



HEALTHCARE ACT 1989

[Consolidated as at 5 May 2014
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

TABLE OF PROVISIONS

PART 1 — PRELIMINARY

1. Short title
2. Commencement
3. Objects of Act
4. Act to bind Crown, Administration and Territory authorities
5. Definitions
6. Methods of interpretation

PART 2 — HEALTHCARE FUND

7. Establishment of Funds
- 7A. Management of Funds
- 7B. Responsibilities of Manager
-
9. Withdrawals from Fund
10. Limitations on withdrawals
11. Financial report
-

PART 3 — REVENUE OF THE FUNDS

13. Revenue of the Funds
-

PART 4 — COVER UNDER HEALTHCARE SCHEME

17. Application of Part 4
 - Division 1 — Extent of cover*
18. Extent of cover - basic rule
19. Exceptions from cover
- 19A. Long-term care patients
- 19B. Compensation payments

Division 2 — Referrals

- 20. Criteria for referrals
- 21. Self-referrals

Division 3 — Claims Committee

- 22. Establishment of Claims Committee
- 23. Functions of Committee
- 24. Proceedings of Committee

**PART 4A — HEALTHCARE PRIVATE AND CLAIMING
PROCEDURE**

- 24A. Establishment of Healthcare Private
- 24B. Claiming procedure
- 24C. Direct charging authority

**PART 5 — MISCELLANEOUS, OFFENCES, REVIEW,
REGULATIONS, ETC**

Division 1 — Miscellaneous

- 25. Delegation
- 26. Secrecy
- 27. Application of secrecy provision
- 28. Mode of service
- 28A. Notification of exercise of discretion
- 28B. Debt recovery

Division 2 — Offences

- 29. False or misleading statements
- 30. Breach of secrecy

Division 3 — Review

- 31. Application for review
- 32. Review by Court
- 33. Procedure of Court

Division 4 — Regulations

- 34. Regulations

. . . .

Schedule



NORFOLK

ISLAND

Healthcare Act 1989

An Act to establish a Norfolk Island healthcare scheme, and for related purposes.

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Healthcare Act 1989*.

Commencement

2. (1) This Act comes into operation on a date, or dates, fixed by the Administrator by notice published in the Gazette.

- (2) The Administrator may fix different dates for the commencement of different provisions of this Act.

Objects of Act

3. The objects of this Act are —

- (a) to establish a Healthcare Fund for meeting catastrophic medical costs in respect of persons who are members of the Norfolk Island community;
- (aa) to establish a Medical Evacuation Fund to meet the costs of transporting emergency healthcare patients from Norfolk Island to other places for treatment;
- (b) to provide for the funding of the Healthcare Fund and the Medical Evacuation Fund, and to specify the matters on which the money of each Fund may be spent; and
- (c) to specify who is to be covered by the benefits provided by each Fund, and the costs in respect of which, and extent to which, such persons are covered.

Act to bind Crown, Administration and Territory authorities

4. (1) Subject to this Act, this Act binds —

- (a) the Crown in right of Norfolk Island and the Administration; and
- (b) each Territory authority.

- (2) Nothing in this Act makes the Crown in right of Norfolk Island or the Administration liable to be prosecuted for an offence.

Definitions

5. The following expressions are defined, for the purposes of this Act or of a particular provision of this Act, in the Schedule —

adult
appliance
bank
Clerk
Committee
de facto spouse
direct charging authority
director
eligible person
Enterprise
financial year
free medical services
Fund
Healthcare
Healthcare Private
Hospital
Manager
medical services
medical practitioner
medicine
member of the Enterprise's medical staff
member of the public service
Norfolk Island Hospital Enterprise
nuclear family
Public Account
public ward rate
qualifying child
spouse.

Methods of interpretation

6. (1) In the interpretation of this Act, a construction that would promote the objects referred to in section 3 is to be preferred to a construction that would not promote those objects.

(2) Where a provision of this Act includes an example of the operation of the provision —

- (a) the example is not to be taken to be exhaustive; and
- (b) if the example is inconsistent with the rest of the provision, the rest of the provision prevails.

PART 2 — HEALTHCARE FUND

Establishment of Funds

7. (1) There is established within the Public Account —
- (a) a fund called the Norfolk Island Healthcare Fund ;and
 - (b) a fund called the Medical Evacuation Fund.
- (2) There is payable into —
- (a) The Healthcare Fund, the moneys directed to be paid by the *Healthcare Levy Act 1990*, paragraph 20(1)(a); and
 - (b) The Medical Evacuation Fund , the moneys directed to be paid by the *Healthcare Levy Act 1990*, paragraph 20(1)(b).

Management of Funds

7A. (1) The Minister may, in writing, make arrangements, on such terms and conditions as the Minister determines, for the administration and management of each of the Funds to be undertaken by a designated person or group of persons.

(2) A person or group so designated is to be referred to as Norfolk Island Health Fund Management.

(3) If the Minister so designates —

- (a) a person that is a body corporate or politic; or
- (b) a group of persons,

the Minister must specify a natural person who -

- (c) is a member, officer or employee of the body; or
- (d) is one of the group,

to be the Manager of Norfolk Island Health Fund Management.

(4) If the Minister, under subsection 7A(1), designates a single natural person, that person is, by force of this subsection, the Manager of Norfolk Island Health Fund Management.

