



# **MRCA Pharmaceutical Benefits Scheme**

**Instrument 2013 No. MRCC 44**

made under section 286 of the

*Military Rehabilitation and Compensation Act 2004*

## **Compilation No. 6**

**Compilation date:** 1 January 2018

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Prepared by the Department of Veterans' Affairs

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## About this compilation

### This compilation

This is a compilation of the *MRCAs Pharmaceutical Benefits Scheme* that shows the text of the law as amended and in force on 1 January 2018 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Contents

1A	Name of Scheme .....	1
1C	Transitional-general .....	1
1D	Transitional-pharmaceutical reimbursement .....	1
1	MRCA Pharmaceutical Benefits Scheme .....	1
2	Purpose of the MRCA Pharmaceutical Benefits Scheme .....	1
<b>Part 1—Interpretation</b>		<b>2</b>
3	.....	2
4	Notification of certain matters in the Explanatory Notes .....	8
5	Department to notify of certain matters as agent of the Commission .....	9
<b>Part 2—Prescribing of Benefits Procedure by Medical Practitioners</b>		<b>10</b>
6	Prior Approval .....	10
7	Restrictions .....	10
8	Prescribing provisions .....	11
9	Application of PBS Schedule restrictions and RPBS Schedule restrictions .....	11
10	Prescriptions to conform with State or Territory Law .....	11
11	Form of prescriptions .....	11
11AA	Writing prescriptions-general .....	12
11A	Writing of prescriptions-prescriptions other than medication chart prescriptions .....	12
11B	Writing prescriptions—medication chart prescriptions .....	14
12	When prescriptions are invalid .....	16
13	Maximum quantity and repeats allowed .....	17
14	Prescribing outside the RPBS Schedule or PBS Schedule .....	17
15	Medical Practitioner subject to this Scheme .....	17
<b>Part 3—Supply of Pharmaceutical Benefits</b>		<b>18</b>
16	Supply of Pharmaceutical Benefits—Procedure by Community Pharmacists .....	18
16AA	Supply of pharmaceutical benefit on basis of medication chart prescription .....	18
<b>Continued Dispensing</b>		<b>20</b>
16A	When Pharmaceutical benefits may be supplied by Community Pharmacists without prescription .....	20
16AB	Information about status of person—continued dispensing and medication chart prescriptions .....	22
17	Substitution of lesser priced alternative brand of drug .....	23
18	Community Pharmacist to be satisfied as to entitlement .....	23
19	Dispensing of deleted items .....	24
20	Use of forms as notified by the Department or the Commission .....	24
21	Financial responsibility .....	24
22	Refund in certain circumstances .....	24
23	Expenses incurred in obtaining Pharmaceutical Benefits while not in receipt of a pharmaceutical allowance .....	24
<b>Part 4—Claims by Community Pharmacists</b>		<b>26</b>
24	Lodgement of Claims by Community Pharmacists .....	26
25	Claims Requirements and Payment .....	26

<b>Part 5—Payments to Community Pharmacists</b>	27
26	Payment of Dispensed Price .....27
30	Fees not payable in some circumstances.....27
31	Community Pharmacist not entitled to demand or receive payments .....27
32	Community Pharmacist to issue receipt where certain payments received.....27
<b>Part 5A—Pharmaceutical Reimbursement</b>	28
<b>Definitions:</b>	.....28
33	.....28
34	.....28
35	.....28
36	Eligibility for Payment of Pharmaceutical Reimbursement .....28
37	Calculation of annual value of pharmaceutical allowance component of MRCA supplement, pension supplement, veterans supplement.....29
38	Payment of Pharmaceutical Reimbursement.....30
38A	Five Year Limit on Payment of Pharmaceutical Reimbursement .....30
39	Pharmaceutical Reimbursement Calculator .....30
40	.....31
<b>Part 5B—Under Co-payment Data Collection</b>	32
40A	Giving information .....32
<b>Part 6—Miscellaneous</b>	33
41	Standards .....33
<b>Retention of Documents</b>	33
45	Keeping documents-other than for continued dispensing or medication chart prescriptions .....33
45A	Keeping documents—continued dispensing .....34
45B	Keeping documents—medication chart prescriptions.....34
46	Agreement with the Pharmacy Guild of Australia .....35
<b>SCHEDULE 1—INCORPORATED DOCUMENTS</b>	36
<b>Endnotes</b>	36
<b>Endnote 1—About the endnotes</b>	36
<b>Endnote 2—Abbreviation key</b>	37
<b>Endnote 3—Legislation history</b>	38
<b>Endnote 4—Amendment history</b>	39

## **1A Name of Scheme**

This instrument is the MRCA Pharmaceutical Benefits Scheme.

## **1C Transitional-general**

Any process under the revoked scheme that had not been finalised before the commencement of this Scheme is to be completed under this Scheme as if it had commenced under this Scheme.

## **1D Transitional-pharmaceutical reimbursement**

For the purpose of working out a pharmaceutical reimbursement, a co-payment by an Eligible Person for a Pharmaceutical benefit under the revoked scheme, that could have been counted for a pharmaceutical reimbursement under the revoked Scheme but in respect of which a pharmaceutical reimbursement had not been made immediately before the commencement of this Scheme, is taken to be a co-payment for a Pharmaceutical benefit under this Scheme.

## **1 MRCA Pharmaceutical Benefits Scheme**

The MRCA Pharmaceutical Benefits Scheme is authorised by, and subject to, section 286 of the *Military Rehabilitation and Compensation Act 2004*.

## **2 Purpose of the MRCA Pharmaceutical Benefits Scheme**

The MRCA Pharmaceutical Benefits Scheme enables Community Pharmacists to supply Pharmaceutical benefits to Eligible Persons.

Section 3

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## Part 1—Interpretation

### 3

For the purposes of this Scheme, unless a contrary intention appears:

*Act* means the *Military Rehabilitation and Compensation Act 2004*;

*accepted disability* means a service injury, a service disease or a SRCA disability;

Note: service injury and service disease are defined in the Act.

*approval number* means a number allotted by the *Secretary* or the *Minister for Health* under section 16 of the *National Health (Pharmaceutical Benefits) Regulations 2017* to an approval under the *National Health Act 1953* of a person described in the section who, under the *Scheme*, is a *Community Pharmacist*;

*approved electronic communication* means an electronic communication of a kind approved in writing by the *Secretary* under section 11 of the *National Health (Pharmaceutical Benefits) Regulations 2017* for the purposes of the provision in those regulations in which the expression is used.

*approved information technology requirements* means information technology requirements of a kind approved in writing by the *Secretary* under section 12 of the *National Health (Pharmaceutical Benefits) Regulations 2017* for the purposes of the provision in those regulations in which the expression is used.

*approved hospital* means a hospital in respect of which the hospital authority is approved under section 94 of the *National Health Act 1953*;

*Approved Hospital Authority* has the meaning given by subsection 84(1) of the *National Health Act 1953*.

*Approved Medical Practitioner* means a medical practitioner approved under section 92 of the *National Health Act 1953* for the purposes of supplying Pharmaceutical benefits;

*approved supplier* has the meaning given in Part VII of the *National Health Act 1953*;

*Authorised Midwife* has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

*Authorised Nurse Practitioner* has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

*authority prescription* means:

- (a) a prescription of a Pharmaceutical benefit for which Prior Approval under section 6 is required;
- (b) an authority prescription as defined in the *National Health (Pharmaceutical Benefits) Regulations 2017*;

**Authority Prescription Form** means a prescription in the form, if any, for an **authority prescription** under the *National Health (Pharmaceutical Benefits) Regulations 2017* in force from time to time;

**Chief Executive Medicare** has the meaning given by the *Human Services (Medicare) Act 1973*;

**claims rules** mean the rules, in force from time to time, made under subsections 98AC(4) and 99AAA(8) of the *National Health Act 1953*;

**Commission** means the Military Rehabilitation and Compensation Commission established by section 361 of the Act;

**Community Pharmacist** means:

- (a) a registered pharmacist approved for the purposes of section 90 of the *National Health Act 1953* in charge of a community pharmacy; or
- (b) a registered pharmacist approved for the purposes of section 90 of the *National Health Act 1953*, being the manager of a registered Friendly Society Dispensary; or
- (c) an Approved Hospital Authority; or
- (d) an Approved Medical Practitioner;

**concessional beneficiary** has the same meaning it has in section 84 of the *National Health Act 1953*, in force from time to time;

**concessional beneficiary safety net** has the same meaning it has in section 99F of the *National Health Act 1953*, in force from time to time;

**concession card** has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

**continued dispensing supply** means the supply of Pharmaceutical benefits in the circumstances in paragraph 16A;

**co-payment**, in respect of a pharmaceutical benefit, means that part of the price of a pharmaceutical benefit that is borne by the Eligible Person in relation to a Pharmaceutical benefit made available under the Scheme;

**deferred supply authorisation** means the situation described in section 53 of the *National Health (Pharmaceutical Benefits) Regulations 2017*;

Note: generally a deferred supply authorisation occurs where a prescription contains a direction to supply more than 1 Pharmaceutical benefit and the Community Pharmacist to whom the prescription is presented, at the request of the person for whom the prescription is written, defers the supply of one or more of the Pharmaceutical benefits.

