are met; and
 - (b) a reference to a use or disclosure being for those purposes is taken to include a reference to the use or disclosure being for the purposes of ensuring that the delivery of the program is not compromised by mistakes, misconduct, fraud or non-compliance, including in relation to those requirements or parameters.

41B Authorised disclosure—other permitted disclosures

An entrusted public official may disclose protected information to another person or a body if:

- (a) the information is lawfully in the public domain; or
- (b) the information has lawfully been disclosed to that other person or body previously; or
- (c) the information relates to that other person or body; or
- (d) the disclosure of the information is for the purposes of obtaining or providing legal advice.

41C Authorised use—for authorised disclosure

A person may use protected information for the purpose of making an authorised disclosure.

41D Authorisations and exemptions do not limit each other

An authorisation or exemption (however described) under a provision of this Division does not limit, and is not limited by, any other authorisation or exemption under any other provision of this Act (including this Division).

42 Disclosure of protected information to courts or tribunals

Scope

- (1) This section applies if:
 - (a) a person is, or was at any time, an entrusted public official; and
 - (b) the person obtained:
 - (i) protected information; or
 - (ii) a document that contains protected information; in the course of performing duties or functions, or exercising powers, under this Act.

Disclosure of protected information to a court or tribunal

- (2) The person must not, except for the purposes of this Act, be required:
 - (a) to disclose the protected information to a court or tribunal; or
 - (b) to produce the document in a court or tribunal.

Division 3—Offences relating to the disclosure etc. of protected information

43 Offence—disclosure of protected information obtained in the public interest

A person commits an offence if:

- (a) the person obtains protected information; and
- (b) the person does so by way of an authorised disclosure under section 36; and
- (c) the person discloses the protected information; and
- (d) the disclosure by the person is not an authorised disclosure.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

44 Offence—soliciting disclosure of protected information

A person commits an offence if:

- (a) the person solicits the disclosure of information from another person; and
- (b) the information is protected information; and
- (c) the disclosure would constitute a contravention of section 34 or 43.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

45 Offence—use etc. of protected information

A person commits an offence if:

- (a) information is disclosed to the person; and
- (b) the information is protected information; and
- (c) the disclosure to the person constitutes a contravention of section 34 or 43; and
- (d) any of the following apply:
 - (i) the person solicited the disclosure of the information;

- (ii) the person subsequently discloses the information;
- (iii) the person uses the information.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

46 Offence—offering to supply protected information

A person commits an offence if:

- (a) the person:
 - (i) offers; or
 - (ii) holds himself or herself out as being able;
to supply (whether or not to a particular person) information
about another person; and
- (b) the person knows that the information is protected
information; and
- (c) the supply would constitute a contravention of section 34 or
43.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

Part 6 General offences and recovery provisions

Division 1 Introduction

Section 47

Part 6—General offences and recovery provisions

Division 1—Introduction

47 Simplified outline

The following is a simplified outline of this Part:

- Divisions 2 and 3 of this Part set out a number of offences relating to assignment agreements and the giving of information.
- Division 4 of this Part deals with the recovery of amounts paid under this Act.

Division 2—Offences relating to assignment agreements

48 Strict liability offence—particulars not set out in assignment agreement

- (1) A dental provider commits an offence if:
 - (a) the dental provider, or a person acting on his or her behalf, enters into an agreement under subsection 12(2) with another person; and
 - (b) particulars relating to the dental service are required, by the approved form, to be set out in the agreement; and
 - (c) the dental provider has not caused the particulars to be set out in the agreement before the other person signs the agreement.

Penalty: 10 penalty units.

- (2) An offence under subsection (1) is an offence of strict liability.

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

- (3) In this section:

approved form means the form approved for the purposes of subsection 12(2).

49 Strict liability offence—copy of assignment agreement not given

- (1) A dental provider commits an offence if:
 - (a) the dental provider, or a person acting on his or her behalf, enters into an agreement under subsection 12(2) with another person; and
 - (b) the dental provider does not cause a copy of the agreement to be given to the other person as soon as practicable after the other person signed the agreement.

Penalty: 10 penalty units.

- (2) An offence under subsection (1) is an offence of strict liability.

Part 6 General offences and recovery provisions
Division 2 Offences relating to assignment agreements

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

Division 3—Offences relating to the giving of information

50 Strict liability offence—false or misleading statements relating to dental benefit

Offence

- (1) A person commits an offence if:
 - (a) the person makes, or authorises the making of, an oral or written statement; and
 - (b) the statement is false or misleading in a material particular; and
 - (c) the statement is capable of being used in connection with a claim for dental benefit.

Penalty: 20 penalty units.

Strict liability

- (2) An offence under subsection (1) is an offence of strict liability.

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

Prosecution—time limit

- (3) Despite section 15B of the *Crimes Act 1914*, a prosecution for an offence under subsection (1) must be instituted within 3 years after the time at which the statement is alleged to have been made.

51 Strict liability offence—false or misleading statements by employees etc.

Offence

- (1) A person (the **first person**) commits an offence if:
 - (a) the first person is an employee, associate or agent of another person (the **second person**); and

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- (b) the second person makes an oral or written statement (the *claim statement*); and
- (c) the claim statement is false or misleading in a material particular; and
- (d) the claim statement is capable of being used in connection with a claim for dental benefit; and
- (e) the material particular in respect of which the claim statement is false or misleading is substantially based upon another statement (the *employee statement*); and
- (f) the employee statement was made by the first person:
 - (i) to the second person; or
 - (ii) to an agent of the second person; and
- (g) the employee statement was false or misleading in a material particular.

