

EXPLANATORY STATEMENT

STATUTORY RULES 1990 No.292

NATIONAL HEALTH REGULATIONS (AMENDMENT)

Section 140 of the National Health Act 1953 (the Act) provides that the Governor-General may make regulations for the purposes of the Act.

Sub-paragraph 40AA(6)(c)(ii) of the Act provides in part that no extra charge over the approved scale of fees will be payable by or on behalf of a qualified nursing home patient unless the charge is in respect of a matter that is not related to the nursing home care provided for the patient, and the service for which the charge is made has been requested by the patient.

Section 4 of the Act defines "nursing home care" to mean accommodation and nursing care of a kind provided in a nursing home, including any prescribed service of a kind provided in a nursing home.

Regulations to prescribe services have not previously been made for the purposes of section 4. A purpose of the proposed Regulations is to tighten the administration of the Act with regard to the levying of extra charges on residents of approved nursing homes.

By virtue of sub-paragraph 40AA(6)(c)(ii) and Section 4, patients cannot be charged extra fees for prescribed services, and regulations 3 and 8 define such services, to provide clear guidance for the industry.

Details of the Regulations are attached.

S.R. 296/90

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ATTACHMENT

National Health Act Regulations (Amendment)

Regulation 1

This provides that regulations 3 and 8 **commence on 1 October 1990** (the remaining regulations commence on **gazettal**).

Regulation 2

This is a formal provision.

Regulation 3

This inserts a new regulation (regulation 4A) **in the principal Regulations**.

The new sub-regulation 4A(1) has the effect of **prescribing, for the purposes of sub-section 4(1) of the act, services included in the definition of nursing home care. These services are found at column 2 of schedule 1A (created by amending regulation 8) of the regulations.**

The new sub-regulation 4A(2) provides for clarification, **where necessary, of the services set out in column 2, by detailing specific inclusions or exclusions to those services, but without limiting the generality of those defined services.**

The new sub-regulation 4A(3) provides that, **for the purposes of schedule 1A, "health professional** shall be taken as including the Director of Nursing at the nursing home.**

Regulations 4-7

These are minor technical amendments.

Regulation 8

This inserts a new schedule, Schedule 1A, which details **the services prescribed pursuant to the new sub-regulation 4A(1).** Column 1 of the Schedule 1A details the item number of **each** prescribed service. Column 2 details the services **prescribed** by the new sub-regulation 4A(1). Column 3 provides for clarification of the prescribed services as provided **in the new sub-regulation 4A(2).**

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