

EXPLANATORY STATEMENT

STATUTORY RULES 1981 NO.102

NATIONAL HEALTH ACT 1953

NATIONAL HEALTH (PHARMACEUTICAL BENEFITS)
REGULATIONS (AMENDMENT)

Issued by the authority of the Minister for Health

Section 140 of the National Health Act 1953 ('the Act') provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The National Health Amendment Act 1983 (the amending Act) Act No. 35 assented to on 19 June 1983 amended Part VII of the Act by abolishing the patient declaration of entitlement to free or concessional pharmaceutical benefits under the Pharmaceutical Benefits Scheme. The amending Act also introduced a simpler arrangement by which a person's entitlement to free or concessional pharmaceutical benefits may be made known to the pharmaceutical chemist.

Section 6 of the amending Act inserted a new section 84AA into the Act which provided the new procedure

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whereby a person's entitlement to free or concessional pharmaceutical benefits is made known to the pharmaceutical chemist. New sub-section 84AA(1) provides that a prescription for a pharmaceutical benefit shall not be taken to be a prescription in respect of a concessional beneficiary, or a pensioner, or one of their dependents, unless the prescription form contains certain prescribed information as to that person's entitlement. New sub-section 84AA(2) makes similar provision for prescriptions that are communicated to pharmaceutical chemists in urgency situations.

The Regulations amended the National Health (Pharmaceutical Benefits) Regulations to give effect to these changes by prescribing the new administrative procedures to enable an eligible person to receive a pharmaceutical benefit at the concessional rate or free of charge.

The Regulations were made in pursuance of section 4 of the Acts Interpretation Act 1901 and therefore took effect at the same time as the relevant provisions authorising the Regulations in the National Health Amendment Act 1983. Details of the Regulations are set out at Attachment A.

Authority: Section 140 of
the National
Health Act 1953.

Attachment A

The regulations amended existing regulation 5 by inserting the definitions of "concessional beneficiary", and "dependant" in relation to a concessional beneficiary, and omitted the definition of "declaration".

Regulation 3 inserted a new regulation 19A which provides that the information prescribed for the purposes of sub-sections 84AA(1) and (2) of the Act, is information in respect of the type of entitlement card issued by the Commonwealth to a person who is a concessional beneficiary or a pensioner, and the entitlement number specified on that card.

Regulation 19A also provides that the manner of communicating prescribed information for the purposes of sub-section 84AA(1) of the Act, would be the writing or marking the prescribed information on a prescription form, either in accordance with a form prescribed by the regulations, or, with the consent of the Minister, by an endorsement on the prescription in the existing form.

Sub-regulation 19A(3) provides, for the purposes of sub-section 84AA(2) of the Act, for the manner in which prescribed information shall be communicated to a pharmaceutical chemist in an urgency situation.

Regulations 4 and 5 amended the existing regulations 26 and 26A to omit the reference to a "declaration", and inserted a new sub-regulation 31(1B) to provide that the receipt of the pharmaceutical benefit, and the certification as to the validity of the prescribed information on the prescription, shall be covered by the one signature.

Regulation 7 inserted a new Schedule 7 to the Principal Regulations which provided for a form by which the manner of communicating prescribed information to the pharmaceutical chemist is exercised pursuant to sub-regulation 19A(2).

S.R. No. 134/83