Section 3

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**dependant**, in relation to a concessional beneficiary, has the meaning given by Part VII of the *National Health Act 1953*;

**Department** means the Department of Veterans' Affairs;

**Diagnostic Agents** means Agents intended to facilitate the determination of human disease and/or human physiological states;

**dispensed price** has the meaning it has in the *RPBS*.

**Drugs or Medicines** means **goods for therapeutic use** as defined for human use by the *Therapeutic Goods Act 1989*;

**electronic prescription** means a prescription that is prepared and submitted:

- (a) in accordance with approved information technology requirements (if any), by means of an approved electronic communication; and
- (b) in accordance with the appropriate form approved by the *Secretary* under:
  - (i) subparagraph 40(2)(c)(ii) (prescriptions other than medication chart prescriptions) of the *National Health (Pharmaceutical Benefits) Regulations 2017*; or
  - (ii) subsection 41(5) (medication chart prescriptions) of the *National Health (Pharmaceutical Benefits) Regulations 2017*.

**Eligible Person** means:

- (a) a person who holds a Repatriation Health Card - For All Conditions; or
- (b) a person who holds a Repatriation Health Card - For Specific Conditions.

**entitlement card** has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

**Explanatory Notes** means:

- (a) the document forming part of the Pharmaceutical Benefits Scheme that is: SECTION 1—EXPLANATORY NOTES; and

Note: as at 1 September 2014 the part comprised pages 25-54.

- (b) the document forming part of the Pharmaceutical Benefits Scheme that is: the *RPBS Explanatory Notes*;

Note: as at 1 September 2014 the part comprised pages 1079-1082. being the version of the document as it exists on the date for the document in Schedule 1.

**general patient safety net** has the same meaning it has in section 99F of the *National Health Act 1953*, in force from time to time;

**hospital treatment** has the meaning given by section 121-5 of the *Private Health Insurance Act 2007*;



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**income support payment** is a service pension (defined in subsection 5Q(1) of the *Veterans' Entitlements Act 1986*) or an income support supplement (referred to in Part IIIA of the *Veterans' Entitlements Act 1986*).

**income support payment under the Social Security Act 1991** means a payment referred to in the definition of income support payment in subsection 23(1) of the *Social Security Act 1991*.

**Medical Practitioner** has the same meaning as medical practitioner has in the *Health Insurance Act 1973*;

**medicare number** has the meaning given by subsection 84 (1) of the *National Health Act 1953*;

**medication chart** has the meaning given by subsection 11B(6);

**medication chart prescription** has the meaning given by section 11B;

**member** has the meaning it has in the Act and includes a former member.

**member of a couple** has the meaning it has in subsection 5E(2) of the *Veterans' Entitlements Act 1986*.

**Minister for Health** means the Minister administering the *National Health Act 1953*;

**MPBS** means the MRCA Pharmaceutical Benefits Scheme;

**MRCA supplement** means the compensation payable under section 300 of the Act, in force from time to time;

**MRCA Treatment Principles** means the determination called the MRCA Treatment Principles, made by the Commission under section 286 of the Act and in force from time to time.

**PBS** or **Pharmaceutical Benefits Scheme** means the document entitled "Schedule of Pharmaceutical benefits", with International Standard Serial Number 1037-3667, being the version of the document as it exists on the date for the document in Schedule 1;

**paper-based prescription** means a prescription that is prepared in duplicate in accordance with subsection 40(2) of the *National Health (Pharmaceutical Benefits) Regulations 2017* in force from time to time.

**PBS prescriber** has the meaning it has in subsection 84(1) of the *National Health Act 1953*.

**PBS prescriber** has the meaning given by subsection 84(1) of the *National Health Act 1953*;

Section 3

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***PBS prescriber number*** means the number given by the Chief Executive Medicare to a person who may prescribe a pharmaceutical benefit under the *National Health Act 1953*;

***PBS Schedule*** means the collection of instruments made under Part VII of the *National Health Act 1953* (the Act) by the Minister who administers that Act, as those instruments are in force from time to time;

***pharmaceutical item*** has the meaning given in Part VII of the *National Health Act 1953*;

***pension supplement*** has the same meaning it has in subsection 5Q(1) of the *Veterans' Entitlements Act 1986*, in force from time to time;

***pharmaceutical allowance*** means the component of the MRCA supplement, veterans supplement or pension supplement or war widow/war widower pension that is to assist with the purchase of Pharmaceutical benefits, the calculated value of which is referred to in paragraph 37 (pharmaceutical allowance component) of Part 5A;

***Pharmaceutical benefits*** has the same meaning as pharmaceutical benefits in subsection 91(9) of the *Veterans' Entitlements Act 1986*;

***pharmaceutical reimbursement*** means the financial amount described in paragraphs 33-35 of Part 5A.

***Prior Approval*** means the prior approval of the Commission.

***Repatriation Health Card - For All Conditions*** means an identification card, or written authorisation, provided to a person eligible under Part 3 of Chapter 6 of the Act for treatment, subject to the MRCA Treatment Principles, for all injuries or diseases;

***Repatriation Health Card - For Specific Conditions*** means an identification card, or written authorisation, provided to a person eligible under Part 3 of Chapter 6 of the Act for treatment, subject to the MRCA Treatment Principles, for a service injury or a service disease;

***Repatriation Schedule of Pharmaceutical Benefits*** means all that writing in the Pharmaceutical Benefits Scheme for the part “Repatriation Schedule of Pharmaceutical Benefits”;

Note: as at 1 September 2014 the part comprised pages 1077-1082.

***repeat authorisation form*** means the form mentioned in subparagraph 52(3)(a)(i) of the *National Health (Pharmaceutical Benefits) Regulations 2017* in force from time to time.

***residential care*** has the meaning given by section 41–3 of the *Aged Care Act 1997*;

*residential care service* has the meaning given by the Aged Care Act 1997;

***Repatriation Pharmaceutical Benefits Scheme*** means the legislative instrument of that name, with the identification number Instrument 2013 No.R43, and made by the Repatriation Commission under section 91 of the *Veterans' Entitlements Act 1986*.

***MPBS prescriber*** means an Approved Medical Practitioner, an Authorised Midwife or an Authorised Nurse Practitioner.

Note: an RPBS prescriber who is an Authorised Midwife or an Authorised Nurse Practitioner may only prescribe a Pharmaceutical benefit listed on the PBS and a prescription by an Authorised Midwife or an Authorised Nurse Practitioner for a Pharmaceutical benefit that is not available on the PBS is not recognised under the Scheme, even if the Pharmaceutical benefit is available under the Scheme on the prescription of, say, an Approved Medical Practitioner.

***RPBS*** means the Repatriation Pharmaceutical Benefits Scheme.

***RPBS Explanatory Notes*** means the document forming part of the Pharmaceutical Benefits Scheme that is the: RPBS Explanatory Notes – being the version of the document as it exists on the date for the document in Schedule 1;

Note: as at 1 September 2014 the part comprised pages 1079-1082.

