



HEALTHCARE LEVY ACT 1990

[Consolidated as at 15 July 2013
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

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Healthcare Levy Act 1990

An Act to establish a levy to form part of the revenue of the Healthcare Fund, and for related purposes.

Short title

1. This Act may be cited as the *Healthcare Levy Act 1990*.

Commencement

2. This Act comes into operation on 1 July 1990.

....

Interpretation

4. (1) In this Act, unless the contrary intention appears —
“application for review” means an application under subsection 17(1);
“Clerk” means the Clerk or Deputy Clerk of the Court of Petty Sessions;
“defacto spouse” means a person who is a member of a couple as described in subsection (2);
“evacuation costs” has the meaning in the schedule of the *Healthcare Act 1989*;
“Healthcare Fund” means the Fund established by section 7 of the *Healthcare Act 1989*;
“healthcare levy” means the levy payable in accordance with paragraph 6(1)(a);
“income” in relation to a person means any personal earnings, moneys, valuable consideration or profits earned, derived or received by the person for his or her own use or benefit by any means, and from any source whether within Norfolk Island or not, and includes —
 - (a) a periodical payment whether by way of gift or allowance; and
 - (b) a payment that the Minister determines to be in the nature of income, but does not include —
 - (c) a payment that the Minister determines to be not in the nature of income or should not be regarded as income; and
 - (d) a benefit paid under the *Healthcare Act 1989*; and
 - (e) a benefit paid under the *Social Services Act 1980* or a benefit paid under similar legislation of the Commonwealth;
“levy” means the healthcare levy established by, and payable under, this Act;
“levy day” means the same as in section 5;

“levy period” means —

- (a) in relation to a levy day of 1 March - the period from 1 March to the following 31 May; or
- (b) in relation to a levy day of 1 June - the period from 1 June to the following 31 August; or
- (c) in relation to a levy day of 1 September - the period from 1 September to the following 30 November; or
- (d) in relation to a levy day of 1 December - the period from 1 December to the following 28 or 29 February;

“liable person” means a person who is, under section 7, liable to pay levy;

“Medical Evacuation Fund” means the fund established by paragraph 7(a) of the *Healthcare Act 1989*;

“medical evacuation levy” means the levy payable under paragraph 6(1)(b);

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

“person” means a natural person;

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

(2) A person is a member of a couple for the purposes of this Act if —

- (a) the person is legally married to another person and is not, in the opinion of the Minister, living separately and apart from the other person on a permanent or indefinite basis; or
- (b) all of the following conditions are met —
 - (i) the person has a relationship with another person (in this paragraph called the partner);
 - (ii) the person is not legally married to the partner;
 - (iii) the relationship between the person and the partner is, in the opinion of the Minister, a marriage-like relationship;
 - (iv) both the person and the partner are over the age of consent applicable in Norfolk Island;
 - (v) the person and partner are not within a prohibited relationship for the purposes of section 23B of the *Marriage Act 1961* (Cth).

(3) In forming an opinion about the relationship between 2 people for the purposes of subsection (2), the Minister shall have regard to all the circumstances of the relationship including in particular the following —

- (a) the financial aspects for the relationship including —
 - (i) any joint ownership of real property or other major assets, and any joint liabilities;
 - (ii) any significant pooling of financial resources especially in relation to major financial commitments;
 - (iii) any legal obligations owed by one person in respect of the other person;
 - (iv) the basis of any sharing of day-to-day household expenses;

- (b) the nature of the household including —
 - (i) any joint responsibility for providing care or support of children;
 - (ii) the living arrangements of the people;
 - (iii) the basis on which responsibility for housework is distributed;
- (c) the social aspects of the relationship, including —
 - (i) whether the people hold themselves out as married to each other;
 - (ii) the assessment of friends and regular associates of the people about the nature of their relationship;
 - (iii) the basis on which the people make plans for, or engage in, joint social activities;
- (d) any sexual relationship between the people;
- (e) the nature of the people's commitment to each other, including —
 - (i) the length of the relationship;
 - (ii) the nature of the companionship and emotional support that the people provide to each other;
 - (iii) whether the people consider that the relationship is likely to continue indefinitely;
 - (iv) whether the people see their relationship as a marriage-like relationship.

(4) The Minister must not form the opinion that the relationship between a person and his or her partner is a marriage-like relationship if the person is living separately and apart from the partner on a permanent or indefinite basis.