Responsibilities of Manager

7B. (1) Subject to this Act, the Manager is to control, administer and manage the operations of the Funds.

(2) The Manager, in the performance of his or her duties, is to report to the Minister, and is to keep the Minister fully informed about the operations of Health Fund Management.

(3) However, except as otherwise provided by this Act, the Manager is not subject to the directions of the Minister.

(4) The Minister may give written directions to the Manager as to the manner in which, subject to this Act, the Manager is to perform his or her duties, and, if the Minister does so —

- (a) the Manager is to comply with the directions; and
- (b) as soon as practicable after giving the directions, the Minister is to lay before the Legislative Assembly a copy of the directions.

(5) The responsibilities of the Manager under subsection (1), include making decisions concerning claims for reimbursement from the Funds by eligible persons.

(6) The Manager is not, in making a decision under subsection (5), subject to the direction of the Minister, or the Chief Executive Officer or any other person.

(7) If a claim for reimbursement from a Fund is made by an eligible person and the Manager refuses the claim in whole or part, the Manager must tell the claimant in writing of the refusal and state the reasons for refusal.

....

Withdrawals from Fund

9. (1) Money in the Healthcare Fund may be withdrawn by Health Fund Management for the purpose of —

- (a) making payments to meet the costs of free medical services provided, or to be provided, by or in relation to a person —
 - (i) who is an eligible person; or
 - (ii) who was, at the time the services were provided, an eligible person;
- (b) making payments in relation to insurance, re-insurance or indemnification in respect of the liabilities or potential liabilities of the Fund;

....

- (f) subject to section 10 —
 - (i) making investments; or
 - (ii) paying management fees in respect of costs incurred or work undertaken in relation to the administration or management of the Fund; or
- (g) making payments in accordance with Part 4A.

(2) Money in the Healthcare Fund must not be withdrawn except in accordance with this section.

(3) Money in the Medical Evacuation Fund may be withdrawn by Health Fund Management for the purposes of making payment for the evacuation costs in respect of an eligible person.

(4) For subsection (3) an “eligible person” means —

- (a) a person who is liable for payment of the medical evacuation levy under the *Healthcare Levy Act 1990* and is not in default of payment for more than one levy period; or
- (b) a person who is under 18 years of age but not a member of a nuclear family and would but for their age be liable for payment of the medical evacuation levy.

Limitations on withdrawals

10. (1) Investments under subparagraph 9(1)(f)(i) must be made in accordance with the provisions of the *Public Moneys Act 1979*.

(2) Management fees referred to in subparagraph 9(1)(f)(ii) must be authorised in writing by the Minister.

Financial report

11. (1) As soon as practicable after the end of each financial year, the Manager is to prepare a report on the performance of each Fund in relation to that financial year.

(2) The report must provide information as to —

- (a) the financial position of each Fund;
- (b) the financial performance of each Fund; and
- (c) the cash flows of each Fund.

....

(4) The report is to be given to the Minister as soon as practicable after it has been prepared, and the Minister must, as soon as practicable after receiving it, lay the report before the Legislative Assembly.

....

PART 3 — REVENUE OF THE FUNDS**Revenue of the Funds**

13. The revenue of the Funds is to include —

- (a) money of the Public Account issued for the purpose by an enactment, other than this Act;
- (b) money appropriated by section 20 of the *Healthcare Levy Act 1990*;
- (c) money received under Part 4A; and
- (d) income from investments; and
- (e) money repaid under subsection 19B(6).

....

PART 4 — COVER UNDER HEALTHCARE SCHEME**Application of Part 4**

17. This part applies to the eligibility of persons to reimbursement from the Healthcare Fund only.

*Division 1 — Extent of cover***Extent of cover - basic rule**

18. (1) Subject to this Act, each eligible person is entitled —

- (a) to the reimbursement to the person of charges paid in respect of the person for free medical services provided by the Norfolk Island Hospital Enterprise;

- (b) to the reimbursement to the person of charges paid in respect of the person for free medical services provided, in accordance with a referral in the prescribed form by a member of the Enterprise's medical staff, by a person or body other than the Enterprise; and
- (c) to the reimbursement in accordance with section 21 of costs incurred by the person in respect of the provision of medical services that are to be regarded, in accordance with that section, as being free medical services.

(2) Notwithstanding subsection (1) but subject to subsection (3), no person shall, in respect of charges paid for medical services provided in Norfolk Island or elsewhere, by a person or body other than the Enterprise, be reimbursed an amount that exceeds the maximum prescribed benefit payable under the Medicare Benefits Schedule in relation to the Medicare scheme of the Commonwealth for that particular service.

(3) Subsection (2) does not apply in respect of a claim for medical services described therein if before or at the time of commencement of subsection (1) the medical services had been—

- (a) provided; or
- (b) referred for treatment off shore from Norfolk Island and have commenced and are being received.