***RPBS Schedule*** means the document forming part of the Pharmaceutical Benefits Scheme that is the Repatriation Schedule of Pharmaceutical Benefits, being the version of the document as it exists on the date for the document in Schedule 1;

***revoked scheme*** means the MRCA Pharmaceutical Benefits Scheme (Instrument 2004 No. M22);

***safety net***, in respect of its application to a person under this Scheme, means the concessional beneficiary safety net or general patient safety net, whichever amount first applies to the person for the purposes of section 84C of the *National Health Act 1953*, in force from time to time;

Note: under section 84C of the *National Health Act 1953* a concession card or entitlement card is issued when a person reaches their Safety Net. The card is issued for the “relevant entitlement period”. The relevant entitlement period is the remainder of the calendar year after the card is issued.

***Scheme*** means the MRCA Pharmaceutical Benefits Scheme;

***Secretary*** has the meaning given in Part 1 of the *National Health Act 1953*;

***service injury*** and ***service disease*** have the meanings given by section 5 of the Act and for a person with a SRCA disability mean the person’s injury (within the meaning of the *Safety, Rehabilitation and Compensation Act 1988*) that was caused by, or arose out of, the person’s employment in the Defence Force that is covered by the *Safety, Rehabilitation and Compensation Act 1988*.

Section 4

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**Sixth Community Pharmacy Agreement** means the written agreement between the Australian Government and the Pharmacy Guild of Australia called the “Sixth Community Pharmacy Agreement” which relates to the delivery of *PBS* medicines and related services, being the version of the agreement as it exists on the date for the document in Schedule 1.

**social security pension supplement** means a rate or amount worked out under section 20A of the *Social Security Act 1991*;

**Scheduled item** means an item in the PBS Schedule or the RPBS Schedule;

**SRCA disability** means an injury (within the meaning of the *Safety, Rehabilitation and Compensation Act 1988*):

- (a) for which the Military Rehabilitation and Compensation Commission has accepted liability to pay compensation under that Act; and
- (b) for which the person with the injury is entitled to be provided with treatment under Part 3 of Chapter 6 of the Act.

Note 1: In the *Safety, Rehabilitation and Compensation Act 1988* the definition of injury includes a disease (see section 5A of that Act).

Note 2: Section 280A of the Act provides eligibility for treatment of a person with an injury under the *Safety, Rehabilitation and Compensation Act 1988*.

**Standard Prescription Form** means a prescription prepared in accordance with subsection 40(2) of the *National Health (Pharmaceutical Benefits) Regulations 2017*;

Note: a Standard Prescription Form does not include a medication chart prescription.

**supply certification form** means the form of that name in the claims rules.

**veterans supplement** means the payment under section 118A of the *Veterans’ Entitlements Act 1986*;

**war widow/war widower pension** means a payment received by a war widow/war widower—pensioner comprised of:

- (a) a pension under Part II or IV of the Act at a rate determined under or by reference to subsection 30(1) of the Act; or
- (b) a lump sum mentioned in paragraph 234(1)(b) of the MRCA or a weekly amount mentioned in that paragraph.

Note: MRCA is defined in subsection 5Q(1) of the Act as the *Military Rehabilitation and Compensation Act 2004*.

Note: references in the Scheme to paragraphs, subparagraphs, sections and subsections are interchangeable. For example a reference to “paragraph 10” of the Scheme is the same as a reference to “section 10” of the Scheme and vice versa.

#### 4 Notification of certain matters in the Explanatory Notes

Where it is provided for the *Department* or the *Commission* to notify of certain matters under the *Scheme*, the inclusion of the matter in the *RPBS Explanatory Notes* and publication of the *RPBS Explanatory Notes* (as part of the publication

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of the *Pharmaceutical Benefits Scheme* which includes the *RPBS Explanatory Notes*) shall be taken to constitute such notification.

**5 Department to notify of certain matters as agent of the Commission**

Where it is provided that the Department may notify of certain matters, the Department may only do so for and on behalf of the Commission, as its agent.

Section 6

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## **Part 2—Prescribing of Benefits Procedure by Medical Practitioners**

### **6 Prior Approval**

- (a) The *Commission* may approve any matters requiring ***Prior Approval***; and
- (b) ***Prior Approval*** must be sought, in advance, in accordance with an ***Authority Prescription Form***.

### **7 Restrictions**

Restrictions apply to the prescribing of certain items. These include:

- (a) ***items—quantities and repeats***: those listed in the *RPBS Schedule* or *PBS Schedule*;
- (b) ***surgical appliances and other treatment aids***: surgical appliances and other treatment aids provided under the *MRCA Treatment Principles* or under the *Act* may not be prescribed unless specifically listed in the *RPBS Schedule*;
- (c) ***admixtures***: the following restrictions apply to admixtures:
  - (i) admixture of two or more ready-prepared items into a single combined form, or the addition of one or more supplementary ingredients to a ready-prepared item, is not recognised as a *Pharmaceutical benefit*;
  - (ii) the extemporaneous prescribing of two or more official formulary preparations in a single combined form, or the addition of one or more supplementary ingredients to an official formulary preparation, is a recognised *Pharmaceutical benefit*; and
  - (iii) where one or more of the components of a preparation specified in subparagraph (ii) are non-*RPBS Schedule* or non-*PBS Schedule* items, *Prior Approval* is required for their prescribing;
- (d) ***conformity with standards***: no drug or therapeutic substance shall be prescribed unless it conforms with the specific or general standards as determined by the relevant Minister under the *Therapeutic Goods Act 1989*.
- (e) ***basis for prescribing***: the prescribing of therapeutic substances other than on the clinical diagnosis of a *Medical Practitioner*, *Authorised Nurse Practitioner* or *Authorised Midwife* shall be invalid;

Note: an RPBS prescriber who is an *Authorised Midwife* or an *Authorised Nurse Practitioner* may only prescribe a *Pharmaceutical benefit* listed on the *PBS* and a prescription by an *Authorised Midwife* or an *Authorised Nurse Practitioner* for a *Pharmaceutical benefit* that is not available on the *PBS* is not recognised under the *Scheme*, even if the *Pharmaceutical benefit* is available under the *Scheme* on the prescription of, say, an *Approved Medical Practitioner*.

- (f) ***approval for therapeutic use***: it is invalid to prescribe:

- (i) an item that is not approved for therapeutic use in the treatment of human illness by the relevant Commonwealth, State or Territory Government agencies, or
- (ii) an item for use if it is not in accordance with the terms and conditions specified by the relevant Government agencies in approving the item as a therapeutic substance;
- (g) **Prior Approval for non-conforming items:** any drug or medicine intended for use other than in conformity with the requirements in subparagraph (d) requires *Prior Approval*;
- (h) **PBS Schedule restricted items:** the prescribing of PBS Schedule restricted items is to comply with the restrictions relating to the prescribing of such items as indicated in the *PBS Schedule* unless *Prior Approval* is obtained to prescribe otherwise;
- (j) **RPBS Schedule restricted items:** the prescribing of *RPBS Schedule* restricted items under this Part is to comply with the restrictions relating to the prescribing of such items as indicated in the *RPBS Schedule* unless *Prior Approval* is obtained to prescribe otherwise;
- (k) **Prior Approval for non-Schedule items:** the prescribing of an item not included in the *RPBS Schedule* or *PBS Schedule* requires *Prior Approval*.

## 8 Prescribing provisions

The *PBS Schedule* and *RPBS Schedule* are the primary references for the prescribing of *Pharmaceutical benefits*.

## 9 Application of PBS Schedule restrictions and RPBS Schedule restrictions

Restrictions specified in the PBS Schedule and RPBS Schedule which limit supply of items to a particular class of person, or are reserved for specified purposes or require an authority to prescribe, apply unless *Prior Approval* is obtained to prescribe otherwise.

## 10 Prescriptions to conform with State or Territory Law

For a prescription to be recognised by the Commission it must conform with the provisions of State or Territory law.

## 11 Form of prescriptions

Who can write Prescriptions

- (1) Prescriptions are to be written by a *Medical Practitioner*, *Authorised Nurse Practitioner* or *Authorised Midwife* and except where inconsistent with the *Scheme* are to:
  - (a) satisfy the requirements for prescriptions in the *National Health (Pharmaceutical Benefits) Regulations 2017*; and
  - (b) in the case of a prescription written by an *Authorised Nurse Practitioner* or *Authorised Midwife*—only be for a *Pharmaceutical benefit* the person is

## Section 11AA

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permitted to prescribe under the *National Health Act 1953* (including under the instruments under that Act).