(5) The Minister may, in special circumstances, determine that a person is not a member of a couple.

Levy days

5. Each 1 March, 1 June, 1 September and 1 December is a levy day.

Amount of levy

6. (1) The amount of levy payable by each liable person is —
- (a) for the healthcare levy — \$132.50; or
 - (b) for the medical evacuation levy — \$25.00; or
 - (c) both.

(2) The amount payable under paragraph (1)(a) or (b) or both must be reviewed by the Minister on or before August 1 in each year.

(3) If as a result of the review under subsection (2) the Minister determines that an increase in an amount under paragraph (1)(a) or (b) or both should be made, he or she shall so advise the Legislative Assembly at its next following meeting and if approved by resolution the approval shall be notified in the Gazette and become effective on the next following levy day and the amount or amounts so notified shall be substituted for the amount or amounts in subsection (1).

(4) All amount of levy paid in respect of the levy period commencing 1 September 2005 and thereafter shall be deemed to have been paid or shall be paid and shall be allocated in accordance with subsection (1).

Persons liable to pay levy

7. (1) Subject to subsection 7(2), a person is liable to pay the healthcare levy if —

- (a) the person has become an adult healthcare member under section 8; and
- (b) the person has not, under section 9, ceased to be an adult healthcare member.

(2) A person is not liable to pay healthcare levy or medical evacuation levy in relation to a levy period if that person is declared an exempt person in relation to that levy period under section 10.

- (3) (a) Subject to paragraph (b), the medical evacuation levy is payable by a person 18 years of age or above who is a resident or the holder of a permit (other than a visitors permit) under *the Immigration Act 1980*;
- (b) A person able to satisfy the Minister that he or she has a policy of insurance or a legal entitlement that will meet the evacuation costs of the person during a levy period or periods is entitled to exemption from payment of the levy in respect of that period or those periods.

Becoming an adult healthcare member

8. (1) Subject to subsection 8(2), a person becomes an adult healthcare member when —

- (a) the person has reached the age of 18 years; and
- (b) the person —
 - (i) shows an intention to be present in Norfolk Island for more than 120 days; or
 - (ii) has been present in Norfolk Island for a period or periods totalling more than 120 days during the previous 240 days.

(2) A person is not regarded as an adult healthcare member if the person has reached the age of 18 years and —

- (a) has not reached the age of 25 years and is undertaking full-time studies; or
- (b) because of mental or physical infirmity, is unable to support himself or herself.

Ceasing to be an adult healthcare member

9. (1) A person ceases to be an adult healthcare member when —

- (a) the person leaves Norfolk Island with the intention of not returning to Norfolk Island within the next 180 days and that intention is indicated by the person on the prescribed form; or
- (b) the person has been absent from Norfolk Island for a continuous period of 180 days.

(2) A person who has so ceased to be an adult healthcare member may again become, under section 8, an adult healthcare member.

(3) In subsection 9(1) “prescribed form” means Form 8 in Schedule 1 to the *Immigration Regulations 1984* or such other form as prescribed in Regulations.

Exempt persons

10. (1) If the Minister is satisfied on reasonable grounds —
- (a) that a person did not, during the period of 6 months before a levy day, receive an income of more than the prescribed amount; or
 - (b) that a person is eligible under the *Veterans’ Entitlements Act 1986* of the Commonwealth to be provided with treatment, within the meaning of that Act, for any injury suffered or disease contracted by the person,

the Minister must, by written instrument, declare the person to be an exempt person in relation to the relevant levy period.

(2) For the purposes of subsection 10(1), the prescribed amount is \$3500 or such higher amount as is prescribed in the Regulations.

(3) For the purposes of paragraph 10(1)(a) the income of a married person shall be deemed to be one half of the aggregate of the respective income of the person and his or her spouse unless —

- (a) the persons are living apart in pursuance of a separation agreement or an order of court; or
- (b) the Minister otherwise determines.

(4) For the purposes of subsection 10(3) “married person” includes a de facto spouse.

(5) The Minister must not make a declaration under subsection (1) in respect of a person who has not at the time of the declaration been ordinarily resident in Norfolk Island for 6 months under the provisions of a permit other than a visitors permit.

When levy becomes payable

11. (1) A person who is a liable person on a levy day must pay levy in respect of the levy day within 30 days after the levy day.

(2) For the purposes of subsection 7(2), the liability to pay levy in respect of a levy day arises 30 days after the levy day.