Exceptions from cover

19. (1) An eligible person is not entitled under section 18 to the reimbursement of charges paid in respect of free medical services —

- (a) if the need for the medical services arose from an occurrence which happened, or an illness which began, outside of Norfolk Island, and it was reasonably practicable for indemnity in respect of the cost of those services to have been obtained under a contract of insurance available in Norfolk Island;
- (b) if the person has left Norfolk Island, and did not, at the time the person left, have an intention to return to Norfolk Island;
- (c) to the extent that the person is entitled to the provision of medical services, or to the payment of the costs of medical services, under —
 - (i) a contract of insurance;
 - (ia) the *Health Insurance Act 1973* of the Commonwealth;
 - (ii) the *Veterans' Entitlements Act 1986* of the Commonwealth; or
 - (iii) a prescribed enactment or prescribed law;

....

- (e) subject to subsection 19(2), if the medical services are provided in relation to an illness or injury from which the person was suffering before the date on which the person became an eligible person;
- (f) if the medical services are provided in relation to an illness or injury that arose by reason of the person engaging in an activity that is the subject of a declaration under subsection 19(4);

- (g) if the person is a long-term care beneficiary under section 28A of the *Social Services Act 1980* - to the extent that the medical services are the provision to the person of accommodation at the Hospital; or
- (h) if the person is certified to be a long-term care patient under section 19A - subject to subsection 19A(4), to the extent that the medical services are the provision of accommodation at the Hospital.

(1A) An eligible person is only entitled under section 18 to the reimbursement of charges incurred by the person, or by the nuclear family of which the person is a member, in respect of free medical services to the extent that those charges exceed in the financial year in respect of which the charges were incurred —

- (i) \$2,500; or
- (ii) if another amount is prescribed, that amount.

- (1B)**
- (a) any charges incurred by an eligible person referred to in subsection (1A) shall not be taken into account in determining the contribution required to be made by an eligible person for the purposes of a medical evacuation; and
 - (b) any amount paid by an eligible person for the purposes of a medical evacuation shall not be taken into account in determining that person's eligibility for reimbursement under subsection 1A;
 - (c) a person is not entitled to reimbursement of all or part of the cost of transporting a person, and, if necessary, an escort or escorts, to and from a place to which the person has been referred under section 20 or to which it is determined the person ought to have been referred under section 21 unless the Manager is satisfied that at the time of the evacuation the eligible person was entitled to reimbursement of charges under subsection (1A).

(2) In spite of paragraph 19(1)(e), but subject to the rest of this Act, an eligible person is entitled under section 18 to the reimbursement of the costs of free medical services in relation to an illness or injury from which the person was suffering before the date on which the person became an eligible person if —

- (a) the services are provided more than 5 years after that date; or
-
- (c) the services relate to pregnancy or childbirth, or to a condition arising from pregnancy or childbirth.

(3) An occurrence or illness shall be taken to have happened or begun in Norfolk Island if the occurrence happened or the illness began outside of Norfolk Island during a journey in which no land outside of Norfolk Island was voluntarily visited.

(4) Where —

- (a) the Minister considers that an unacceptable financial burden is being, or is likely to be, placed on the Fund by reason of persons engaging in an activity that the Minister considers to be a specially risky activity; and
- (b) not later than 30 days before doing so, the Minister has warned, by notice published in the Gazette, that the Minister is considering doing so,

the Minister may declare the activity to be an activity to which section 18 does not apply.

(5) Such a declaration must be published in the Gazette, and takes effect from the date of publication or from a later date specified in the declaration.

(6) An eligible person whose obligation to pay the healthcare levy was, immediately before the commencement of this subsection, in a state of suspension in accordance with section 11A of the *Healthcare Levy Act 1990*, by reason of the eligible person having private health cover in a health scheme that has ceased to provide health cover to residents of Norfolk Island and whose obligation to pay the healthcare levy has not been subsequently suspended by reason of having private health cover in a health scheme operated by a different provider, is exempt from the provisions of paragraph (1)(e).

Long-term care patients

19A. (1) If —

- (a) a person is, and has been for 90 consecutive days, an inpatient at the Hospital; or
- (b) the Director certifies that the person is accommodated at the Hospital principally because of circumstances other than the provision to the person of medical services (not being accommodation),

the Minister may, in writing, certify that the person is a long-term care patient.

(2) In spite of paragraph 19(1)(h), a long-term care patient may apply to the Minister for a declaration that the patient is to continue to be entitled to the reimbursement under section 18 of charges paid by the person in respect of accommodation at the Hospital.

(3) If the Minister is satisfied that an applicant under subsection 19A(2) is a person who would, if the person applied to do so, be likely to be qualified to receive a benefit —

- (a) other than a long-term care benefit - under the *Social Services Act 1980*; or
- (b) under the *Social Security Act 1947* of the Commonwealth or under a prescribed law,

the Minister may declare that the applicant is to continue to be entitled to the reimbursement to the person, under section 18, of all charges paid by the person in respect of accommodation at the Hospital, or to a proportion of those charges specified in the declaration.

(4) If a declaration has been made in respect of a person under subsection 19A(3), paragraph 19(1)(h) —

- (a) has no effect in relation to the person if the declaration is to the effect that all charges in respect of accommodation are to be reimbursed to the person; or
- (b) if the declaration specifies a proportion of the charges in respect of accommodation that is to be reimbursed to the person - has effect in relation to the remaining proportion of the charges.

(5) This section has no application to a person who is a long-term care beneficiary under section 28A of the *Social Services Act 1980*.