Penalty: 20 penalty units.

Strict liability

- (2) An offence under subsection (1) is an offence of strict liability.

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

Prosecution—time limit

- (3) Despite section 15B of the *Crimes Act 1914*, a prosecution for an offence under this section must be instituted within 3 years after the time at which the claim statement is alleged to have been made.

52 Offence—statement that person knows is false or misleading

A person commits an offence if:

- (a) the person makes, or authorises the making of, an oral or written statement; and
- (b) the person knows:
 - (i) that the statement is false or misleading in a material particular; and

- (ii) that the statement is capable of being used in connection with a claim for dental benefit.

Penalty: Imprisonment for 5 years or 100 penalty units, or both.

53 Offence—statement based on statement that employee etc. knows is false or misleading

A person (the *first person*) commits an offence if:

- (a) the first person is an employee, associate or agent of another person (the *second person*); and
- (b) the second person makes an oral or written statement (the *claim statement*); and
- (c) the claim statement is false or misleading in a material particular; and
- (d) the claim statement is capable of being used in connection with a claim for dental benefit; and
- (e) the material particular in respect of which the claim statement is false or misleading is substantially based upon another statement (the *employee statement*); and
- (f) the employee statement was made by the first person:
 - (i) to the second person; or
 - (ii) to an agent of the second person; and
- (g) the first person knew that the employee statement was false or misleading in a material particular; and
- (h) the first person knew that, or was reckless as to whether, the employee statement would be used in the preparation of the claim statement.

Penalty: Imprisonment for 5 years or 100 penalty units, or both.

54 False statements etc.

A person commits an offence if:

- (a) the person gives information under or for the purposes of this Act; and

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- (b) the person knows that the information is false or misleading in a material particular.

Penalty: Imprisonment for 5 years or 100 penalty units.

55 Prosecution of certain offences

- (1) An offence against section 52, 53 or 54 is an indictable offence.
- (2) Despite subsection (1), a court of summary jurisdiction may hear and determine proceedings in respect of an offence referred to in that subsection if:
 - (a) the court is satisfied that it is proper to do so; and
 - (b) the defendant and the prosecutor consent.
- (3) If, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence referred to in subsection (1), the penalty that the court may impose is:
 - (a) imprisonment for a period not exceeding 6 months; or
 - (b) a fine not exceeding 10 penalty units.

Division 4—Recovery of amounts paid under this Act

56 Recovery of amounts paid: false or misleading information

Scope

- (1) This section applies if:
 - (a) an amount is paid purportedly by way of a payment of dental benefit; and
 - (b) as a result of the giving of false or misleading information, the amount paid exceeds the amount (if any) that should have been paid.

Debt due to the Commonwealth

- (2) The amount of the excess is recoverable as a debt due to the Commonwealth from:
 - (a) the person by or on behalf of whom the information was given; or
 - (b) the estate of that person.

Note: See section 56D for review of decisions.

- (3) Subsection (2) applies:
 - (a) whether or not the amount was paid to the person by or on behalf of whom the information was given; and
 - (b) whether or not any person has been convicted of an offence in relation to the giving of the information.

Form of information is immaterial

- (4) For the purposes of this section, it is immaterial whether the false or misleading information is given:
 - (a) in a document; or
 - (b) in a statement; or
 - (c) in any other form.

Section 56A

56A Recovery of amounts paid: notices to produce documents and administrative penalties

Failure to produce document: notice to person referred to in paragraph 32C(1)(a)

- (1) If:
- (a) a person referred to in paragraph 32C(1)(a) is required, by a notice given under section 32C, to produce a document, extract or copy in respect of a dental service; and
 - (b) the person does not comply with the requirement within the period specified in the notice;
- the amount paid, purportedly by way of dental benefit, in respect of the service, is recoverable as a debt due to the Commonwealth from the person, or the estate of the person.
- (2) Subsection (1) does not apply if the person concerned satisfies the Chief Executive Medicare that the person's non-compliance is due to circumstances beyond the person's control.

Note: See section 56D for review of decisions.

Amount not properly substantiated: notice to person referred to in paragraph 32C(1)(a)

- (3) If:
- (a) a person referred to in paragraph 32C(1)(a) is required, by a notice given under section 32C, to produce a document, extract or copy in respect of a dental service; and
 - (b) the person complies with the requirement within the period specified in the notice; and
 - (c) the information contained in the document, extract or copy does not properly substantiate (wholly or partly) that the amount paid, purportedly by way of dental benefit, in respect of the service, should have been paid;
- then, to the extent that the amount is not properly substantiated, the amount is recoverable as a debt due to the Commonwealth from the person, or the estate of the person.

- (4) Subsection (3) does not apply if the person concerned satisfies the Chief Executive Medicare that the reason that the information contained in the document, extract or copy does not properly substantiate the amount is due to circumstances beyond the person's control.

Note: See section 56D for review of decisions.

Amount not properly substantiated: notice to person referred to in paragraph 32C(1)(b)

- (5) If:
- (a) a person (the **notice recipient**) referred to in paragraph 32C(1)(b) is required, by a notice given under section 32C, to produce a document, extract or copy in respect of a dental service; and
 - (b) the notice recipient complies with the requirement within the period specified in the notice; and
 - (c) the information contained in the document, extract or copy does not properly substantiate (wholly or partly) that the amount paid, purportedly by way of dental benefit, in respect of the service, should have been paid;
- then, to the extent that the amount is not properly substantiated, the amount is recoverable as a debt due to the Commonwealth from:
- (d) the person who rendered the service, or on whose behalf the service was rendered; or
 - (e) the estate of that person.
- (6) Subsection (5) does not apply if the person from whom the amount concerned is recoverable satisfies the Chief Executive Medicare that the reason that the information contained in the document, extract or copy does not properly substantiate the amount is due to circumstances beyond the control of the person and the notice recipient.