Suspension of liability to pay levy

11A. (1) A person who has private health cover in a health scheme may apply to the Minister for suspension of liability to pay the levy in respect of a levy period.

(2) An application under subsection 11A(1) shall be in writing accompanied by written proof of the applicant's private health cover.

(3) The Minister may, by notice in writing, grant or refuse to grant an application.

(4) The Minister shall not grant an application unless he or she considers, in his or her discretion, that the applicant's private health cover is adequate cover for the purpose of this Act.

....

(6) The grant of an application under this section shall not be construed as a warranty or guarantee by the Minister or any other person in respect of the private health cover produced by an applicant in support of the application and shall have no effect on the extent of the cover.

First payment of levy

12. (1) When a person becomes a liable person after a levy day and before the next levy day, the person must pay levy in respect of the period —

- (a) beginning on the day on which the person becomes a liable person; and
- (b) ending on the day before the next levy day.

(2) The amount of levy so payable is the greater of —

- (a) \$32; or
- (b) an amount calculated according to the formula —

$$D \times \$1.64$$

where 'D' is the number of days within the period referred to in subsection 12(1).

(3) A person who becomes liable to pay levy under this section must pay the levy within 30 days after the day referred to in paragraph 12(1)(a).

Refund of Levy

12A. (1) If a person ceases to be a liable person between levy days and the unexpired period for which the levy was paid exceeds 30 days, the person may, on or before the next levy day or within a prescribed period after it, apply in writing to the Minister for a refund of the levy in relation to the last levy day that occurred before the person ceased to be a liable person.

(2) Subject to subsections 12A(3) and 12A(4), if the Minister is satisfied that an applicant under subsection 12A(1) —

- (a) ceased on a particular date to be a liable person; and
- (b) has paid levy in relation to the last levy day occurring before that date,

the Minister is to refund to the applicant an amount of money calculated according to the formula —

$$\frac{L}{90} \times P,$$

where —

- 'L' is the amount of levy paid by the applicant;
- 'P' is the number of days not less than 30 days within the period beginning on the day on which the person ceased to be a liable person and ending on the next levy day.

(3) If during the 12 months immediately preceding the date the person ceased to be a liable person, costs in respect of the provision of medical services incurred by a person, or by the nuclear family of which the person is a member, exceed the amount prescribed under section 19 of the *Healthcare Act 1989* and the person has received reimbursement of the costs in accordance with that Act, the person is not eligible to apply under subsection 12A(1) for a refund of levy.

(4) Any moneys owed by the person to the Administration or a Territory authority must be deducted from the refund calculated under subsection 12A(2).

Levy notices

13. (1) The Minister is to ensure that a levy notice is served at the appropriate time on each liable person.

(2) The appropriate time is —

- (a) in relation to levy payable in respect of a levy day - on, or as soon as practicable after, the levy day; and
- (b) in relation to levy payable under section 12 - as soon as practicable after the day referred to in paragraph 12(1)(a).

(3) A levy notice is to include —

- (a) the name of the liable person;
- (b) in relation to levy payable in respect of a levy day - the date of the levy day;
- (c) in relation to levy payable under section 12 - the date referred to in paragraph 12(1)(a);
- (d) the amount of levy payable;
- (e) reference to the date by which, or period within which, the levy must be paid; and
- (f) if the levy notice is served by post - the date of posting.

(4) A levy notice may be served by post.

(5) Levy is payable under this Act even though a levy notice has not been served under this section.

Recovery of levy

14. (1) Levy payable under this Act is to be paid to the Administration.

(2) Levy payable under this Act, but not paid, may be sued for by the Administration in a Court of competent jurisdiction.

(3) Levy is payable under this Act by a person, and may be sued for, even though an application for review under section 17 has been made but has not been dealt with.

False or misleading information

15. A person shall not in relation to a claim for exemption, suspension or refund of levy, furnish information or make a statement to the Minister knowing that it is false or misleading in a material particular.

Penalty: 5 penalty units or imprisonment for 6 months, or both.

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Application for review

17. (1) A person may apply in writing to the Court of Petty Sessions for a declaration that the person is not a liable person.

(2) As soon as practicable after an application for review has been lodged, the Clerk must provide a copy of the application to the Minister.

(3) The Minister is to be the respondent to an application for review.