Compensation payments

19B. (1) Where —

- (a) an eligible person is otherwise entitled under section 18 to the reimbursement of charges paid in respect of free medical services rendered to that person in the course of the treatment of, or as a result of, an injury or illness; and
- (b) the eligible person has received, or established a right to receive, in respect of that injury or illness, a payment by way of compensation or damages (including a payment in settlement of a claim for compensation or damages) being a payment the amount of which was, in the opinion of the Minister, determined having regard to any medical expenses incurred or likely to be incurred in the course of the treatment of, or as a result of, that injury or illness,

the Minister may determine that the whole or a specified part of the payment referred to in paragraph 19B(1)(b) shall, for the purposes of this section, be deemed to relate to the charges paid in respect of free medical services rendered to that person referred to in paragraph 19B(1)(a).

(2) Where the Minister has made a determination under subsection 19B(1) and the reimbursement the eligible person would, but for this section, be entitled to under section 18 is not greater than the amount so determined, no reimbursement under section 18 is payable in respect of those charges paid for free medical services.

(3) Where the Minister has made a determination under subsection 19B(1) and the reimbursement the eligible person would, but for this section, be entitled to under section 18 is greater than the amount so determined, the reimbursement under section 18 in respect of those charges paid for free medical services shall not exceed the amount of that excess.

(4) Where an eligible person would otherwise be entitled under section 18 to the reimbursement of charges paid in respect of free medical services rendered to that person in the course of the treatment of, or as a result of, an injury or illness and it appears to the Minister that the charges may be charges that will be the subject of a determination under subsection 19B(1), the Minister may direct that no reimbursement under section 18 be made in respect of those charges but that the eligible person be paid a provisional payment of such amount as the Minister thinks appropriate.

(5) A direction under subsection 19B(4) may be made

- (a) in respect of the entire amount that would otherwise have been reimbursed under section 18; and
- (b) after any reimbursement under section 18 in respect of the charges for free medical services has already been made.

(6) Where a determination has been made under subsection 19B(1) with respect to charges referred to in subsection 19B(4), the eligible person is liable to repay to the Administration —

- (a) where, by virtue of subsection 19B(2), no reimbursement under section 18 is payable in respect of charges paid for free medical services - an amount equal to the provisional payment under subsection 19B(4); or
- (b) in any other case - the amount by which the provisional payment under subsection 19B(4) exceeds the amount of the reimbursement under section 18, as calculated under subsection 19B(3), in respect of charges paid for free medical services rendered to that person in the course of the treatment of, or as a result of, that injury or illness.

(7) An amount an eligible person is liable to repay under subsection 19B(6) is recoverable as a debt due to the Administration.

Division 2 — Referrals

Criteria for referrals

20. (1) A member of the Enterprise's medical staff must not, under section 18, refer a person for the provision of free medical services —

- (a) elsewhere than at the Hospital unless the member —
 - (i) in the case of a referral to a place outside Norfolk Island - is satisfied that the services cannot reasonably be provided in Norfolk Island; and
 - (ii) in the case of a referral to a place in Norfolk Island other than the Hospital - is satisfied that the services cannot reasonably be provided at, or from, the Hospital; or
- (b) unless the member is satisfied that the services cannot reasonably be provided at the Hospital otherwise than by a medical practitioner who is not a member of the Enterprise's medical staff.

(2) The Minister may, after consulting the Director of the Enterprise, issue general guidelines to the Enterprise's medical staff about the policy to be adopted by the staff in making referrals.

(3) As soon as practicable after issuing guidelines, the Minister must lay before the Legislative Assembly a copy of the guidelines.

(4) The Enterprise's medical staff must, so far as is practicable, comply with the guidelines.

Self-referrals

21. (1) If an eligible person considers that the person ought to have received a referral under paragraph 18(b), and the person —

- (a) should have received such a referral, and did not receive such a referral; and
- (b) has incurred, elsewhere than at the Hospital, medical costs in respect of the matter as to which the person sought a referral,

the person may apply to the Claims Committee for reimbursement from the Fund of those costs.

(2) If the Committee considers that such a person —

- (a) should have been referred under section 18 for the provision of free medical services to the person elsewhere than at the Hospital, and was not so referred; and
- (b) incurred costs which, had the person been so referred, would have been met from the Fund,

the medical services in respect of which the costs were incurred are to be regarded as being free medical services, and Healthcare is to reimburse the person for the costs so incurred.

Division 3 — Claims Committee

Establishment of Claims Committee

22. (1) A committee called the Claims Committee is established.

(2) The members of the Committee are —

- (a) the Director of the Enterprise;
- (b) the Minister; and
- (c) another member of the Legislative Assembly chosen by resolution of the Assembly.

Functions of Committee

23. The functions of the Committee are —

- (a) on a referral to the Committee by the Minister - to determine the entitlement of a person to free medical services under this Part (other than section 21); and
- (b) to determine applications made under section 21 for reimbursement of costs incurred by an applicant.

Proceedings of Committee

24. (1) Subject to this Act, the Committee may conduct its proceedings as it thinks fit.

(2) The Committee must not meet, or continue to meet, unless at least 2 members (including the Director) are present.

(3) Where, under paragraph 23(a), the Committee determines the entitlement of a person to free medical services under this Part (other than section 21), the Committee is to provide a copy of its determination, and of the reasons for it, to the Minister, and the Minister is to give effect to the determination.