Note: See section 56D for review of decisions.

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Amount is recoverable from a person under this section whether or not the amount was paid to that person

- (7) An amount is recoverable from a person as mentioned in subsection (1), (3) or (5) whether or not the amount was paid to that person.

Administrative penalties

- (8) If:
- (a) a person is given a notice under subsection 56G(1) of the person's liability to pay an administrative penalty; and
 - (b) the person does not pay the penalty by the day set out in the notice as the day by which the penalty becomes due for payment;
- the amount set out in the notice is recoverable as a debt due to the Commonwealth from the person or the estate of the person.

56B Notice of decision that document etc. produced substantiates that amount paid should have been paid

Amount paid substantiated

- (1) If:
- (a) a person produces to the Chief Executive Medicare, or to a Human Services employee, a document, extract or copy relating to a dental service after being requested, or required under section 32C, to do so; and
 - (b) the Chief Executive Medicare decides that the information contained in the document, extract or copy properly substantiates that the amount paid, by way of dental benefit, in respect of the service, should have been paid;
- the Chief Executive Medicare must give the person written notice of the decision.

Circumstances beyond control exist

- (2) If the Chief Executive Medicare is satisfied, for the purposes of subsection 56A(2) or (4), that circumstances beyond a person's control exist, the Chief Executive Medicare must give the person written notice of the decision.
- (3) If the Chief Executive Medicare is satisfied, for the purposes of subsection 56A(6), that circumstances exist beyond the control of:
 - (a) the person from whom the amount concerned is recoverable;
and
 - (b) the recipient of the notice concerned;the Chief Executive Medicare must give written notice of the decision to the person from whom the amount concerned is recoverable.

Notice may include notice of other decisions

- (4) The Chief Executive Medicare's written notice to a person of a decision may include written notice of other decisions referred to in this section, or section 56C, that also are required to be given to the person.

56C Notice of decision to claim amount as debt

- (1) If an amount is recoverable under subsection 56(2), or 56A(1), (3), (5) or (8), as a debt due to the Commonwealth from a person, or from an estate, the Chief Executive Medicare must give written notice to the person or estate of:
 - (a) the decision to claim the amount as a debt; and
 - (b) the reasons for the decision; and
 - (c) the right of the person or estate to seek review of the decision under subsection 56D(1).
- (2) The written notice may also include notice of other decisions referred to in this section, or section 56B, that also are required to be given to the person or estate. The notice may also, as appropriate, state that the Chief Executive Medicare was not

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satisfied, for the purposes of subsection 56A(2), (4) or (6), that circumstances beyond a person's control existed.

- (3) A failure to comply with the requirements of subsection (1) does not affect the validity of the decision.
- (4) The Chief Executive Medicare must not serve a notice on a person or an estate claiming an amount as a debt before the end of the period of 28 days after written notice of the decision referred to in subsection (1) is given to the person or estate.
- (5) Subsection (4) does not apply in relation to claiming an amount as a debt if the person or estate has notified the Chief Executive Medicare as mentioned in subsection 56D(1A) in relation to the debt.

56D Review of decision to claim amounts as debt

- (1) If the Chief Executive Medicare makes a decision referred to in subsection 56C(1) about a person or an estate, the person or estate may apply in writing to the Chief Executive Medicare, in the form approved in writing by the Chief Executive Medicare, for a review of the decision.
- (1A) Subsection (1) does not apply if the person or estate has notified the Chief Executive Medicare, in the form approved in writing by the Chief Executive Medicare, that the person or estate waives the right to review of the decision to claim the amount as a debt.
- (2) In making an application under subsection (1), the person or estate may provide the Chief Executive Medicare with additional information to substantiate (wholly or partly) that the amount paid, purportedly by way of dental benefit in respect of the service, should have been paid.
- (3) An application for review of a decision must be made within 28 days after the person or estate is notified of the decision.
- (4) On receiving an application for review of a decision, the Chief Executive Medicare must:

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- (a) review the decision; and
 - (b) confirm, vary or revoke the decision.
- (5) The Chief Executive Medicare must give to the applicant written notice of the decision (the ***reconsidered decision***) on the review within 28 days after receiving the application for review.
- (6) A failure to comply with the requirements of subsection (5) does not affect the validity of the review or of the reconsidered decision.
- (7) Applications may be made to the Administrative Review Tribunal for review of reconsidered decisions.
- (8) An application under subsection (7) may be made only if:
- (a) the applicant has been given notice of the reconsidered decision under subsection (5); and
 - (b) one or more garnishee notices have been given under subsection 58AA(2) in relation to the debt to which the reconsidered decision relates.
- (9) Despite section 18 of the *Administrative Review Tribunal Act 2024*, an application under subsection (7) of this section must be made within the period of 28 days after the day the first garnishee notice is given.
- (10) To avoid doubt:
- (a) a decision referred to in subsection (1) may be reviewed by the CEO under subsection (4) of this section once only; and
 - (b) a reconsidered decision takes effect:
 - (i) on the day specified in the reconsidered decision; or
 - (ii) if a day is not specified—on the day on which the reconsidered decision is made.