Note: an RPBS prescriber who is an Authorised Midwife or an Authorised Nurse Practitioner may only prescribe a Pharmaceutical benefit listed on the PBS and a prescription by an Authorised Midwife or an Authorised Nurse Practitioner for a Pharmaceutical benefit that is not available on the PBS is not recognised under the Scheme, even if the Pharmaceutical benefit is available under the Scheme on the prescription of, say, an Approved Medical Practitioner.

### **11AA Writing prescriptions-general**

A prescription for the supply of a Pharmaceutical benefit must be written in accordance with;

- (a) section 11A (prescriptions other than medication chart prescriptions); or
- (b) section 11B (medication chart prescriptions).

Note: other provisions of the Scheme may also contain requirements for writing of prescriptions.

### **11A Writing of prescriptions-prescriptions other than medication chart prescriptions**

- (1) An MPBS prescriber writes a prescription in accordance with this Scheme if the MPBS prescriber :

- (a) prepares the prescription:

- (i) in duplicate, by handwriting the prescription in ink on a prescription form:

- (A) that is as nearly as practicable 18 centimetres long by 12 centimetres wide; and

- (B) on which appears the name and address of the *MPBS prescriber* and, subject to subsection (4), the letters 'RPBS' or 'MPBS' or 'DVA'; and

- (C) on the original of which appear the words 'pharmacist/patient copy'; and

- (D) on the duplicate of which appear the words 'Medicare Australia/DVA copy'; or

- (ii) in duplicate, by means of a computer on a prescription form:

- (A) that is as nearly as practicable 18 centimetres long by 12 centimetres wide; and

- (B) on which appears the name and address of the *MPBS prescriber* and, subject to subsection (4), the letters 'RPBS' or 'MPBS' or 'DVA'; and

- (C) on the original of which appear the words 'pharmacist/patient copy'; and

- (D) on the duplicate of which appear the words 'Medicare Australia/DVA copy'; and



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- (E) that is approved in writing for the purpose by the Secretary (as defined in the *National Health Act 1953*); or
- (ii) by means of a form:
- (A) on which appear the name and address of the *MPBS prescriber* and the letters ‘RPBS’ or ‘MPBS’ or ‘DVA’; and
- (B) that is approved in writing by the Secretary (as defined in the *National Health Act 1953*) for the purpose of writing an electronic prescription; or
- (iii) by another method approved in writing by the Secretary (as defined in the *National Health Act 1953*); and
- (b) signs the prescription after it is prepared; and
- (c) for an *authority prescription*—writes on it that *prior approval* has been obtained (if the case); and
- (d) specifies on the prescription the date on which the prescription is written; and
- (e) for a *Authorised Midwife* or *Authorised Nurse Practitioner*—states in the prescription the number allotted to his or her approval under section 16 of the *National Health (Pharmaceutical Benefits) Regulations 2017*; and
- (f) states in the prescription the name of the person for whom the *Pharmaceutical benefit* is to be supplied and the address of that person; and
- (g) identifies in the prescription the *Pharmaceutical benefit* by such particulars as are necessary to identify the *Pharmaceutical benefit*; and
- (h) states in the prescription:
- (i) the quantity or number of units of the *Pharmaceutical benefit* to be supplied; and
- (ii) if the supply of the benefit is to be repeated—the number of times it is to be repeated; and
- (i) if the *Pharmaceutical benefit* to be supplied is not a ready-prepared pharmaceutical benefit (as defined in the *National Health (Pharmaceutical Benefits) Regulations 2017*)—indicates in the prescription the manner in which the *Pharmaceutical benefit* is to be administered.
- (2) A prescription written in accordance with this section must not provide for the supply of a *Pharmaceutical benefit* to:
- (a) a person if the *MPBS prescriber* has written, on the same day, another prescription for the supply of the same or an equivalent *Pharmaceutical benefit* to the person; or
- (b) more than 1 person.
- (3) For subparagraphs (1)(a)(ii), (iia) and (iii), a prescription must not be prepared using a computer program that operates, or may operate, to indicate on a prescription by default, for the purpose of subsection 103(2A) of the *National Health Act 1953*, that only the brand of *Pharmaceutical benefit* specified in the prescription is to be supplied.
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## Section 11B

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### 11B Writing prescriptions—medication chart prescriptions

#### *Writing prescription by completing section of medication chart*

- (1) A *MPBS prescriber* writes a prescription (**a medication chart prescription**) for a *Pharmaceutical benefit* in accordance with this section if:
  - (a) the person for whom the *Pharmaceutical benefit* is prescribed is receiving treatment in or at:
    - (i) a *residential care service* at which the person is receiving *residential care*; or
    - (ii) an *approved hospital*; and
  - (b) the *MPBS prescriber* completes a section of a *medication chart* for the person in relation to the *Pharmaceutical benefit* in accordance with
    - (i) subsection (3) and
    - (ii) if the *prescription* would be an *authority prescription* – subsection (4).
- (2) A reference in the *Scheme* to a *prescription*, or a *medication chart prescription*, includes a reference to the completed section of the chart by which a *medication chart prescription* was written.

#### *Completing section of medication chart—general*

- (3) An *MPBS prescriber* completes a section of a *medication chart* in accordance with this subsection for a person (the **patient**) in relation to a *Pharmaceutical benefit* if:
  - (a) the *MPBS prescriber* writes in the section of the chart:
    - (i) particulars sufficient to identify the *Pharmaceutical benefit*; and
    - (ii) the date on which the *Pharmaceutical benefit* is prescribed; and
    - (iii) the *Pharmaceutical benefit*'s dose, frequency of administration and route of administration; and
    - (iv) the letters 'RPBS' or 'MPBS' or 'DVA'; and
  - (b) the chart contains the following information:
    - (i) the *MPBS prescriber*'s full name, address and *PBS prescriber number* (if a *PBS prescriber*);
    - (ii) the patient's full name;
    - (iii) the patient's medicare number;
    - (iv) the number of any *entitlement card* or *concession card* held by the patient;
    - (v) if the patient is a *concessional beneficiary* or the dependant of a *concessional beneficiary* – the number of any card issued by the Commonwealth and held by the *concessional beneficiary* that is evidence that the patient is entitled to receive the *Pharmaceutical benefit* on terms appropriate for the supply of the benefit to a patient of that kind;
    - (vi) the name of the *residential care service* or *approved hospital* in or at which the patient is receiving treatment;

- (vii) if the patient is receiving treatment in or at a *residential care service*—the Residential Aged Care Service ID for the *residential care service*;
- (viii) if the patient is receiving treatment in or at an approved hospital—the patient’s address and;
- (c) the *MPBS prescriber* writes his or her signature:
  - (i) in the section of the chart; and
  - (ii) except in the case of an *electronic prescription*—on the cover page of the chart; and
- (d) the section of the chart does not provide for the supply of a *Pharmaceutical benefit* to more than one person; and
- (e) the section of the chart is not completed using a computer program that operates, or may operate, to indicate on a prescription by default, for subsection 103(2A) of the *National Health Act 1953*, that only the brand of *Pharmaceutical benefit* specified in the prescription is to be supplied; and
- (f) if the patient is receiving treatment in or at an *approved hospital*—the chart specifies the day on which the chart’s period of validity ends under subsection 16AA(3A), which must be the last day of one of the following periods starting on the day the first prescription for a *Pharmaceutical benefit* is written in the chart:
  - (i) 1 month;
  - (ii) 4 months;
  - (iii) 12 months; and
- (g) in any case—the section of the chart is completed before the end of the chart’s period of validity under subsection 16AA(3) or (3A).

Note: A section in a medication chart may set out fields that only need to have information filled in if the information is relevant to the particular prescription concerned.

Example: For paragraph (f), the first prescription is written in a medication chart on 11 June in a particular year. The day specified in the chart as the day on which the chart’s period of validity ends must be 10 July or 10 October in that year, or 10 June in the following year.