(4) Where, under paragraph 23(b), the Committee determines an application under section 21 for reimbursement of costs incurred by an applicant, the Committee is to provide a copy of its determination, and of the reasons for it, to the applicant, and the Minister is to give effect to the determination.

PART 4A — HEALTHCARE PRIVATE AND CLAIMING PROCEDURE

Establishment of Healthcare Private

24A. (1) The Minister may, in accordance with a resolution of the Legislative Assembly, establish in writing a private health insurance scheme.

(2) A person who wishes to become a member of the scheme —

- (a) must apply in writing in the prescribed form; and
- (b) pay the prescribed fee.

(3) The Manager of Healthcare may, in accordance with the terms of the scheme, admit the person to membership or may refuse to do so.

(4) A person who becomes a member of the scheme remains a member until, or unless, the person fails to pay the prescribed fee.

(5) Membership of the scheme entitles each member to the reimbursement to the member of costs, referred to in paragraph 24A(1)(a) or 24A(1)(b) as the case may be, subject to and in accordance with the terms of the scheme.

Claiming procedure

24B. (1) In spite of any other provision of this Act, a person is not entitled to the reimbursement to the person of charges paid in respect of the person for medical services unless —

- (a) on each occasion that the person claims the entitlement - the charges exceed \$300; or
- (b) the person has not previously claimed the entitlement within the period of 6 months ending on that occasion.

(2) A claim is to be made to Healthcare in accordance with the prescribed form and is to be accompanied by the information and documents specified in that form.

Direct charging authority

24C. (1) If the Manager is satisfied that —

- (a) medical services are being, or are to be, provided to a person;
- (b) the charges payable in respect of the provision of the services are charges in respect of which the person is, or will be, entitled to reimbursement under this Act or a scheme established under this Part; and
- (c) it would be unreasonable to expect the person to pay the costs of those services, whether by reason of the likely amount of the costs or by reason of the person's financial circumstances or for any other reason that the Manager considers sufficient,

the Manager may issue in respect of the person an authority in writing authorising the person or body who is providing, or is to provide, the services, to charge Healthcare for the costs of the services.

(2) Where a direct charging authority has been issued, Healthcare must pay the costs applicable to the services referred to in the authority.

**PART 5 — MISCELLANEOUS, OFFENCES, REVIEW, REGULATIONS,
ETC**

Division 1 — Miscellaneous

Delegation

25. (1) Subject to this section, the Minister may by written instrument delegate any of the Minister's powers or functions under this Act, other than this power of delegation.

(2) A delegation must not be made except to a person who is —

- (a) a member of the Legislative Assembly; or
- (b) a member of the public service.

(3) A power or function so delegated, when exercised or performed by the delegate, is to be taken, for the purposes of this Act, to have been exercised or performed by the Minister.

(4) A delegation does not prevent the exercise of a power or the performance of a function by the Minister.

Secrecy

26. A person to whom this section applies must not, directly or indirectly —

- (a) except in the exercise of the person's powers or the performance of the person's functions under or in relation to this Act or as otherwise authorised or required by law; and
- (b) while the person is, or after the person ceases to be, a person to whom this section applies,

make a record of, or divulge or communicate to a person other than a person to whom it is the person's duty to disclose it, any information with respect to the affairs of another person obtained by the first person in the person's capacity as a person to whom this section applies.

Application of secrecy provision

27. Section 26 applies to persons who are —

- (a) members of the Legislative Assembly;
- (b) members of the public service;
- (c) the Director and employees of the Enterprise; or
- (d) the Manager of Healthcare Management and each person designated, or included in a designation, under section 7A.

Mode of service

28. Where this Act requires or allows a document to be given or provided to a person, or served on a person, the document may be given, provided or served by post.

Notification of exercise of discretion

28A. Where the Minister approves the reasonable costs of medical treatment as a medical service under paragraph (g) of the definition of ‘medical services’ in the Schedule, he or she shall as soon as practicable notify the Legislative Assembly of that action.

Debt recovery

28B. (1) The Administration may set off an amount due and payable by a person under the *Healthcare Levy Act 1990* against an amount to which the person, or a qualifying child in the same nuclear family as the person, is entitled to be reimbursed under this Act other than an amount for reimbursement of the medical services described in paragraph (ea) of the definition “medical services”.

(2) If —

- (a) a person is entitled to be reimbursed an amount under this Act; and
- (b) an amount (“**the debt**”) is due and payable in respect of that person to the Norfolk Island Hospital Enterprise under section 25 of the *Norfolk Island Hospital Act 1985*,

the Administration may pay the amount referred to in paragraph 28(2)(a) to the Norfolk Island Hospital Enterprise rather than the person and the amount so paid —

- (c) will be taken to satisfy the debt to the extent of the payment; and
- (d) constitutes a valid discharge to the Administration as against that person in respect of that person’s entitlement to reimbursement.

Division 2 — Offences

False or misleading statements

29. A person must not knowingly make, orally or in writing, a false or misleading statement —

- (a) in connection with, or in support of, a claim, application or request under this Act, whether the claim, application or request was made by the person or by another person; or
- (b) with intent to deceive a person performing a function under, or in relation to, this Act.