56E Liability for administrative penalty

A person is liable for an administrative penalty for a dental service rendered by, or on behalf of, the person if:

- (a) the Chief Executive Medicare has served notice (as mentioned in subsection 56C(4)) on the person claiming an

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amount (the **total amount**) as a debt due to the Commonwealth; and

- (b) the total amount consists of, or includes, an amount (the **recoverable amount**) in respect of the service recoverable as a debt due to the Commonwealth from the person under any of the following provisions:
 - (i) subsection 56(2);
 - (ii) subsection 56A(1), (3) or (5); and
- (c) the total amount is more than:
 - (i) \$2,500; or
 - (ii) if a higher amount is prescribed by the regulations—that higher amount.

56F Amount of administrative penalty

- (1) The amount of the administrative penalty for a dental service is worked out in accordance with this section.

Base penalty amount

- (2) Subject to subsections (3) and (4), the amount (the **base penalty amount**) of the administrative penalty for a dental service is 20% of the recoverable amount mentioned in paragraph 56E(b) in respect of the service.

Reductions in base penalty amount

- (3) A person's base penalty amount for a dental service is reduced in accordance with the following table.

Reductions in base penalty amount		
Item	Column 1	Column 2
	If ...	the base penalty amount is reduced by ...
1	before the Chief Executive Medicare contacts the person under subsection 32C(1) or (4) about the dental	100%

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Reductions in base penalty amount		
Item	Column 1	Column 2
	If ...	the base penalty amount is reduced by ...
	service, the person voluntarily tells the Chief Executive Medicare, or a Human Services employee, in the form approved in writing by the Chief Executive Medicare, that an amount paid, purportedly by way of benefit or payment under this Act, in respect of the service exceeds the amount (if any) that should have been paid	
2	(a) after the Chief Executive Medicare contacts the person about the service under subsection 32C(4); and (b) before the Chief Executive Medicare gives a notice to the person under subsection 32C(1) that specifies the service; and (c) before the Chief Executive Medicare gives notice to the person under subsection 56C(1) of a decision to claim an amount as a debt in relation to the service; the person voluntarily tells the Chief Executive Medicare, or a Human Services employee, in the form approved in writing by the Chief Executive Medicare, that an amount paid, purportedly by way of benefit or payment under this Act, in respect of the service exceeds the amount (if any) that should have been paid	50%
3	(a) after the Chief Executive Medicare gives a notice to the person under subsection 32C(1) that specifies the service; and (b) before the end of the period specified in the notice; and (c) before the Chief Executive Medicare gives notice to the person under subsection 56C(1) of a decision to claim an amount as a debt in relation to the service; the person tells the Chief Executive Medicare, or a Human Services employee, in the form approved in writing by the Chief Executive Medicare, that an amount paid, purportedly by way of benefit or payment	25%

Part 6 General offences and recovery provisions
Division 4 Recovery of amounts paid under this Act

Section 56G

Reductions in base penalty amount		
Item	Column 1	Column 2
	If ...	the base penalty amount is reduced by ...
	under this Act, in respect of the service exceeds the amount (if any) that should have been paid	

Increases in base penalty amount

- (4) A person's base penalty amount for a dental service is increased by 25% if:
- (a) the Chief Executive Medicare gives a notice to the person under subsection 32C(1) that specifies the service; and
 - (b) the person does not comply with the notice in respect of the service, or any other dental service specified in the notice, within the period specified in the notice.

Interaction between reduction and increase

- (5) If a base penalty amount is subject to both a reduction and an increase, apply the reduction first.

56G Notice of administrative penalty and review of assessments

- (1) The Chief Executive Medicare must give to a person who the Chief Executive Medicare has assessed, in accordance with sections 56E and 56F, is liable for an administrative penalty, or the person's estate, written notice of the assessment which includes the following:
- (a) the person's liability to pay an administrative penalty in respect of one or more dental services;
 - (b) the dental service to which each administrative penalty relates;
 - (c) if there is more than one dental service—the total of the administrative penalties;

- (d) the day by which the penalty becomes due for payment (which must be at least 14 days after the day on which the notice is given);
 - (e) the fact that the notice is given under this section.
- (2) The notice may also deal with a debt due to the Commonwealth under section 56 or 56A arising in relation to the dental service.

Review of decisions

- (3) Applications may be made to the Administrative Review Tribunal for review of assessments by the Chief Executive Medicare of liability to pay administrative penalties for which notice has been given under subsection (1).
- (4) An application under subsection (3) may be made by a person, or a person's estate, only if:
- (a) the person or estate has been given a notice under subsection (1) that the person is liable for an administrative penalty; and
 - (b) the decision to claim the debt to which the administrative penalty relates is a reconsidered decision under subsection 56D(5); and
 - (c) one or more garnishee notices have been given under subsection 58AA(2) in relation to that debt.
- (5) Despite section 18 of the *Administrative Review Tribunal Act 2024*, an application under subsection (3) of this section must be made within the period of 28 days after the day the first garnishee notice is given.

56H Power to obtain information relating to a debt

- (1A) This section applies in relation to an amount (a ***recoverable amount***) that is recoverable from a person, or from the estate of a person, as a debt due to the Commonwealth if the amount is one of the following:
- (a) an amount for which notice has been served as mentioned in subsection 56C(4);

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- (b) an amount of interest under subsection 57(5).
- (1) The Chief Executive Medicare may, by written notice given to the person or estate, require the person or estate to do either or both of the following:
- (a) give to the Chief Executive Medicare, or a Human Services employee, information in writing that is relevant to the financial situation of the person or estate;
 - (b) produce to the Chief Executive Medicare, or a Human Services employee, a document that is in the custody or under the control of the person or estate and is relevant to the financial situation of the person or estate.
- (2) The person must notify the Chief Executive Medicare, of an address for the purposes of giving the person documents relating to the debt, within 14 days after:
- (a) if paragraph (1A)(a) applies—notice is served as mentioned in subsection 56C(4); or
 - (b) if paragraph (1A)(b) applies—the end of the relevant period mentioned in subsection 57(2).