#### *Completing section of medication chart—authority prescriptions*

- (4) An *MPBS prescriber* completes a section of a medication chart in accordance with this subsection for a person for the purpose of writing an *authority prescription* if the section of the chart contains:
  - (a) the *authority prescription* number (if one is given); and
  - (b) one of the following:
    - (i) a note that *Prior Approval* for the *prescription* has been obtained;
    - (ii) in any case—the streamlined authority code that is part of the circumstances determined under paragraph 85(7)(b) of the *National Health Act 1953* for the *Pharmaceutical benefit*;
    - (iii) in any case—the streamlined authority code that is part of the conditions determined under subsection 85A(2A) of the *National Health Act 1953* for the *Pharmaceutical benefit*.

## Section 12

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- (5) Subparagraphs (4)(b)(ii) and (iii) do not apply to *authority prescriptions* that have been authorised in accordance with authority required procedures that are incorporated by reference into the circumstances determined for a *Pharmaceutical benefit* under subsection 85B(4) of the *National Health Act 1953*.

Note: If a streamlined authority code or an authority approval number must be written on an authority prescription, and the code or number is not written on the authority prescription, the special patient contribution mentioned in subsection 85B(4) of the *National Health Act 1953* may not be payable by the Commonwealth: see subsection 85B(5) of that Act.

### *Medication charts*

- (6) A *medication chart* is a chart in a form (if any) approved under subsection (7) that is used for prescribing, and recording the administration of, Pharmaceutical benefits to persons receiving treatment in or at a *residential care service* or a hospital, whether or not the chart :
- (a) is used for any other purpose; or
  - (b) contains any other information.

Note: For paragraph (a), the chart may also be used (for example) to prescribe, and record the administration of drugs, medicines and other substances that are not Pharmaceutical benefits.

- (7) The form of a medication chart is approved if the Secretary (as defined in the *National Health Act 1953*) has approved it.

## **12 When prescriptions are invalid**

A prescription is not a valid Pharmaceutical benefit if the Medical Practitioner, Authorised Nurse Practitioner or Authorised Midwife:

- (a) except where the *prescription* is a *medication chart prescription*, prescribes a *Pharmaceutical benefit* for a person in respect of whom another *prescription* for the same benefit has been written on the same day by the same *Medical Practitioner, Authorised Nurse Practitioner* or *Authorised Midwife*; or
- (b) prescribes, on the one form, a *Pharmaceutical benefit* that is a drug of addiction and another *Pharmaceutical benefit*, and directs that the supply of either *Pharmaceutical benefit* is to be repeated (but, if no repeats of either item are ordered, the prescription may be accepted provided that this is in accordance with the relevant State or Territory law); or
- (c) prescribes a narcotic drug for the *Medical Practitioner, Authorised Nurse Practitioner* or *Authorised Midwife* writing the *prescription*; or
- (d) prescribes on a *Standard Prescription Form* an item not listed in the *RPBS Schedule* or *PBS Schedule*; or
- (e) prescribes on a *Standard Prescription Form* a benefit in contravention of any of the restrictions set out in paragraph 7; or
- (f) where the prescription is by an Authorised Nurse Practitioner or Authorised Midwife for an *Eligible Person*—prescribes a *Pharmaceutical benefit* that is not available to the *Eligible Person* under the *PBS*.

Note: an MPBS prescriber who is an *Authorised Midwife* or an *Authorised Nurse Practitioner* may only prescribe a *Pharmaceutical benefit* listed on the *PBS* and a prescription by an *Authorised Midwife* or an *Authorised Nurse Practitioner* for a *Pharmaceutical benefit* that is not available on the *PBS* is not recognised under the *Scheme*, even if the *Pharmaceutical benefit* is available under the *Scheme* on the prescription of, say, an *Approved Medical Practitioner*.

### **13 Maximum quantity and repeats allowed**

The quantity and repeats for *Scheduled items* are to be confined to those specified in the *RPBS Schedule* or *PBS Schedule*. However, where inadequate, the *Medical Practitioner*, *Authorised Nurse Practitioner* or *Authorised Midwife* may seek *Prior Approval* to prescribe a quantity greater, or a greater number of repeats, than the maximum listed in the *RPBS Schedule* or *PBS Schedule*.

Note: an RPBS prescriber who is an *Authorised Midwife* or an *Authorised Nurse Practitioner* may only prescribe a *Pharmaceutical benefit* listed on the *PBS* and a prescription by an *Authorised Midwife* or an *Authorised Nurse Practitioner* for a *Pharmaceutical benefit* that is not available on the *PBS* is not recognised under the *Scheme*, even if the *Pharmaceutical benefit* is available under the *Scheme* on the prescription of, say, an *Approved Medical Practitioner*.

### **14 Prescribing outside the RPBS Schedule or PBS Schedule**

If a *Medical Practitioner* is of the clinical opinion that there are no therapeutic alternatives available in the *RPBS Schedule* or *PBS Schedule* for the treatment of an *Eligible Person*, the *Medical Practitioner* may seek *Prior Approval* from the *Commission* to prescribe an item not contained in those Schedules.

### **15 Medical Practitioner subject to this Scheme**

Where a *Medical Practitioner*, *Authorised Nurse Practitioner* or *Authorised Midwife* prescribes for an *Eligible Person*, the *Medical Practitioner*, *Authorised Nurse Practitioner* or *Authorised Midwife* shall be subject to the terms and conditions of this *Scheme* and the *Explanatory Notes*.

Note: an RPBS prescriber who is an *Authorised Midwife* or an *Authorised Nurse Practitioner* may only prescribe a *Pharmaceutical benefit* listed on the *PBS* and a prescription by an *Authorised Midwife* or an *Authorised Nurse Practitioner* for a *Pharmaceutical benefit* that is not available on the *PBS* is not recognised under the *Scheme*, even if the *Pharmaceutical benefit* is available under the *Scheme* on the prescription of, say, an *Approved Medical Practitioner*.

## **Part 3—Supply of Pharmaceutical Benefits**

### **16 Supply of Pharmaceutical Benefits—Procedure by Community Pharmacists**

Subject to paragraph 16A (continued dispensing), a *Community Pharmacist* a *Community Pharmacist* is required to supply a Pharmaceutical benefit only upon the surrender of:

- (a) a valid *Standard Prescription Form*; or
- (b) a valid *Authority Prescription Form*; or
- (c) a valid repeat authorisation form presented with a duplicate *prescription* in accordance with the requirements under the *PBS*; or
- (d) a valid medication chart prescription;

provided that such documents are in accordance with State or Territory law and this *Scheme* and the *Explanatory Notes*, and with any requirements which the *Department* or the *Commission*, from time to time, notifies.

Note: The Commonwealth introduced medication chart prescribing (MCP) in stages. Firstly there was a trial of MCP in certain residential care services and then it was adopted for residential care services. Secondly, on 1 April 2015, a trial of MCP at certain hospitals commenced. The intention in the *MPBS* is to ensure MCP under the *MPBS* can only occur for patients in residential care services or hospitals where it could occur in respect of those patients under the *National Health (Pharmaceutical Benefits) Regulations 2017*.

#### **16AA Supply of pharmaceutical benefit on basis of medication chart prescription**

- (1) A *Pharmaceutical benefit* may only be supplied on the basis of a *medication chart prescription* by:
  - (a) if the person in respect of whom the *Pharmaceutical benefit* is to be supplied is receiving treatment in or at a *residential care service* – a *Community Pharmacist*; or
  - (b) if the person in respect of whom the *Pharmaceutical benefit* is to be supplied is receiving treatment in or at an *approved hospital*—a *Community Pharmacist* or the *Approved Hospital Authority*.
- (2) A *Community Pharmacist* may supply a *Pharmaceutical benefit* on the basis of a *medication chart prescription* only if:
  - (a) the *Community Pharmacist* has seen:
    - (i) the *medication chart* by which the prescription was written; or
    - (ii) a copy of so much of the chart as would indicate that subsections 11B(3) and (4) (if applicable) have been complied with; and
  - (b) the date on which the *Pharmaceutical benefit* is supplied is:
    - (i) during the period of validity of the *medication chart*; and
    - (ii) no later than the stop date (if any) indicated in the prescription; and

- (c) the *Community Pharmacist* writes on the *medication chart* or the copy of the chart, the following for the supply:
- (i) the *Community Pharmacist's* name and any approval number under section 16 of the *National Health (Pharmaceutical Benefits) Regulations 2017*;
  - (ii) an identification number for the supply;
  - (iii) the date on which the *Pharmaceutical benefit* is supplied.

