

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 327

National Health Act 1953

National Health (Pharmaceutical Benefits) Amendment Regulations 2010 (No. 6)

Section 140 of the *National Health Act 1953* (the Act) provides, in part, 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. In particular, includes prescribing the fees and allowances payable to members of a committee established under the Act, other than members who are officers of the Public Service of the Commonwealth or of a state.

The Pharmaceutical Benefits Advisory Committee (PBAC) is established under section 100A of the Act. Its primary role is to make recommendations and give advice to the Minister for Health and Ageing in relation to drugs and medicinal preparations seeking to be subsidised under the Pharmaceutical Benefits Scheme (PBS), and about drugs already listed on the PBS.

Section 101A of the Act provides that PBAC may establish sub-committees to assist it in performing its functions. The Drug Utilisation Sub-Committee (DUSC) and Economic Sub-Committee (ESC) are sub-committees of the PBAC which are established in accordance with section 101A of the Act. DUSC and ESC undertake evaluation and analysis work to support PBAC's deliberations. Subsection 101A(4) provides that sub-committees established under section 101A (i.e. DUSC and ESC) are "committees" for the purposes of section 140.

Regulation 48 of the *National Health (Pharmaceutical Benefits) Regulations 1960* (the Principal Regulations) sets the fees and allowances payable to the chair and members of DUSC and ESC as the amounts that are payable to the chair and members of professional committees under Schedule B to the *Remuneration Tribunal Determination 2009/14: Remuneration and Allowances for Holders of Part-Time Public Office*.

The purpose of the Regulations is to update the title of the Remuneration Tribunal Determination in the Principal Regulations to reflect a more recent determination. The Regulations ensure payment of PBAC sub-committee members, and DUSC and ESC, is consistent with the *Remuneration Tribunal Determination 2010/11: Remuneration and Allowances for Holders of Part-Time Public Office*.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Consultation has been undertaken with the Remuneration Tribunal, who felt that DUSC and ESC should be paid in accordance with regulations made under section 140 of the *National Health Act 1953*. Consultation with DUSC and ESC was not considered necessary given that there is no substantive change of the members' entitlements.