Civil penalty:

- (a) for an individual—20 penalty units; and
 - (b) for a body corporate—100 penalty units.
- (3) If the address of the person changes after notifying the address under subsection (2) or this subsection, the person must notify the Chief Executive Medicare of the change within 14 days after the change.

Civil penalty:

- (a) for an individual—20 penalty units; and
 - (b) for a body corporate—100 penalty units.
- (4) If the Chief Executive Medicare reasonably believes that a person may have information or a document:

- (a) that would help the Chief Executive Medicare locate another person or estate (the *debtor*) from which a recoverable amount is recoverable; or
 - (b) that is relevant to the debtor's financial situation;
- the Chief Executive Medicare may, by written notice given to the person, require the person to give the information in writing, or produce the document, to the Chief Executive Medicare or a Human Services employee.
- (5) A notice under subsection (1) or (4) must specify the following:
 - (a) how the person or estate is to give the information in writing or produce the document;
 - (b) the period (which must be at least 14 days after the day the notice is given) within which the person or estate is to give the information in writing or produce the document;
 - (c) that the notice is given under subsection (1) or (4) (as the case requires).
 - (6) A person contravenes this subsection if:
 - (a) the person is given a notice under subsection (1) or (4) requiring the person to give information or produce a document; and
 - (b) the person fails to comply with the requirement within the period specified in the notice.
- Civil penalty:
- (a) for an individual—20 penalty units; and
 - (b) for a body corporate—100 penalty units.
- (7) Part VIA of the *Health Insurance Act 1973* applies in relation to this section as if subsections (2), (3) and (6) of this section were civil penalty provisions as defined in section 125B of that Act.
- Note: Part VIA of the *Health Insurance Act 1973* provides a regime for the obtaining of orders for a civil penalty.
- (8) Subsection (2), (3) or (6) does not apply if the person has a reasonable excuse.

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Note: A person who wishes to rely on subsection (8) in proceedings for a civil penalty order bears an evidential burden in relation to the matter in that subsection (see section 130H of the *Health Insurance Act 1973*).

57 Interest payable on recoverable amounts

Scope

- (1) This section applies if:
 - (a) an amount (the ***principal sum***) is recoverable as a debt due to the Commonwealth from a person or estate under section 56 or 56A; and
 - (b) the Chief Executive Medicare has given a written notice to the person or estate claiming the amount as a debt due to the Commonwealth.

Interest payable

- (2) Interest is payable on the amount of the principal sum that remains unpaid from time to time if:
 - (a) a repayment arrangement in relation to the principal sum was entered into during the relevant period and there is a default (whether before or after the end of the relevant period) in repaying all or part of the principal sum as required by the arrangement; or
 - (b) at the end of the relevant period, a repayment arrangement has not been entered into and all or part of the principal sum remains unpaid.
- (3) For the purposes of subsection (2), the ***relevant period*** is:
 - (a) the period of 3 months beginning on the day after the written notice is given to the person or estate under paragraph (1)(b); or
 - (b) such longer period as the Chief Executive Medicare allows.
- (4) Interest under subsection (2) is payable from:
 - (a) the day after the end of the relevant period; or

- (b) such later day ordered by a court in any proceedings instituted by the Commonwealth to recover an amount due under this section.
- (5) Interest under subsection (2):
 - (a) is payable at the rate prescribed from time to time for the purposes of subsection 129AC(2) of the *Health Insurance Act 1973*; and
 - (b) is recoverable as a debt due to the Commonwealth from the person or estate.

Definition

- (6) In this section:

repayment arrangement, in relation to a principal sum, means an arrangement entered into by the Chief Executive Medicare and a person, or the person's estate, for the repayment of the principal sum.

58 Recovering amounts by reducing future payments

- (1) The Chief Executive Medicare may reduce one or more amounts of dental benefit payable to a person, or the estate of a person, if:
 - (a) the following conditions are satisfied:
 - (i) an amount or amounts have previously been paid under this Act to the person purportedly by way of dental benefit;
 - (ii) the amount or amounts referred to in subparagraph (i) exceed the amount (if any) that should have been paid to the person (whether or not the excess is recoverable as mentioned in paragraph (b)); or
 - (b) an amount is recoverable from the person or from the estate of the person under section 56 or 56A or subsection 57(5).
- (2) The **reduction limit** is the excess referred to in subparagraph (1)(a)(ii), or the amount referred to in paragraph (1)(b), as the case requires.

Section 58AA

Amount of reduction—no previous recovery or reduction

- (3) If subsection (4) does not apply, the amount of a reduction under subsection (1) must not exceed the reduction limit.

Amount of reduction—previous recovery or reduction

- (4) If either or both of the following have occurred:
- (a) the Chief Executive Medicare has previously reduced, under this section, one or more amounts (the **reduced amounts**) of dental benefit payable to the person;
 - (b) one or more amounts (the **recovered amounts**) have been previously recovered from the person under section 56 or 56A or subsection 57(5);
- the amount of a reduction under subsection (1) must not exceed the amount by which the reduction limit exceeds the sum of the reduced amounts (if any) and the recovered amounts (if any).

Reduction to nil

- (5) A reduction under subsection (1) may result in one or more amounts of dental benefit being reduced to nil.