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

Breach of secrecy

30. A person to whom section 26 applies must comply with that section.

Penalty: 30 penalty units or imprisonment for 6 months, or both.

Division 3 — Review

Application for review

31. (1) Subject to this section, a person may apply in writing to the Court of Petty Sessions for review of a decision —

- (a) by the Minister (whether or not after referral to the Committee) - that the person is not entitled to the provision of free medical services under Part 4 (other than section 21);
- (b) by the Committee - that an application made by the person under section 21 is to be refused, in whole or in part;

- (c) of the Manager refusing the claim by an eligible person for reimbursement from a Fund.

(2) An application for review —

- (a) must be in writing;
- (b) must identify the decision that is the subject of the application; and
- (c) must be lodged with the Clerk within 21 days after notice of the decision was provided to the applicant.

(2A) A decision of the Court of Petty Sessions under subsection (2) to dismiss the whole or part of an application for review where the application is found to —

- (a) be outside the jurisdiction of the Court; or
- (b) have been frivolous, vexatious, or without merit; or
- (c) have failed to properly or adequately identify the decision sought to be reviewed; or
- (d) fail for any other reason

may be so dismissed with or without an order for costs to be paid by the applicant.

(3) As soon as practicable after an application for review has been lodged, the Clerk must provide a copy of the application—

- (a) if the application concerns a decision by the Minister—to the Minister;
- (b) if the application concerns a decision by the Committee—to the Minister and the Committee; and
- (c) if the application concerns a decision by the Manager—to the Minister and the Manager.

Review by Court

32. (1) After considering an application for review, the Court of Petty Sessions may —

- (a) if it is satisfied that the decision to which the application relates is an unreasonable decision —
 - (i) set aside the decision;
 - (ii) set aside the decision and —
 - (A) make another decision instead; or
 - (B) remit the decision for reconsideration in accordance with any directions or recommendations of the Court; or
 - (iii) vary the decision; or
- (b) in any other case - affirm the decision to which the application relates.

(2) Where the Court of Petty Sessions makes a decision on an application for review, it shall ensure that a record of its decision, and of the reasons for it, are provided to the applicant and Minister as soon as practicable after the making of the decision.

(3) Subject to subsection 32(4), a decision of the Court of Petty Sessions on an application for review —

- (a) has the same effect, and may be enforced in the same way, as a decision of the Minister or of the Committee; and
- (b) if the decision requires the Minister or Committee to do or refrain from doing something - must be given effect to by the Minister or Committee.

(4) Unless the Court of Petty Sessions otherwise orders, a decision made by it on an application for review has effect upon a copy of the decision being provided, under subsection (2), to the Minister.

Procedure of Court

33. In performing its functions under this Division, the Court of Petty Sessions —

- (a) must conduct its business with as little formality and technicality, and with as much speed, as is consistent with the proper consideration in accordance with this Division of matters before it;
- (b) is not bound by rules of evidence, but may inform itself as it thinks fit;
- (c) may, subject to paragraph (d), at the request of a party extend the time for doing any act, if the Court is satisfied that the application is reasonable in all the circumstances and that the other party will not be unreasonably prejudiced thereby;
- (d) may at the request of the applicant for review to extend the time for lodging an application under paragraph 31(2)(c), extend the time if the court is satisfied that the reasons for delay are reasonable in all the circumstances, that the application appears to have merit, and that the respondent will not be unreasonably prejudiced thereby.

Division 4 — Regulations

Regulations

34. (1) The Administrator may make Regulations, not inconsistent with this Act, 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.

(2) Without limiting subsection 34(1), the Regulations may prescribe penalties not exceeding 10 penalty units for a contravention or breach of the regulations.

....

SCHEDULE
DEFINITIONS

Section 5

Item

1. In this Schedule, a defined expression is shown in bold type.
2. In this Act, unless the contrary intention appears —
 - “**adult**” means a person who has reached the age of 18 years;
 - “**appliance**” means a crutch, artificial member, prosthetic device, artificial eye, hearing aid or prescribed aid, but does not include spectacles, contact lenses or artificial teeth;
 - “**bank**” means the same as in the *Banking Act 1959* of the Commonwealth;
 - “**Clerk**” means the Clerk of the Court of Petty Sessions holding office under the *Court of Petty Sessions Act 1960*, and includes the Deputy Clerk;
 - “**Committee**” means the Claims Committee established by section 22;
 - “**direct charging authority**” means an authority issued under section 24C;
 - “**Director**”, or “Director of the Enterprise”, means the same as in the *Norfolk Island Hospital Act 1985*;
 - “**eligible person**” means a person —
 - (a) who is a liable person within the meaning of the *Healthcare Levy Act 1990*; or
 - (b) who is not a liable person only because the person is not an adult; or
 - (c) who is not a liable person only because the person is a person to whom subsection 8(2) of the *Healthcare Levy Act 1990* applies; or
 - (d) who is not a liable person only because the person is an exempt person under paragraph 10(1)(a) of the *Healthcare Levy Act 1990*,
but does not include a person —
 - (e) referred to in paragraph 10(1)(b); or
 - (f) whose application for suspension of liability to pay levy has been granted under section 11A,
of the *Healthcare Levy Act 1990*;
 - “**Enterprise**” means the same as in the *Norfolk Island Hospital Act 1985*;
 - “**evacuation costs**” means the costs of providing an emergency or special air evacuation flight or for paying for special regular public transport costs to take an eligible person from Norfolk Island to another place including the costs of aircraft hire or charter or for the purchase of a number of seats on a regular public transport aircraft, medical and nursing staff and an accompanying passenger, and associated costs, for the benefit of eligible persons declared by the Medical Superintendent or Deputy Medical Superintendent to require medical attention not available on Norfolk Island and whose life is at risk if not so evacuated;
 - “**financial year**” means the period of 12 months beginning on 1 July in a year;