- (3) For paragraph (2)(b), the period of validity of a *medication chart* for a person receiving treatment in or at a *residential care service*:
- (a) starts on the day in a calendar month (the **first calendar month**) when the first prescription for a *Pharmaceutical benefit* is written in the *medication chart*; and
  - (b) ends on the last day of the third calendar month that starts after the first calendar month.

Example: The first prescription is written in a medication chart on 11 June. The period of validity of the medication chart starts on 11 June and ends on 30 September.

Note: **calendar month** is defined in section 2B of the *Acts Interpretation Act 1901*.

- (3A) For paragraph (2)(b), the period of validity of a *medication chart* for a person receiving treatment in or at a hospital:
- (a) starts on the day when the first prescription for a *Pharmaceutical benefit* is written in the chart; and
  - (b) ends at the end of the day specified in the chart as the day on which the chart's period of validity ends (see paragraph 11B(3)(f)).
- (4) A *Community Pharmacist* may supply up to a maximum quantity of a pharmaceutical item or *Pharmaceutical benefit* more than once on the basis of a particular *medication chart prescription* for the *Pharmaceutical benefit* only if:
- (a) the prescription indicates that an ongoing supply of the *Pharmaceutical benefit* is authorised for the period of validity of the chart; or
  - (b) the prescription indicates a stop date for the supply of the *Pharmaceutical benefit* and, based on the dose and frequency of administration of the *Pharmaceutical benefit* indicated in the prescription, more than one supply of a maximum quantity of the pharmaceutical item or *Pharmaceutical benefit* is needed before the stop date is reached.

Note: See paragraph 85A(2)(a) of the *National Health Act 1953*, the PBS Schedule, and the RPBS Schedule, in relation to maximum quantities of pharmaceutical items or pharmaceutical benefits.

- (5) If paragraphs (4)(a) and (b) do not apply, a *Community Pharmacist* may only supply the quantity of the *Pharmaceutical benefit* needed to give effect to the prescription, up to a maximum quantity of the pharmaceutical item or *Pharmaceutical benefit*.

Note: The following information entered in the prescription may also indicate the quantity of the *Pharmaceutical benefit* that is needed:

- (a) the dose and frequency of administration of the *Pharmaceutical benefit*;

## Section 16A

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- (b) the date of prescribing, or the start date (if any) for administration of the Pharmaceutical benefit;
  - (c) the stop date (if any) for administration of the Pharmaceutical benefit.
- (6) However, for a supply:
- (a) on the basis of a prescription mentioned in paragraph (4)(a); or
  - (b) mentioned in paragraph (5);

a *Community Pharmacist* may supply up to a maximum quantity of the pharmaceutical item or *Pharmaceutical benefit* even if the period of validity of the *medication chart* will end before administration of that quantity in accordance with the prescription would finish.

### Continued Dispensing

#### 16A When Pharmaceutical benefits may be supplied by Community Pharmacists without prescription

- (1) A *Community Pharmacist* may, at or from premises in respect of which the pharmacist is for the time being approved under the *National Health Act 1953*, supply a *Pharmaceutical benefit* to an *Eligible Person* without a *prescription* for that supply if:
- (a) the *Pharmaceutical benefit* is covered by the *Scheme* and Schedule 1 to the instrument (the instrument) made under subsection 89A(3) of the *National Health Act 1953*; and
  - (b) the supply is made in accordance with conditions that are specified in the instrument as if the supply under the *Scheme* is a supply covered by the instrument and as if a reference in the instrument to:

*approved pharmacist* includes a *Community Pharmacist*;

*PBS prescriber* includes a prescriber of a *Pharmaceutical benefit* under the *Scheme*;

*pharmaceutical benefit* or *pharmaceutical item* includes a *Pharmaceutical benefit* under the *Scheme*;

*Part VII of the Act* includes the *Scheme*;

*subsection 89A(1) of the Act*, for dispensing in a previous 12 month period, includes a reference to this section in the *Scheme*;

*paragraph 89A(3)(a) of the Act* includes a reference to this section in the *Scheme*; and

Note: as at 1 August 2012 the instrument under ss. 89A(3) is the *National Health (Continued Dispensing) Determination 2012*.

- (c) the supply otherwise conforms to this section.
- (2) If a *Community Pharmacist* makes a supply in accordance with (1), then this *Scheme* applies in relation to the supply as if the *Eligible Person* had presented



the pharmacist with a *prescription* that had been written in accordance with this *Scheme*.

- (3) The supply of a *Pharmaceutical benefit* in accordance with this section is a *continued dispensing supply*.
- (4) A *Community Pharmacist* must not supply a *Pharmaceutical benefit* under this section unless the pharmacist writes on the repeat authorisation form for the supply:
- (a) the pharmacist's name and approval number under section 16 of the *National Health (Pharmaceutical Benefits) Regulations 2017*; and
  - (b) an identification number for the supply; and
  - (c) the date on which the *Pharmaceutical benefit* is supplied by the pharmacist.

Note: a failure to observe these requirements means the supply is not a *continued dispensing supply*.

- (5) For a *continued dispensing supply* a *Community Pharmacist* or *Approved Medical Practitioner* must collect the following information at the time of supply:
- (a) information about whether the patient is, at the time of the supply:
    - (i) a *concessional beneficiary* or a dependant of a *concessional beneficiary*; or
    - (ii) the holder of a *concession card* or *entitlement card*;
  - (b) for a person mentioned in subparagraph (a) (i)—the number specified on a card, issued by the Commonwealth, as an entitlement number (however described) in relation to the person;
  - (c) for a person mentioned in subparagraph (a) (ii)—the number of the *concession card* or *entitlement card*.

- (6) The *Community Pharmacist* or *Approved Medical Practitioner* must include the information collected under subsection (5) in the claim for a payment from the Commonwealth in relation to the supply using the Claims Transmission System, within the meaning given by subsection 99AAA (1) of the *National Health Act 1953*.

Note: a failure to observe these requirements means the supply is not a *continued dispensing supply*.

- (7) For the supply of a *Pharmaceutical benefit* by a *Community Pharmacist* on the basis of a previous *prescription* from a *PBS prescriber* or *RPBS prescriber*, if the *PBS prescriber* or *RPBS prescriber* directed in the *prescription* the supply on one occasion of a quantity or number of units of the *Pharmaceutical benefit* allowable under subsection 88(6) of the *National Health Act 1953*, instead of directing a repeated supply, the direction does not apply for the purposes of the *continued dispensing supply*.

Section 16AB

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- (8) If, for a *continued dispensing supply*, a *Pharmaceutical benefit* is supplied a number of times greater than the number specified in the *prescription*, then subject to subsection 51(2) of the *National Health (Pharmaceutical Benefits) Regulations 2017* (the regulations), subregulation (3) or (4) of those regulations applies as if:
- (a) the person had presented the supplier with a *prescription* that:
    - (i) had been written by a *PBS prescriber* or *RPBS prescriber* in accordance with the *National Health Act 1953*, the regulations and the *Scheme*; and
    - (ii) did not include a *medicare number*; and
    - (iii) did not direct a repeated supply of a *Pharmaceutical benefit*; and
  - (b) subparagraphs (3)(b)(ii) and (c)(ii) or (4)(b)(ii) and (c)(ii), of the regulations, were omitted, and the words ‘immediate supply necessary’ were required to be written on the repeat authorisation form for the supply; and
  - (c) subparagraphs (3)(b)(iii) and (c)(iii) or (4)(b)(iii) and (c)(iii), of the regulations, were omitted, and the supplier were required to sign the repeat authorisation form mentioned in paragraph (b).
- (9) A *Community Pharmacist* must use a *repeat authorisation form* for the purposes of making a claim for a payment from the Commonwealth under section 99AAA of the Act in relation to a *continued dispensing supply*, however, the pharmacist must not use the form for authorising a repeated supply of the pharmaceutical benefit under this section.
- (10) For a *continued dispensing supply* a *Community Pharmacist* is to obtain, from the person receiving the *Pharmaceutical benefit* (whether or not for the person’s own use), a written acknowledgement that the person has received the benefits but if it is not practicable for the pharmacist to obtain, from the person a written acknowledgement, the pharmacist must write on the *repeat authorisation form* for the supply:
- (a) the date on which the *Pharmaceutical benefit* were supplied by the pharmacist; and
  - (b) the reason why it was not practicable for the pharmacist to obtain the written acknowledgement.