58AA Garnishee notices

- (1) This section applies in relation to an amount:
- (a) that is a recoverable amount (the **debt**) under subsection 56(2), 56A(1), (3), (5) or (8) or 57(5); and
 - (b) that is recoverable from a person (the **debtor**) or from the estate of that person; and
 - (c) in relation to which any rights of review by the Chief Executive Medicare under section 56D have been exhausted or have expired.
- (2) If a person (the **third party**) owes or may later owe money to the debtor or estate, the Chief Executive Medicare may give a written notice (the **garnishee notice**) to the third party.

Third party regarded as owing money in these circumstances

- (3) The third party is taken to owe money (the **available money**) to the debtor or estate if the third party:
- (a) is a person by whom the available money is due or accruing to the debtor or estate; or
 - (b) holds the money for, or on account of, the debtor or estate; or
 - (c) holds the money on account of some other person for payment to the debtor or estate; or
 - (d) has authority from some other person to pay the money to the debtor or estate.
- (4) The third party is taken to owe the available money to the debtor or estate even if:
- (a) the money is not due, or is not so held, or payable under the authority, unless a condition is fulfilled; and
 - (b) the condition has not been fulfilled.

How much is payable under the notice

- (5) The garnishee notice must:
- (a) require the third party to pay to the Commonwealth the lesser of, or a specified amount not exceeding the lesser of:
 - (i) the debt; or
 - (ii) the available money; or
 - (b) if there will be amounts of the available money from time to time—require the third party to pay to the Commonwealth a specified amount, or a specified percentage, of each amount of the money, until the debt is satisfied.

When amount must be paid

- (6) The garnishee notice must require the third party to pay an amount under paragraph (5)(a), or each amount under paragraph (5)(b), within the period specified in the notice.

Section 58AA

Debtor must be notified

- (7) The Chief Executive Medicare must send a copy of the garnishee notice to the debtor or estate.

Setting off amounts

- (8) If a person other than the third party has paid an amount to the Commonwealth that satisfies all or part of the debt:
- (a) the Chief Executive Medicare must notify the third party of that fact; and
 - (b) any amount that the third party is required to pay under the garnishee notice is reduced by that amount.

Indemnity

- (9) If an amount is paid by the third party in accordance with the garnishee notice:
- (a) the payment is taken to have been authorised by:
 - (i) the debtor or estate; and
 - (ii) any other person who is entitled to all or a part of the amount; and
 - (b) the third party is indemnified for the payment.

Garnishee notice to Commonwealth, State or Territory

- (10) If the third party is the Commonwealth, a State or a Territory, the Chief Executive Medicare may give the notice to a person who is (as the case requires):
- (a) employed by the Commonwealth, State or Territory; and
 - (b) required, or authorised, to disburse public money under a law of the Commonwealth, State or Territory.

Section binds the Crown

- (11) This section binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.

Section 58AB

- (12) However, this section does not make the Crown liable to be prosecuted for an offence.
- (13) To avoid doubt, this section does not imply that the Crown is, or is not, bound by any other provision of this Act.

Review of decisions

- (14) The debtor or estate may apply to the Administrative Review Tribunal for review of a decision by the Chief Executive Medicare to give a garnishee notice to a person under subsection (2).

58AB Failure to comply with garnishee notice

- (1) A person commits an offence if:
 - (a) the person is given a garnishee notice under section 58AA;
 - and
 - (b) the person fails to comply with the notice.

Penalty: 20 penalty units.

- (2) The court may, in addition to imposing a penalty on a person convicted of an offence against subsection (1) in relation to failing to pay an amount under the notice, order the person to pay to the Commonwealth an amount not exceeding the amount specified in the notice.

58A Amounts recoverable once only

To avoid doubt, an amount paid purportedly by way of dental benefit is recoverable under this Division once only.

Part 7—Dental Benefits Rules

59 Simplified outline

The following is a simplified outline of this Part:

- The Minister may make Dental Benefits Rules.
- The Dental Benefits Rules may provide for a Dental Benefits Schedule that sets out:
 - (a) items specifying dental services; and
 - (b) the amount of dental benefit payable, or a method for determining the amount of dental benefit payable, in respect of a dental service.
- The specification of a dental service in an item in the Dental Benefits Schedule may be unconditional or subject to specified conditions, limitations or restrictions.

60 Minister may make Dental Benefits Rules

Dental Benefits Rules

- (1) The Minister may, by legislative instrument, make ***Dental Benefits Rules*** providing for matters:
 - (a) required or permitted by this Act to be provided; or
 - (b) necessary or convenient to be provided in order to carry out or give effect to this Act.

Dental Benefits Rules may confer power

- (2) The Dental Benefits Rules may make provision for or in relation to a matter by conferring a power on the Minister or on the Chief Executive Medicare.

Dental Benefits Rules may incorporate material

- (3) The Dental Benefits Rules may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or writing:
 - (a) as in force or existing at a particular time; or
 - (b) as in force or existing from time to time.
- (4) Subsection (3) has effect despite anything in the *Legislation Act 2003*.

61 Dental Benefits Schedule

- (1) The Dental Benefits Rules may provide for a Dental Benefits Schedule that sets out the following:
 - (a) items specifying dental services;
 - (b) the amount of dental benefit payable, or a method for the determining the amount of dental benefit payable, in respect of a dental service.

Note: The amount of dental benefit payable in respect of a dental service must not exceed the dental expenses incurred in respect of the dental service: see subsection 9(3).

- (2) The Dental Benefits Rules may sets out rules for interpretation of the Dental Benefits Schedule.

