



# Health Insurance (Pathology) Amendment Act 1991

No. 190 of 1991

---

**An Act to amend certain provisions of the *Health Insurance Act 1973* relating to pathology services, and for related purposes**

[Assented to 11 December 1991]

The Parliament of Australia enacts:

**Short title etc.**

**1.(1)** This Act may be cited as the *Health Insurance (Pathology) Amendment Act 1991*.

**(2)** In this Act, “Principal Act” means the *Health Insurance Act 1973*<sup>1</sup>.

**Commencement**

**2.** This Act commences on the day on which it receives the Royal Assent.

### **Interpretation**

3. Section 23DA of the Principal Act is amended by inserting in subsection (1) the following definitions:

“**‘acceptance fee’** means the fee payable under the Fees Act in respect of the acceptance of an undertaking under section 23DC or section 23DF;

**‘accreditation fee’** means the fee payable under the Fees Act in respect of the approval of premises as an accredited pathology laboratory under section 23DN;

**‘Fees Act’** means the *Health Insurance (Pathology) (Fees) Act 1991*.

### **Giving an acceptance of approved pathology practitioner undertaking**

4.(1) Section 23DC of the Principal Act is amended:

- (a) by omitting from paragraph (1)(b) all words from and including “together with” and substituting “together with an application for the Minister’s acceptance of the undertaking”;
- (b) by omitting subsection (10) and substituting the following subsections:

“(10) If:

- (a) the Minister accepts an undertaking given by a person under subsection (1); and
- (b) the person pays the acceptance fee in respect of the undertaking;

the Minister must give to the person a notice that:

- (c) specifies:
  - (i) the day on which the undertaking comes into force; and
  - (ii) the period determined by the Minister under paragraph (1)(c) as the period for which the undertaking is to have effect; and
- (d) includes a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal, by or on behalf of a person whose interests are affected by the decision, for review of the decision of the Minister determining the period for which the undertaking is to have effect.

“(10A) The notice under subsection (10):

- (a) may not specify, as the day on which the undertaking comes into force, a day earlier than the day on which the undertaking was accepted; and
- (b) if, when the undertaking was accepted by the Minister, an undertaking (in this subsection called the **‘previous undertaking’**) previously given by the person under

*Health Insurance (Pathology) Amendment No. 190, 1991*

subsection (1) was in force—must specify, as the day on which the undertaking comes into force, the day immediately after the day on which the previous undertaking ceases, or ceased, to be in force.

“(10B) If, within 14 days after the Minister has given notice to a person under subsection (9) that the Minister has accepted the undertaking given by the person under subsection (1), the person has not paid the acceptance fee in respect of the undertaking:

- (a) the acceptance of the undertaking by the Minister is, by force of this subsection, revoked; and
- (b) the revocation is taken to have had effect from the time when the undertaking was accepted.”.

(2) The amendments of the Principal Act made by subsection (1) do not apply in relation to an undertaking:

- (a) given to the Minister under subsection 23DC(1) of the Principal Act; and
- (b) in respect of which a fee has been paid under that subsection; before this Act commenced.

**Period of effect of approved pathology practitioner undertaking**

**5.(1)** Section 23DD of the Principal Act is amended:

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

“(a) comes into force on the day specified in the notice given under subsection 23DC(10) in respect of the undertaking; and”;

- (b) by omitting subsection (2);
- (c) by omitting from subsection (3) “ending on” and substituting “ending 14 days after”.

(2) The amendments of the Principal Act made by subsection (1) do not apply in relation to an undertaking:

- (a) given to the Minister under subsection 23DC(1) of the Principal Act; and
- (b) in respect of which a fee has been paid under that subsection; before this Act commenced.

**Giving an acceptance of approved pathology authority undertaking**

**6.(1)** Section 23DF of the Principal Act is amended:

- (a) by omitting from paragraph (1)(b) all words from and including “together with” and substituting “together with an application for the Minister’s acceptance of the undertaking”;
- (b) by omitting subsection (11) and substituting the following subsections:

*Health Insurance (Pathology) Amendment No. 190, 1991*

“(11) If:

- (a) the Minister accepts an undertaking given by a person under subsection (1); and
- (b) the person pays the acceptance fee in respect of the undertaking;

the Minister must give to the person a notice that:

- (c) specifies:
  - (i) the day on which the undertaking comes into force; and
  - (ii) the period determined by the Minister under paragraph (1)(c) as the period for which the undertaking is to have effect; and
- (d) includes a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal, by or on behalf of a person whose interests are affected by the decision, for review of the decision of the Minister determining the period for which the undertaking is to have effect.