“free medical services” means **medical services** other than —

- (a) services referred to in subparagraph (a)(iii), (a)(iv) or (a)(vi), or paragraph (e), of the definition of **“medical services”**, to the extent that the cost of such services exceeds \$200 in respect of an eligible person within a period of 12 months;
- (aa) services referred to in paragraphs (c) or (d) of the definition of ‘medical services’ to the extent that the charges for those services exceed the public ward rate or, in exceptional circumstances, an amount determined by the Minister;
- (ab) dental services;
- (ac) medical services other than those referred to in paragraphs (a), (aa), and (ab) and medical services that are not covered by the Medicare Schedule of the Commonwealth of Australia;
- (ad) medicine or appliances as referred to in paragraph (b) of the definition of “medical services”, that are not covered or provided for by the Pharmaceuticals Benefits Scheme of the Commonwealth of Australia; or

....

- (c) the provision of cosmetic or elective surgery;

“Funds” means the Norfolk Island Healthcare Fund and the Norfolk Island Medical Evacuation Fund established by section 7;

“Health Fund Management” means Norfolk Island Health Fund Management established by subsection 7A(1);

“Healthcare Private” means a scheme established under section 24A;

“Hospital” means the Norfolk Island Hospital referred to in the *Norfolk Island Hospital Act 1985*;

“Manager” means the person who is, under section 7A, the Manager of Norfolk Island Health Fund Management;

“medical practitioner” means a person registered as a medical practitioner under the *Medical Practitioners Registration Act 1983*, or under a law of a State, Territory or New Zealand;

“medical services” means —

- (a) attendance, examination or treatment of any kind by a —
 - (i) **medical practitioner**;
 - (ia) dentist;
 - (ii) optometrist;
 - (iii) physiotherapist;
 - (iv) chiropractor;
 - (v) osteopath;
 - (vi) chiropodist; or
 - (vii) person practising a prescribed specialty;
- (b) the provision in accordance with a prescription by a medical practitioner of medicine or an appliance;
- (c) maintenance, attendance and treatment in a hospital;

- (d) the provision by a hospital of —
 - (i) medical attendance and treatment;
 - (ii) nursing attendance;
 - (iii) **medicines**, medical, surgical or other curative materials, **appliances** or apparatus; or
 - (iv) any other usual or necessary hospital services with respect to the treatment or management of injury or illness; or
- (e) the reasonable cost of transporting a person, and, if necessary, an escort or escorts, to and from a place to which the person has been referred under section 18;
- (ea) an amount not exceeding \$200 as contribution towards the cost each time of transporting a person, and, if necessary, an escort or escorts, to and from a place to which the person has been referred under section 18 but only if in the same financial year a person has already received the benefit of a payment under paragraph (e);
- (f) the provision of rehabilitation services; or
- (g) such other reasonable cost associated with medical treatment as is considered appropriate by the Minister in the circumstances of the case;

“medicine” means a curative substance intended for the alleviation of human ailments, but does not include an **appliance**;

“member of the Enterprise’s medical staff” means a person who is a medical practitioner employed under the *Norfolk Island Hospital Act 1985* to perform professional functions in that capacity;

“member of the public service” means a person holding office or employed under the *Public Service Act 1979*;

“Norfolk Island Health Fund Management” means a person or group referred to in subsection 7A(2);

“Norfolk Island Hospital Enterprise” means the same as in the *Norfolk Island Hospital Act 1985*;

“Public Account” means the Public Account of Norfolk Island established by section 47 of the *Norfolk Island Act 1979* of the Commonwealth;

“public ward rate” means the relevant rate for a public ward patient in a public hospital in the place to which the person has been referred;

“rehabilitation service” means services such as speech therapy or occupational therapy provided in accordance with the approval of a member of the Enterprise’s medical staff;

3. For the purposes of this Act, **“nuclear family”** means —

- (a) 2 persons who are the **spouses** of each other;
- (b) 2 persons who are the **spouses** of each other, together with 1 or more **qualifying children**; or
- (c) a person who is not a **qualifying child**, together with 1 or more **qualifying children**,

who ordinarily live together on a domestic basis.

4. For the purposes of item 3, a child is a **qualifying child** if —
- (a) the child —
 - (i) is not an **adult**; or
 - (ii) is an **adult** —
 - (A) who has not reached the age of 25 years and who is occupied full-time as a student; or
 - (B) who is, because of mental or physical infirmity, unable to support himself or herself; and
 - (b) the child —
 - (i) is a natural or legally-adopted child of a person who is a member of the same **nuclear family**; or
 - (ii) although not such a natural or legally-adopted child, lives with the **nuclear family** in a bona fide domestic relationship as if the child were such a natural or legally-adopted child.
5. For the purposes of item 3 —
- “**de facto spouse**”, in relation to a person, means a person of the opposite sex to the first person who lives with the first person in a bona fide domestic relationship in the nature of marriage, although not legally married;
- “**spouse**” includes a de facto spouse.