62 Specification of items in Dental Benefits Schedule may be conditional

- (1) The specification of a dental service in an item in the Dental Benefits Schedule may be:
 - (a) unconditional; or
 - (b) subject to such conditions, limitations or restrictions as are specified in the Dental Benefits Rules (including the Dental Benefits Schedule).

Section 62

- (2) Conditions, limitations or restrictions specified in the Dental Benefits Rules may include, but are not limited to, imposing a specified monetary limit on the amount of dental benefit payable in respect of:
- (a) a specified dental service; or
 - (b) specified dental services provided to specified eligible dental patients; or
 - (c) specified dental services provided to specified eligible dental patients during specified periods.

Part 8—Other matters

63 Simplified outline

The following is a simplified outline of this Part:

- This Part makes provision in relation to:
 - (a) the functions of the Chief Executive Medicare; and
 - (aa) the operation of certain State and Territory laws; and
 - (b) the appropriation of the Consolidated Revenue Fund; and
 - (c) the delegation of the functions and powers of the Minister or the Secretary under this Act; and
 - (d) the making of regulations for the purposes of this Act.

64 Additional functions of the Chief Executive Medicare

- (1) In addition to the functions of the Chief Executive Medicare under the *Human Services (Medicare) Act 1973*, the Chief Executive Medicare has such additional functions as are conferred on the Chief Executive Medicare by or under this Act.
- (2) Anything done by or on behalf of the Chief Executive Medicare in the performance of such additional functions is taken, for all purposes, to have been done in the performance of his or her functions under the *Human Services (Medicare) Act 1973*.

64A Obligations not affected by State or Territory laws

Nothing contained in a law of a State or a Territory, or in the general law, operates to prevent a person from:

- (a) giving information; or
- (b) producing a document; or
- (c) giving evidence;

Section 65

that the person is required, or authorised, to give or produce under a provision of this Act.

65 Appropriation

Amounts of dental benefit payable under this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

66 Delegation

Delegation by Minister

- (1A) The Minister may, by writing, delegate any or all of his or her functions or powers under this Act to:
- (a) the Secretary; or
 - (b) an SES employee, or acting SES employee, in the Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (1B) In exercising powers or performing functions delegated under subsection (1A), the delegate must comply with any directions of the Minister.

Delegation by Secretary

- (1) The Secretary may, by writing, delegate any or all of his or her functions or powers under this Act to an SES employee, or acting SES employee, in the Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (2) In exercising powers or performing functions delegated under subsection (1), the delegate must comply with any directions of the Secretary.

67 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

68 Review of operation of Act

- (1) The Minister must cause an independent review of the operation of this Act to be undertaken as soon as possible after the first anniversary of the commencement of this Act.
- (2) Further independent reviews of the operation of this Act must be made as soon as practicable after the third anniversary of the commencement of this Act and at three yearly intervals thereafter.
- (3) The Minister must cause a copy of the report of each review mentioned in subsection (1) and (2) to be tabled in each House of the Parliament within 15 sitting days of the day on which the report is given to the Minister.
- (4) The review must be conducted by a panel which must comprise not less than five persons, including:
 - (a) a person occupying the position of Commonwealth Chief Medical Officer;
 - (b) a person nominated by the Australian Dental Association;
 - (c) a person nominated by the Consumers' Health Forum of Australia;
 - (d) two other persons nominated by the Minister, at least one of whom must have qualifications in medicine or dentistry.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	orig = original
am = amended	p = page(s)
amdt = amendment	para = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
ch = Chapter(s)	prev = previous
cl = clause(s)	(prev...) = previously
cont. = continued	pt = Part(s)
def = definition(s)	r = regulation(s)/Court rule(s)
Dict = Dictionary	reloc = relocated
disallowed = disallowed by Parliament	renum = renumbered
div = Division(s)	rep = repealed
ed = editorial change	rs = repealed and substituted
exp = expires/expired or ceases/ceased to have effect	s = section(s)/subsection(s) /rule(s)/subrule(s)/order(s)/suborder(s)
gaz = gazette	sch = Schedule(s)
LA = <i>Legislation Act 2003</i>	SLI = Select Legislative Instrument
LIA = <i>Legislative Instruments Act 2003</i>	SR = Statutory Rules
(md) = misdescribed amendment can be given effect	sub ch = Sub-Chapter(s)
(md not incorp) = misdescribed amendment cannot be given effect	sub div = Subdivision(s)
mod = modified/modification	sub pt = Subpart(s)
No. = Number(s)	<u>underlining</u> = whole or part not commenced or to be commenced
Ord = Ordinance	

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Dental Benefits Act 2008	41, 2008	25 June 2008	26 June 2008 (s 2)	
Human Services Legislation Amendment Act 2011	32, 2011	25 May 2011	Sch 4 (items 68–94): 1 July 2011 (s 2(1) item 3)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 530, 531) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 3, 12)	Sch 3 (items 10, 11)
Dental Benefits Amendment Act 2012	183, 2012	10 Dec 2012	1 Jan 2014 (s 2)	—
Dental Benefits Legislation Amendment Act 2014	115, 2014	3 Nov 2014	Sch 1 (items 1–4, 27, 29–51): 4 Nov 2014 (s 2)	Sch 1 (items 27, 46)
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (items 122–125): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356– 396)
as amended by				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2: 24 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 170, 171): 5 Mar 2016 (s 2(1) item 2)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Health Legislation Amendment (Improved Medicare Compliance and Other Measures) Act 2018	64, 2018	29 June 2018	Sch 4: 1 July 2018 (s 2(1) item 3)	Sch 4 (items 15–17)
Services Australia Governance Amendment Act 2020	104, 2020	20 Nov 2020	Sch 1 (items 20, 21, 66): 1 Feb 2020 (s 2(1) item 2)	Sch 1 (item 66)
Dental Benefits Amendment Act 2021	118, 2021	2 Dec 2021	1 Jan 2022 (s 2(1) item 1)	—