**16AB Information about status of person—continued dispensing and medication chart prescriptions**

- (1) This section applies in relation to:
- (a) the supply of a *Pharmaceutical benefit* to a person (the *patient*) by a *Community Pharmacist* (the *supplier*) under subsection 16A (continued dispensing); and
  - (b) the supply of a *Pharmaceutical benefit* by a *Community Pharmacist*, on the basis of a *medication chart prescription* written for a person (the *patient*);
- (2) The supplier must collect the following information at the time of supply:
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- (a) information about whether the patient is, at the time of the supply:
    - (i) a *concessional beneficiary* or a dependant of a *concessional beneficiary*; or
    - (ii) the holder of a *concession card* or *entitlement card*;
  - (b) for a person mentioned in subparagraph (a)(i)—the number specified on a card, issued by the Commonwealth, as an entitlement number (however described) in relation to the person;
  - (c) for a person mentioned in subparagraph (a)(ii)—the number of the *concession card* or *entitlement card*.
- (3) The supplier must include the information collected under subsection (2) in the claim for a payment from the Commonwealth in relation to the supply using the Claims Transmission System, within the meaning given by subsection 99AAA(1) of the *National Health Act 1953*.

### 17 Substitution of lesser priced alternative brand of drug

Where a valid *prescription*, issued by a *Medical Practitioner*, *Authorised Nurse Practitioner* or *Authorised Midwife*, prescribes a brand of drug listed on the *PBS* or *RPBS Schedule*, a *Community Pharmacist* may substitute, with the approval of the prescriber, a lesser priced alternative *PBS* or *RPBS* listed brand of the drug in lieu of the brand prescribed and shall endorse the original, duplicate and repeat authorisation accordingly.

Note: an *RPBS* prescriber who is an *Authorised Midwife* or an *Authorised Nurse Practitioner* may only prescribe a *Pharmaceutical benefit* listed on the *PBS* and a prescription by an *Authorised Midwife* or an *Authorised Nurse Practitioner* for a *Pharmaceutical benefit* that is not available on the *PBS* is not recognised under the Scheme, even if the *Pharmaceutical benefit* is available under the Scheme on the prescription of, say, an *Approved Medical Practitioner*.

### 18 Community Pharmacist to be satisfied as to entitlement

- (a) A *Community Pharmacist* shall not supply a *Pharmaceutical benefit* to a person on terms that are appropriate for the supply of a *Pharmaceutical benefit* to a holder of a *Repatriation Health Card - For All Conditions*, a *Repatriation Health Card - For Specific Conditions* or a *Repatriation Pharmaceutical Benefits Card*, unless the *Community Pharmacist* is satisfied that the person is entitled to receive the *Pharmaceutical benefit* on those terms.
- (b) Without limiting the generality of subparagraph (a), a *Community Pharmacist* may refuse to supply a *Pharmaceutical benefit* to a person on terms that are appropriate for the supply of the *Pharmaceutical benefit* to a holder of a *Repatriation Health Card - For All Conditions*, a **Repatriation Health Card - For Specific Conditions** or a *Repatriation Pharmaceutical Benefits Card*, unless the person produces such a card to the *Community Pharmacist* that indicates that the person is entitled to receive the *Pharmaceutical benefit* on those terms.

## Section 19

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### **19 Dispensing of deleted items**

*Prescriptions*, including repeat authorisations, for items deleted from the *RPBS Schedule* or *PBS Schedule* may not be dispensed as *Pharmaceutical benefits* as from the date of effect of deletion, unless the *prescriptions* for the items comply with *Prior Approval* arrangements under this Part.

### **20 Use of forms as notified by the Department or the Commission**

When supplying a *Pharmaceutical benefit* under this *Scheme* a *Community Pharmacist* will use and issue such forms, as are notified by the *Department* or the *Commission* from time to time, in the manner notified by the *Department* or the *Commission*.

### **21 Financial responsibility**

- (1) In respect of each *Pharmaceutical benefit* provided to an *Eligible Person* under this *Scheme*, the *Commission* will accept financial responsibility for:

- (a) subject to (b) all of the dispensed price but the *co-payment* that would be payable by the person if the person were a *concessional beneficiary*; or

Note 1: (a) deems the person to be a *concessional beneficiary* for the purposes of working out the *co-payment*.

Note 2: *co-payments* not covered by the the *MRCA supplement*, *pension supplement* or *veterans supplement* or *war widow/war widower pension* may be reimbursed under Part 5A up to the safety net amount for a person.

- (b) if the *safety net* applies to the person, all of the dispensed price.

### **22 Refund in certain circumstances**

Where:

- (a) a *Community Pharmacist* charges an *Eligible Person* an amount in respect of the provision of a *Pharmaceutical benefit*; and  
(b) information indicating the person's eligibility under this *Scheme* was not supplied to the *Community Pharmacist*; and  
(c) the *Commission* is satisfied that, in the circumstances, the person should be treated as if the relevant information had been supplied,

the person is entitled to be paid by the Commonwealth an amount equal to any amount that the person paid that would not have been payable if the relevant information had been supplied.

### **23 Expenses incurred in obtaining Pharmaceutical Benefits while not in receipt of a pharmaceutical allowance**

Where a person would have been eligible to receive a pharmaceutical allowance under section 300 of the *Act* during a period, but the *Department*:

Section 23 Expenses incurred in obtaining Pharmaceutical Benefits while not in receipt of a pharmaceutical allowance

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- (a) did not have the information needed to enable the *Commission* to make payment of the pharmaceutical allowance; and
- (b) has obtained that information since that period; and

the person:

- (c) was not in receipt of that allowance during that period; and
- (d) has incurred expenses in obtaining *Pharmaceutical benefits* during that period which could be obtained under this *Scheme*; and
- (e) has provided material which satisfies the *Commission* that the person has incurred those expenses,

the *Commission* may reimburse the person for any or all of those expenses. The maximum amount which may be reimbursed is the amount that the person would have been entitled to receive by way of pharmaceutical allowance during that period had the *Department* had the information needed to enable the *Commission* to make payment of the allowance.

## **Part 4—Claims by Community Pharmacists**

### **24 Lodgement of Claims by Community Pharmacists**

Claims by *Community Pharmacists* under this Part shall be made in accordance with section 99AAA of the *National Health Act 1953* as though references in that section, and in the rules made under that section which relate to the supply of and payment for *Pharmaceutical benefits* under that Act and its Regulations, were references to the supply of, and payment for, *Pharmaceutical benefits*, except that:

- (a) *prescriptions* for the supply of *Pharmaceutical benefits* under this Part shall be marked in the S section or S sections (as defined in those rules) with one or more serial numbers allotted in respect of each *Pharmaceutical benefit* commencing at “R1” in each claim and continuing consecutively in respect of that claim;
- (b) these *prescriptions* shall be collected into one bundle, separate to the four bundles provided for in those rules, with the *prescriptions* sorted into the order of the serial numbers allocated under subparagraph (a), with the least serial number at the top of the bundle; and
- (c) the information to be provided to the Secretary to the Department that administers the *National Health Act 1953*, in respect of each supply of a *Pharmaceutical benefit* shall include a Form Category (within the meaning of the schedule to those rules) with a value of “8” where the *Pharmaceutical benefit* was supplied on an original authority prescription or “9” where the *Pharmaceutical benefit* was supplied on a repeat authority prescription, and a Payment Category (within the meaning of that schedule) with a value of “4”.

Note (1): this provision incorporates into the *Scheme*, among other relevant “*National Health Act 1953* requirements” (particularly the requirements in the *claims rules* made under subsections 98AC(4) and 99AAA(8) of the *National Health Act 1953*), the requirement for a claimant to include a “supply certification form” with a claim (manual and electronic).