Review by Court

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

(a) if it is satisfied that the applicant is not, or, in respect of a specified previous period, was not, a liable person - make a declaration accordingly; or

(b) in any other case - refuse to make a declaration.

(2) If the Court makes a declaration that a person is not, or, in respect of a specified previous period, was not, a liable person, the Minister is to ensure that levy paid by the person, in respect of a levy day or period to which the declaration relates, is refunded to the person.

Procedure of Court

19. In performing its functions under section 18, 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 of matters before it; and

(b) is not bound by rules of evidence, but may inform itself as it thinks fit.

Appropriation of levy

20. (1) As soon as practicable after money has been received by the Administration under this Act, the money is to be paid as follows —

(a) if received under paragraph 6(1)(a) is to be paid to the Healthcare Fund;

(b) if received under paragraph 6(1)(b) is to be paid to the Medical Evacuation Fund.

(1A) Subsection (1) has effect from 1 September 2005 as if the subsection had been in force on that date and the Public Account shall be adjusted as necessary.

(2) For the purposes of subsection 47(5) of the *Norfolk Island Act 1979* of the Commonwealth, the payment of money into the Healthcare Fund under subsection 20(1) is the purpose for which the revenues raised by this Act are to be used.

(3) In spite of section 9 of the *Healthcare Act 1989*, if, under section 12A and subsection 18(2), a refund is to be made of levy, an amount equal to the refund may be issued from the Healthcare Fund to the credit of another part of the Public Account.

....

Delegation

22. (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.

Regulations

23. 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.
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NOTES

The *Healthcare Levy Act 1990* as shown in this consolidation comprises Act No. 9 of 1990 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Healthcare Levy Act 1990</i>	9, 1990	1.7.90	
<i>Healthcare Levy Amendment Act 1991</i>	12, 1991	s. 2 – 1.7.91	
<i>Healthcare (Consequential Amendments and Transitional Provisions) Act 1993</i>	5, 1993	31.5.93	
<i>Healthcare Levy Amendment Act 1993</i>	10, 1993	31.5.93	
<i>Healthcare Levy Amendment Act 1995</i>	7, 1995	25.5.95	s. 16
<i>Healthcare Levy Amendment Act 1998</i>	1, 1998	19.2.98	
<i>Healthcare Levy Amendment (No. 2) Act 1998</i>	18, 1998	24.9.98	
<i>Healthcare Levy Amendment Act 1999</i>	2, 1999	26.3.99	
<i>[previously consolidated as at 1 June 2002]</i>			
<i>Healthcare Levy (Amendment) Act 2005</i>	5, 2005	24.3.05	
<i>Healthcare Levy (Amendment No. 2) Act 2005</i>	11, 2005	27.5.05	
<i>Healthcare Levy (Amendment No. 3) Act 2005</i>	19, 2005	26.8.2005	
<i>[previously consolidated as at 31 May 2005 and 4 July 2006]</i>			
<i>Healthcare Levy (Amendment No. 2) Act 2006</i>	25, 2006	1 December 2006	
<i>[previously consolidated as at 4 December 2006]</i>			
<i>Interpretation (Amendment) Act 2012</i> <i>[to substitute throughout — Commonwealth Minister for Minister; and to substitute Minister for executive member]</i>	14, 2012	28.12.12	

Table of Amendments

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

Provisions affected	How affected	
3	am	5, 1993
	rep	7, 1995
4	am	10, 1993; 5, 2005
	rs	7, 1995
4(1)	am	19, 2005; 10, 2006
4(2), (3), (4), (5)	ad	5, 2005
5	rs	19, 2005
6	am	12, 1991; 10, 1993; 1, 1998; 2, 1999; 19, 2005; 25, 2006
	rs	7, 1995; 10, 2006
7	am	7, 1995; 10, 2006
7(3)	ad	10, 2006
8	rs	7, 1995
9	am	7, 1995
10	am	7, 1995
10(5)	ad	5, 2005
11A	ad	10, 1993
	am	7, 1995
12	am	12, 1991; 10, 1993; 18, 1998; 2, 1999; 19, 2005
12A	ad	10, 1993
	am	7, 1995; 11, 2005; 19, 2005
15	rs	7, 1995
16	rep	7, 1995
20	am	5, 1993; 10, 1993
20(1)	rs	10, 2006
20(1A)	ad	10, 2006
21	rep	7, 1995
23	am	7, 1995
Schedule	am	5, 1993
	rep	7, 1995

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