



Health and Other Legislation Amendment Act 2013

No. 111, 2013

**An Act to amend the law relating to food regulatory
measures, health, medicare and industrial
chemicals, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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**An Act to amend the law relating to food regulatory
measures, health, medicare and industrial
chemicals, and for related purposes**

[Assented to 29 June 2013]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Health and Other Legislation
Amendment Act 2013*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 June 2013
2. Schedule 1, items 1 to 17	The day after this Act receives the Royal Assent.	30 June 2013
3. Schedule 1, items 18 and 19	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	29 December 2013
4. Schedule 1, items 20 to 23	The day after this Act receives the Royal Assent.	30 June 2013

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Food Standards Australia New Zealand Act 1991

1 Paragraph 23(2)(b)

Omit “fixed”.

2 Subsection 24(2)

Omit “fixed”.

3 Subparagraph 27(c)(i)

Omit “fixed under subparagraph 146(6)(b)(i)”, substitute “under section 146 in relation to the application”.

4 Paragraph 27(d)

Omit “fixed under subparagraph 146(6)(b)(ii)”, substitute “under section 146 in relation to the application”.

5 Subparagraph 48(1)(b)(i)

Omit “fixed under subparagraph 146(6)(b)(i)”, substitute “under section 146 in relation to the application”.

6 Paragraph 48(1)(c)

Omit “fixed under subparagraph 146(6)(b)(ii)”, substitute “under section 146 in relation to the application”.

7 Subsection 95(7)

Omit “fixed”.

8 Paragraph 108(1)(b)

Omit “fixed”.

9 Paragraph 109(2)(a)

Omit “fixed under subparagraph 146(6)(b)(i)”, substitute “under section 146 in relation to the application”.

10 Paragraph 109(2)(b)

Omit “fixed under subparagraph 146(6)(b)(ii)”, substitute “under section 146 in relation to the application”.

11 Subsection 109(7)

Omit “fixed”.

12 Subparagraph 109(9A)(c)(i)

Omit “fixed under subparagraph 146(6)(b)(ii)”, substitute “under section 146”.

13 Subparagraph 109(9B)(b)(i)

Omit “fixed under subparagraph 146(6)(b)(ii)”, substitute “under section 146”.

14 Subsection 110(3)

Omit “fixed”.

15 Subsection 146(2)

Omit “fixed”.

16 Subsection 146(7)

Omit “under”, substitute “as mentioned in”.

17 Paragraphs 152(1)(g), (h) and (i)

Omit “fixed”.

Health Insurance Act 1973

18 At the end of section 3

Add:

(18) If:

- (a) a professional service prescribed by the regulations for the purposes of this paragraph is rendered by a medical practitioner who is a specialist trainee (see subsection (20)); and
- (b) the specialist trainee renders the service under the supervision of another medical practitioner who is present at all times while the specialist trainee renders the service;

then, for the purposes of this Act and the regulations:

- (c) the service is taken to have been rendered by the other medical practitioner; and
 - (d) the service is taken not to have been rendered by the specialist trainee.
- (19) The regulations may prescribe provisions of this Act and of the regulations to which subsection (18) does not apply.
- (20) In subsection (18):
- specialist trainee* has the meaning given by regulations made for the purposes of this subsection.

19 Application provision

The amendment made by item 18 applies in relation to professional services rendered on or after the commencement of that item.

Human Services (Medicare) Act 1973

20 At the end of subsections 41C(1) and (2)

Add:

Note: See section 41CA for exceptions.

21 Subsection 41C(6)

Repeal the subsection.

22 After section 41C

Insert:

41CA Authorisations for purposes of section 41C

- (1) Subsection 41C(1) or (2) does not apply to conduct engaged in by a person in accordance with an authorisation (including any conditions) in force under subsection (2) of this section in relation to the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1): see subsection 13.3(3) of the *Criminal Code*.

- (2) For the purposes of subsection (1), the Secretary may, by writing, authorise specified persons to engage in specified conduct. The

authorisation may make the conduct subject to specified conditions.

Note: For specification by class, see subsection 33(3AB) of the *Acts Interpretation Act 1901*.

- (3) An authorisation under subsection (2) ceases to be in force in relation to a person if the person contravenes a condition of the authorisation that applies to the person.
- (4) Subsection (3) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* in relation to an authorisation under subsection (2) of this section.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* deals with revocation and variation etc. of instruments.

Delegation

- (5) The Secretary may, by writing, delegate the Secretary's powers under subsection (2) to:
 - (a) the Chief Executive Medicare; or
 - (b) any other APS employee in the Department; or
 - (c) an APS employee in the Department administered by the Minister administering the *Health Insurance Act 1973*.

Note: The expression *APS employee* is defined in section 2B of the *Acts Interpretation Act 1901*.

- (6) A delegate must comply with any written directions of the Secretary.

Authorisation not a legislative instrument

- (7) An authorisation under subsection (2) is not a legislative instrument.

Industrial Chemicals (Notification and Assessment) Act 1989

23 Subparagraph 21(6)(b)(ii)

Omit "at the port or airport".

*[Minister's second reading speech made in—
House of Representatives on 19 September 2012
Senate on 28 November 2012]*

(161/12)

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