NOTES

The *Healthcare Act 1989* as shown in this consolidation comprises Act No. 24 of 1989 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Healthcare Act 1989</i>	24, 1989	Parts 1, 2; ss 13, 14, 25 Schedule 1.1.90; remainder 1.3.90	
<i>Healthcare Amendment Act 1990</i>	3, 1990	1.3.90	
<i>Healthcare Amendment No. 2 Act 1990</i>	10, 1990	1.7.90	8
<i>Healthcare Amendment No. 3 Act 1990</i>	21, 1990	29.12.90	
<i>Healthcare Amendment Act 1991</i>	7, 1991	1.7.91	
<i>Healthcare Amendment Act 1993</i>	4, 1993	31.5.93	
<i>Healthcare Amendment No. 2 Act 1993</i>	9, 1993	31.5.93	
<i>Healthcare (Consequential Amendments and Transitional Provisions) Amendment Act 1993</i>	14, 1993	31.5.93	
<i>Healthcare (Referral) Amendment Act 1994</i>	16, 1994	1.7.94	

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Healthcare Amendment Act 1995</i>	6, 1995	25.5.95	
<i>Healthcare Amendment Act 1996</i>	5, 1996	19.4.96	
<i>Healthcare Amendment Act 1997</i>	7, 1997	23.4.97	
<i>Healthcare Amendment No. 2 Act 1997</i>	25, 1997	19.12.97	
<i>Healthcare Amendment Act 1998</i>	2, 1998	1.1.98	
<i>Healthcare Amendment Act 1999</i>	3, 1999	26.3.99	
<i>Healthcare (Medical Evacuation Fund) Amendment Act 2006</i>	14, 2006	26.5.2006	15
[previously consolidated as at 5 July 2006]			
<i>Healthcare (Amendment No. 2) Act 2006</i>	22, 2006	20.9.06	
[previously consolidated as at 28 February 2008]			
<i>Healthcare (Amendment) Act 2009</i>	1, 2009	1.1.09	
[previously consolidated as at 18 February 2009]			
<i>Healthcare (Amendment No. 2) Act 2011</i> [section 4 – all refs to “executive member” in principal Act were replaced by ref to “Minister”]	7, 2011	22.7.11	
[previously consolidated as at 25 July 2011]			
<i>Healthcare (Amendment) Act 2010</i>	11, 2011	9.9.11	
[previously consolidated as at 10 September 2011]			
<i>Healthcare (Amendment) Act 2013</i>	6, 2013	11.2.13	
[previously consolidated as at 14 February 2013]			
<i>Healthcare (Amendment) Act 2014</i>	7, 2014	2.5.14	

Table of Amendments

ad = added or am = amended rep = repealed rs = repealed and
inserted substituted

Provisions affected	How affected
3	am 14, 2006
5	am 4, 1993; 6, 1995; 5, 1996
7	am 6, 1995
	rs 14, 2006
7A	ad 4, 1993
	am 14, 2006
7B	ad 4, 1993
	am 14, 2006; 7, 2011
8	am 4, 1993
	rep 6, 1995
9	am 10, 1990; 4, 1993; 14, 2006; 11, 2011
10	am 6, 1995
11	rs 4, 1993
	am 6, 1995; 14, 2006
11A	ad 4, 1993
	rep 6, 1995
12	am 4, 1993
	rep 6, 1995
Heading Part 3	am 14, 2006
13	am 10, 1990; 4, 1993; 25, 1997; 14, 2006
14	rs 10, 1990
	rep 4, 1993
15	rep 4, 1993
16	rep 4, 1993
17	rep 4, 1993
	ad 14, 2006
18	am 4, 1993; 7, 2014
19	am 21, 1990; 7, 1991; 4, 1993; 9, 1993; 14, 1993; 2, 1998; 1, 2009; 7, 2011; 6, 2013
19(1)(d)	rep 5, 1996
19(1A)	ad 5, 1996
19(1B)	ad 14, 2006
19A	ad 4, 1993
19B	ad 25, 1997
20	am 4, 1993; 16, 1994
21	am 4, 1993
22	am 4, 1993
24	am 4, 1993
24A	ad 4, 1993
24A(1)	rs 5, 1996
24B	ad 4, 1993

ad = added or am = amended rep = repealed rs = repealed and
inserted substituted

Provisions affected	How affected	
24C	ad	4, 1993
27	am	4, 1993; 14, 2006
28A	ad	7, 1997
28B	ad	3, 1999
	am	7, 2011
31	am	7, 2011
33	am	7, 2011
35	rep	7, 1991
36	rep	3, 1990
Schedule	am	10, 1990; 4, 1993; 9, 1993; 6, 1995; 5, 1996; 7, 1997; 14, 2006; 22, 2006; 7, 2011

© Norfolk Island Government 2014

The *Copyright Act 1968* of the Commonwealth of Australia permits certain reproduction and publication of this legislation. For reproduction or publication beyond that permitted by the Act, written permission must be sought from the Legislative Counsel, Administration of Norfolk Island, Norfolk Island, South Pacific 2899.