



# **Medicare Guarantee Act 2017**

**No. 71, 2017**

**An Act to establish the Medicare Guarantee Fund,  
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# Medicare Guarantee Act 2017

No. 71, 2017

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## **An Act to establish the Medicare Guarantee Fund, and for related purposes**

*[Assented to 26 June 2017]*

The Parliament of Australia enacts:

### **1 Short title**

This Act is the *Medicare Guarantee Act 2017*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	27 June 2017

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Simplified outline of this Act

- This Act establishes the Medicare Guarantee Fund, which consists of:
  - (a) the Medicare Guarantee Fund (Treasury) Special Account; and
  - (b) the Medicare Guarantee Fund (Health) Special Account.
- The purpose of the Medicare Guarantee Fund (Treasury) Special Account is to ensure that amounts are available for transfer to the Medicare Guarantee Fund (Health) Special Account.
- The purposes of the Medicare Guarantee Fund (Health) Special Account are:
  - (a) to make payments of Medicare benefits; and
  - (b) to make payments under the Pharmaceutical Benefits Scheme.

- Amounts will be credited to the Medicare Guarantee Fund (Treasury) Special Account and transferred to the Medicare Guarantee Fund (Health) Special Account.
- The transferred amounts will cover:
  - (a) payments of Medicare benefits; and
  - (b) payments under the Pharmaceutical Benefits Scheme.

#### 4 Definitions

In this Act:

***budget*** means an annual Commonwealth budget.

***budget year*** means the financial year to which a budget relates.

***Health Department*** means the Department administered by the Health Minister.

***Health Minister*** means the Minister who administers Part II of the *Health Insurance Act 1973*.

***initial credit time*** for the Medicare Guarantee Fund (Health) Special Account means the first time when an amount is required to be credited to the Medicare Guarantee Fund (Health) Special Account by a direction under subsection 14(1).

***Medicare benefit payment*** means:

- (a) a payment by the Commonwealth under Part II of the *Health Insurance Act 1973*; or
- (b) a payment by the Commonwealth under an arrangement in force under section 129A of the *Health Insurance Act 1973*.

***Medicare Guarantee Fund (Health) Special Account*** means the Medicare Guarantee Fund (Health) Special Account established by section 12.

***Medicare Guarantee Fund (Treasury) Special Account*** means the Medicare Guarantee Fund (Treasury) Special Account established by section 6.

**PBS payment** means a payment by the Commonwealth for the purposes of Part VII of the *National Health Act 1953*, but does not include expenditure covered by subsection 137(2) of that Act.

**registered** means registered on the Federal Register of Legislation.

Note: See the *Legislation Act 2003*.

**Treasury Department** means the Department administered by the Treasurer.

## 5 Medicare Guarantee Fund

The Medicare Guarantee Fund consists of:

- (a) the Medicare Guarantee Fund (Treasury) Special Account;  
and
- (b) the Medicare Guarantee Fund (Health) Special Account.

## 6 Medicare Guarantee Fund (Treasury) Special Account

- (1) The Medicare Guarantee Fund (Treasury) Special Account is established by this section.
- (2) The Medicare Guarantee Fund (Treasury) Special Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.
- (3) The Medicare Guarantee Fund (Treasury) Special Account is to be administered by the Secretary of the Treasury Department.

## 7 Credits to the Medicare Guarantee Fund (Treasury) Special Account

- (1) The Treasurer may, by notifiable instrument, determine that a specified amount is to be credited to the Medicare Guarantee Fund (Treasury) Special Account at a time specified in, or ascertained in accordance with, the determination.
- (2) The time specified in, or ascertained in accordance with, the determination must not be earlier than the commencement of the determination.



- (3) The time specified in, or ascertained in accordance with, the determination must not be earlier than 1 July 2017.
- (4) The determination must be expressed to be for a specified budget year.

### **8 Credit to the Medicare Guarantee Fund (Treasury) Special Account—budget year beginning on 1 July 2017**

- (1) As soon as practicable after the commencement of this section, the Treasurer must make a determination under section 7 that:
  - (a) is expressed to be for the budget year beginning on 1 July 2017; and
  - (b) provides that a specified amount is to be credited to the Medicare Guarantee Fund (Treasury) Special Account at whichever of the following times is applicable:
    - (i) if the determination is registered before 1 July 2017—the start of 1 July 2017;
    - (ii) otherwise—the commencement of the determination.

#### *Amount specified in determination*

- (2) The amount specified in the determination must be the amount the Treasurer considers to be sufficient to cover the funding of:
  - (a) Medicare benefit payments; and
  - (b) PBS payments;for the period:
  - (c) beginning when the specified amount is credited in accordance with the determination; and
  - (d) ending at the end of the budget year.

### **9 Credits to the Medicare Guarantee Fund (Treasury) Special Account—later budget years**

- (1) As soon as practicable after the release of the budget for:
  - (a) the budget year beginning on 1 July 2018; or
  - (b) a later budget year;the Treasurer must make a determination under section 7 that:

- (c) is expressed to be for the budget year; and
- (d) provides that a specified amount is to be credited to the Medicare Guarantee Fund (Treasury) Special Account at whichever of the following times is applicable:
  - (i) if the determination is registered before the start of the budget year—the specified time;
  - (ii) otherwise—the commencement of the determination.
- (2) The specified time referred to in subparagraph (1)(d)(i):
  - (a) must not be later than the start of the budget year; and
  - (b) must not be earlier than the commencement of the determination.