Act (Register ID)	Number and year	Assent	Commencement	Application, saving and transitional provisions
Health Legislation Amendment (Medicare Compliance and Other Measures) Act 2022 (C2022A00077)	77, 2022	5 Dec 2022	sch 1 (items 50, 51, 57-70, 97-102, 108): 6 Dec 2022 (s 2(1) item 1)	sch 1 (items 57, 97, 108)
Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024 (C2024A00038)	38, 2024	31 May 2024	sch 12 (items 8, 9, 38): 14 Oct 2024 (s 2(1) item 2)	—
Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025 (C2025A00017)	17, 2025	20 Feb 2025	sch 8 (item 25): <u>1 July 2026 (s 2(1) item 6)</u>	—

Endnote 3—Legislation history

Act (Register ID)	Number and year	Assent	Commencement	Application, saving and transitional provisions
Health Legislation Amendment (Improved Medicare Integrity and Other Measures) Act 2025 (C2025A00038)	38, 2025	4 Sept 2025	sch 1 (items 1, 2): 5 Sept 2025 (s 2(1) item 2)	sch 1 (item 2)
Regulatory Reform Omnibus Act 2025 (C2025A00073)	73, 2025	4 Dec 2025	sch 2 (items 37-58, 156, 158): 5 Dec 2025 (s 2(1) item 9)	sch 2 (items 156, 158)

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 3.....	am No 32, 2011; No 115, 2014
s 4.....	am No 32, 2011; No 183, 2012; No 115, 2014; No 59, 2015; No 104, 2020; No 73, 2025
s 6.....	am No 115, 2014
s 7A.....	ad No 59, 2015
Part 3	
Division 1	
s 10.....	am No 32, 2011; No 115, 2014
Division 2	
s 11.....	am No 32, 2011
s 13.....	am No 32, 2011
s 14.....	am No 32, 2011
Division 3	
s 15.....	am No 32, 2011; No 38, 2025
s 16.....	am No 32, 2011
Division 4	
s 18.....	am No 59, 2015; No 126, 2015
s 20A.....	ad No 115, 2014
s 20B.....	ad No 115, 2014
s 20C.....	ad No 115, 2014
s 20D.....	ad No 115, 2014
s 20E.....	ad No 115, 2014
s 21.....	am No 59, 2015; No 126, 2015
Part 4	
Division 1	
s 22.....	am No 32, 2011; No 183, 2012; No 118, 2021

Endnote 4—Amendment history

Provision affected	How affected
Division 2	
s 23.....	am No 183, 2012; No 118, 2021
s 24.....	am No 183, 2012
s 25.....	am No 183, 2012
Division 3	
s 27.....	am No 32, 2011
s 29.....	am No 32, 2011
Part 4A	
Part 4A.....	ad No 115, 2014
s 32A.....	ad No 115, 2014
s 32B.....	ad No 115, 2014
s 32C.....	ad No 115, 2014 am No 64, 2018
s 32D.....	ad No 115, 2014
s 32E.....	ad No 115, 2014
s 32F.....	ad No 115, 2014
Part 5	
Division 1	
s 33	am No 73, 2025
Division 2	
s 34.....	am No 32, 2011; No 115, 2014; No 73, 2025
s 35.....	am No 115, 2014; No 73, 2025
s 36.....	am No 73, 2025
s 37.....	am No 73, 2025
s 38.....	rs No 73, 2025
s 39.....	am No 73, 2025
s 40.....	am No 73, 2025
s 41.....	am No 32, 2011; No 46, 2011; No 115, 2014; <u>No 17, 2025</u> ; No 73, 2025
s 41A.....	ad No 73, 2025
s 41B.....	ad No 73, 2025

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 41C.....	ad No 73, 2025
s 41D.....	ad No 73, 2025
Part 6	
Division 1	
s 47.....	am No 115, 2014
Division 4	
Division 4 heading.....	rs No 115, 2014
s 56.....	am No 115, 2014; No 77, 2022
s 56A.....	ad No 115, 2014
	am No 64, 2018
s 56B.....	ad No 115, 2014
s 56C.....	ad No 115, 2014
	am No 64, 2018
s 56D.....	ad No 115, 2014
	am No 64, 2018; No 77, 2022; No 38, 2024
s 56E.....	ad No 64, 2018
s 56F.....	ad No 64, 2018
s 56G.....	ad No 64, 2018
	am No 77, 2022; No 38, 2024
s 56H.....	ad No 64, 2018
	am No 77, 2022
s 57.....	am No 32, 2011; No 115, 2014
s 58.....	am No 32, 2011; No 115, 2014; No 77, 2022
s 58AA.....	ad No 64, 2018
	am No 77, 2022; No 38, 2024
s 58AB.....	ad No 64, 2018
s 58A.....	ad No 115, 2014
Part 7	
s 60.....	am No 32, 2011; No 126, 2015
s 62.....	am No 183, 2012
Part 8	

Endnote 4—Amendment history

Provision affected	How affected
s 63.....	am No 32, 2011; No 115, 2014; No 64, 2018
s 64.....	am No 32, 2011
s 64A.....	ad No 64, 2018
s 66.....	am No 46, 2011; No 115, 2014