“(11A) The notice under subsection (11):

- (a) may not specify, as the day on which the undertaking comes into force, a day earlier than the day on which the undertaking was accepted; and
- (b) if, when the undertaking was accepted by the Minister, an undertaking (in this subsection called the ‘**previous undertaking**’) previously given by the person under subsection (1) was in force—must specify, as the day on which the undertaking comes into force, the day immediately after the day on which the previous undertaking ceases, or ceased, to be in force.

“(11B) If, within 14 days after the Minister has given notice to a person under subsection (10) that the Minister has accepted the undertaking given by the person under subsection (1), the person has not paid the acceptance fee in respect of the undertaking:

- (a) the acceptance of the undertaking by the Minister is, by force of this subsection, revoked; and
- (b) the revocation is taken to have had effect from the time when the undertaking was accepted.”.

(2) The amendments of the Principal Act made by subsection (1) do not apply in relation to an undertaking:

- (a) given to the Minister under subsection 23DF(1) of the Principal Act; and
- (b) in respect of which a fee has been paid under that subsection;

before this Act commenced.

**Period of effect of approved pathology authority undertaking**

**7.(1)** Section 23DG of the Principal Act is amended:

(a) by omitting paragraph (1)(a) and substituting the following paragraph:

“(a) comes into force on the day specified in the notice given under subsection 23DF(11) in respect of the undertaking; and”;

(b) by omitting subsection (2);

(c) by omitting from subsection (3) “ending on” and substituting “ending 14 days after”.

(2) The amendments of the Principal Act made by subsection (1) do not apply in relation to an undertaking:

(a) given to the Minister under subsection 23DF(1) of the Principal Act; and

(b) in respect of which a fee has been paid under that subsection; before this Act commenced.

**Repeal of section**

**8.(1)** Section 23DJ of the Principal Act is repealed.

(2) In spite of subsection (1), section 23DJ of the Principal Act as in force immediately before the commencement of this Act continues to apply to an undertaking:

(a) given under subsection 23DC(1) or 23DF(1) of the Principal Act; and

(b) in respect of which a fee has been paid under the Principal Act as then in force.

**Accredited pathology laboratories**

**9.(1)** Section 23DN of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsections:

“(1) Where a person (in this section called the ‘**applicant**’) makes an application, in writing in the approved form, to the Minister for the approval of premises as an accredited pathology laboratory, the Minister may, in writing:

(a) approve in principle the premises as an accredited pathology laboratory; or

(b) refuse to approve the premises as an accredited pathology laboratory.

“(2) Where:

(a) the Minister approves in principle premises under subsection (1); and

*Health Insurance (Pathology) Amendment No. 190, 1991*

- (b) the applicant pays the accreditation fee in respect of the approval of the premises;

the Minister must:

- (c) approve, in writing, the premises as an accredited pathology laboratory; and
- (d) give a copy of the approval to the applicant.

“(2A) An approval in principle under subsection (1), and an approval under subsection (2), of premises as an accredited pathology laboratory must specify:

- (a) the kind of pathology services in respect of which the premises are approved for the purposes of this Act; and
- (b) the category of accreditation allocated to the premises; and
- (c) the period (not exceeding 3 years) for which the approval is to have effect.”;

(b) by omitting from subsection (3) “subsection (1)” and “subsection (2)” and substituting respectively “this section” and “section 23DNA”;

(c) by omitting from subsection (4) “subsection (1)” and substituting “subsection (2)”;

(d) by inserting in subsection (5) “in principle” after “approving”.

(2) The amendments of the Principal Act made by subsection (1) do not apply in respect of an application:

(a) made under subsection 23DN(1) of the Principal Act; and

(b) in respect of which a fee has been paid under that subsection; before this Act commenced.

---

**NOTE**

1. No. 42, 1974, as amended. For previous amendments, see No. 58, 1975; Nos. 59, 91, 101, 109 and 157, 1976; No. 75, 1977; Nos. 36, 89 and 133, 1978; Nos. 53 and 123, 1979; No. 132, 1980; Nos. 118 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 54 and 139, 1983; Nos. 15, 46, 63, 120, 135 and 165, 1984; Nos. 24, 65, 70, 95 and 167, 1985; Nos. 28, 75 and 94, 1986; Nos. 44, 131, 132 and 141, 1987; Nos. 85, 87, 99 and 155, 1988; Nos. 59, 84, 95 and 164, 1989; Nos. 3, 106 and 141, 1990; and Nos. 6, 57, 68, 70, 73, 84 and 116, 1991.

[*Minister's second reading speech made in—  
House of Representatives on 7 November 1991  
Senate on 13 November 1991*]