*Amount specified in determination*

- (3) The amount specified in the determination must be the amount the Treasurer considers to be sufficient to cover the funding of:
  - (a) Medicare benefit payments; and
  - (b) PBS payments;for the period:
  - (c) beginning when the specified amount is credited in accordance with the determination; and
  - (d) ending at the end of the budget year.

**10 Credits to the Medicare Guarantee Fund (Treasury) Special Account—avoiding funding shortfalls**

- (1) If:
  - (a) one or more amounts have been credited to the Medicare Guarantee Fund (Treasury) Special Account; and
  - (b) at a time during a budget year, the Treasurer is satisfied that the combined balance of that account and the Medicare Guarantee Fund (Health) Special Account is likely to fall short of the amount that the Treasurer considers would be sufficient to cover the funding of:
    - (i) Medicare benefit payments; and
    - (ii) PBS payments;for the remainder of the budget year;

the Treasurer must make a determination under section 7 that:

- (c) is expressed to be for the budget year; and
  - (d) provides that a specified amount is to be credited to the Medicare Guarantee Fund (Treasury) Special Account at a specified time.
- (2) The specified time:
- (a) must occur during the budget year; and
  - (b) must not be earlier than the commencement of the determination.

*Amount specified in determination*

- (3) The amount specified in the determination must be the amount that the Treasurer estimates to be the amount of the shortfall.

### **11 Purpose of the Medicare Guarantee Fund (Treasury) Special Account**

The purpose of the Medicare Guarantee Fund (Treasury) Special Account is to ensure that amounts are available for transfer to the Medicare Guarantee Fund (Health) Special Account under section 14.

### **12 Medicare Guarantee Fund (Health) Special Account**

- (1) The Medicare Guarantee Fund (Health) Special Account is established by this section.
- (2) The Medicare Guarantee Fund (Health) Special Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.
- (3) The Medicare Guarantee Fund (Health) Special Account is to be administered by the Secretary of the Health Department.

### **13 Purposes of the Medicare Guarantee Fund (Health) Special Account**

The purposes of the Medicare Guarantee Fund (Health) Special Account are as follows:

- (a) to make Medicare benefit payments after the initial credit time for the Medicare Guarantee Fund (Health) Special Account;
- (b) to make PBS payments after the initial credit time for the Medicare Guarantee Fund (Health) Special Account.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

### **14 Transfer of amounts to the Medicare Guarantee Fund (Health) Special Account**

- (1) If, at a particular time, the balance of the Medicare Guarantee Fund (Treasury) Special Account is greater than zero, the Treasurer must, in writing, direct that an amount equal to the balance is to be:
  - (a) debited from the Medicare Guarantee Fund (Treasury) Special Account; and
  - (b) credited to the Medicare Guarantee Fund (Health) Special Account;as soon as practicable after the direction is given.
- (2) A direction under subsection (1) is not a legislative instrument.

### **15 Surplus amounts in the Medicare Guarantee Fund (Health) Special Account—transfer to general CRF**

- (1) After the initial credit time for the Medicare Guarantee Fund (Health) Special Account, the Health Minister may, by notifiable instrument, direct that a specified amount is to be debited from the Medicare Guarantee Fund (Health) Special Account on a specified day.
- (2) The specified day must not be earlier than the commencement of the direction.

- (3) The Health Minister must not give a direction under subsection (1) that specifies a day in a budget year unless:
- (a) the Health Minister has estimated that the balance of the Medicare Guarantee Fund (Health) Special Account as at the end of the budget year (reduced by any amounts credited to that account for a later budget year) is likely to be a particular amount; and
  - (b) the amount specified in the direction is equal to, or less than, the estimated amount.
- (4) For the purposes of paragraph (3)(a), if:
- (a) an amount is credited to the Medicare Guarantee Fund (Treasury) Special Account under a section 7 determination for a budget year; and
  - (b) as a result, under a section 14 direction, an amount equal to that amount is:
    - (i) debited from the Medicare Guarantee Fund (Treasury) Special Account; and
    - (ii) credited to the Medicare Guarantee Fund (Health) Special Account;
- the amount credited to the Medicare Guarantee Fund (Health) Special Account is taken to have been credited for the budget year.

## 16 Delegation by the Treasurer

- (1) The Treasurer may, by writing, delegate any or all of his or her functions or powers under this Act to:
- (a) the Secretary of the Treasury Department; or
  - (b) an SES employee, or acting SES employee, in the Treasury 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 under a delegation under subsection (1), the delegate must comply with any directions of the Treasurer.

### **17 Delegation by the Health Minister**

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

### **18 Appropriation**

If, at any time after the initial credit time for the Medicare Guarantee Fund (Health) Special Account, the balance of that account is insufficient to cover:

- (a) a Medicare benefit payment that is about to be made; or
- (b) a PBS payment that is about to be made;

the Consolidated Revenue Fund is appropriated for the purposes of making the Medicare benefit payment or PBS payment, as the case requires.

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*[Minister's second reading speech made in—  
House of Representatives on 1 June 2017  
Senate on 19 June 2017]*

(118/17)

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