Note (2): if a claim is made electronically, the supply certification form is to be given electronically (*claims rules*).

Note (3): for electronic claims, prescriptions need not be provided (*claims rules*).

### **25 Claims Requirements and Payment**

- (1) The payment of a claim under the *Scheme* is subject to:
  - (a) compliance with the *Scheme*, in particular section 24; and
  - (b) submission of a completed supply certification form under the *claims rules*.

## **Part 5—Payments to Community Pharmacists**

### **26 Payment of Dispensed Price**

The amount payable to a *Community Pharmacist* for the supply of a *Pharmaceutical benefit* under the *Scheme* is the *dispensed price*.

Note: the dispensed price includes a dispensing fee.

### **30 Fees not payable in some circumstances**

The *dispensed price* may not be payable to a *Community Pharmacist* where that person does not satisfy the requirements of paragraph 18 and supplies *Pharmaceutical benefits* to a person who is not an *Eligible Person*.

### **31 Community Pharmacist not entitled to demand or receive payments**

A *Community Pharmacist* is not entitled to demand of, or receive from, a person in receipt of a *Pharmaceutical benefit*, payment in money or a valuable consideration for goods and services rendered under this *Scheme* except:

- (a) for goods or services that are provided in an emergency; or
- (b) for payment of an after-hours fee; or
- (c) for payment for packaging material, postage or freight; or
- (d) for payment that represents the required payment under the *PBS* of the price difference between the drug prescribed and supplied and the lowest priced brand of the same drug listed on the *PBS Schedule*; or
- (e) where payment represents the difference between the Commonwealth's financial responsibility for the provision of the *Pharmaceutical benefit* and the dispensed price of the *Pharmaceutical benefit* supplied.

### **32 Community Pharmacist to issue receipt where certain payments received**

Where a payment is received, under any of subparagraphs 31(a), (b), (c) or (d), from a person in receipt of a *Pharmaceutical benefit*, the *Community Pharmacist* is required to issue that person an official receipt which states:

- (a) the goods and/or services provided; and
- (b) the date of receipt of those goods and/or services by the person.

Section Definitions

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## **Part 5A—Pharmaceutical Reimbursement**

### **Definitions:**

In this Part:

**member** means an Eligible Person eligible for payment of a pharmaceutical reimbursement.

**veteran** means a person eligible under the Repatriation Pharmaceutical Benefits Scheme for the payment known as the “pharmaceutical reimbursement”.

### **33**

The *Commission* may, subject to this Part, accept financial responsibility for the pharmaceutical reimbursement.

Note: if the *Commission* accepts financial responsibility for a cost in relation to the provision of a *Pharmaceutical benefit* to an *Eligible Person*, the Commonwealth pays that cost.

### **34**

The pharmaceutical reimbursement is a financial amount that would compensate an *Eligible Person* for out-of-pocket expenses:

- (a) that the person incurred in respect of a *Pharmaceutical benefit* provided under this *Scheme*; or
- (b) that the person incurred in respect of a *Pharmaceutical benefit* provided other than under this *Scheme* but provided on or from a date when the *Commission* accepted liability to provide treatment to the person under the *Act*.

Note 1: under the *Acts Interpretation Act 1901* words in the singular number (e.g. *Pharmaceutical benefit*) include the plural and words in the plural number include the singular.

Note 2: paragraph (b) covers what are known as “MEPIs” (Medical Expenses Privately Incurred). Under the *Act* eligibility for treatment can be backdated for 3 months before a claim for pension is received and treatment costs incurred in that period e.g. *co-payments* for *Pharmaceutical benefits*, may be met by the *Department*.

### **35**

The amount of pharmaceutical reimbursement is worked out under 39.

### **36 Eligibility for Payment of Pharmaceutical Reimbursement**

- (1) To be eligible for payment of the pharmaceutical reimbursement an Eligible Person must:



- (a) have rendered warlike service; and
- (b) be entitled to compensation under section 68 or section 75 of the Act or suffer from a *SRCA disability*.

Note (1): warlike service is defined in subsection 6(1) of the Act.

Note (2): section 68 is about compensation for a service injury or disease that has resulted in an impairment likely to continue indefinitely and section 75 (interim compensation) is about compensation under section 68 or section 71 where an impairment has not stabilised.

Note (3): section 69 of the Act generally requires the degree of impairment to be at least 10 impairment points before compensation is payable under s.68 but in certain cases it can be 5.

### **37 Calculation of annual value of pharmaceutical allowance component of MRCA supplement, pension supplement, veterans supplement**

The annual value of the pharmaceutical allowance is calculated as follows:

- (a) for a *member* in receipt of the *MRCA supplement* or *veterans supplement* at different times throughout the year, the amount of \$6 per fortnight, indexed according to section 198F of the *Veterans' Entitlements Act 1986*:
  - (i) as if the amount of \$6 is the dollar amount in subsection 198F(1);
  - (ii) since September 2009 (i.e. once annually since 1 January 2010), calculated at a daily rate and valued according to the number of days in the calendar year the *MRCA supplement* or *veterans supplement* was payable;
- (b) Subject to (d), for a *member* in receipt of an *income support payment* or an *income support payment under the Social Security Act 1991* that attracts a *pension supplement* or a *social security pension supplement* greater than the basic amount of *pension supplement*, the amount of \$6 per fortnight, indexed according to Division 18 of Part IIIB of the *Veterans' Entitlements Act 1986*:
  - (i) as if the amount of \$6 is an amount of PS rate (pension supplement rate) in Item 1A of the CPI Indexation Table in section 59B;
  - (ii) since September 2009 (i.e. each 20 March and 20 September commencing 20 March 2010), calculated at a daily rate and valued according to the number of days in the calendar year *pension supplement* was payable;
- (c) for a *member* in receipt of *pension supplement*, who is a *member of a couple* and whose partner is a *member* or *veteran*—50% of the amount in (b).

Note: “partner” is defined in section 5 of the Act.

- (d) for a *member* in receipt of *pension supplement* who is a *member of a couple* and whose partner does not receive an *income support payment* or an *income support payment under the Social Security Act 1991* that attracts a *social security pension supplement* greater than the basic amount of *pension supplement*—50% of the amount in (b).

Note: “partner” is defined in section 5 of the Act.

## Section 38

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### **38 Payment of Pharmaceutical Reimbursement**

- (1) On and after 1 January 2013 the *pharmaceutical reimbursement* is payable to a person eligible for it under this Part.
- (2) Subject to (3), the *pharmaceutical reimbursement* is payable in the first quarter in each calendar year in respect of *co-payments* the person made for a *Pharmaceutical benefit* under this *Scheme* in the previous calendar year - not being a calendar year before 1 January 2012.  
Note 1: calendar year is defined in section 2B of the *Acts Interpretation Act 1901*.
- (3) The *pharmaceutical reimbursement* is not payable for a person in the first quarter in a calendar year as mentioned in (2) if the data necessary to calculate the payment for the person is not available to the *Department* in which case the *pharmaceutical reimbursement* is payable to the person as soon as practicable after the data is available.

### **38A Five Year Limit on Payment of Pharmaceutical Reimbursement**

- (1) Unless the *Commission* is of the opinion that there are special circumstances, a *pharmaceutical reimbursement* shall not be paid in respect of *co-payments* incurred by a person more than 5 calendar years before the *Commission* decision to accept financial responsibility for the *pharmaceutical reimbursement* for the person.
- (2) If the *Commission* decides there are special circumstances in relation to a person, then it is to determine a date on and from which *co-payments* are to be counted for the *pharmaceutical reimbursement* for the person.

### **39 Pharmaceutical Reimbursement Calculator**

- (1) The pharmaceutical reimbursement for an *Eligible Person* is worked out as follows:

*Step 1* add the *co-payments* for the *Pharmaceutical benefits* incurred by the person in the previous calendar year (sum of *co-payments*) up to the threshold of payments according to the *safety net* and disregarding any uncounted *co-payment*.

*Step 2* compare the sum of *co-payments* with the sum of the pharmaceutical allowance component of the *MRCA supplement*, *pension supplement*, *veterans supplement* and *war widow/war widower pension* payable to the person in respect of the previous calendar year.

*Step 3* if the sum of *co-payments* (amount 1) exceeds the sum of the pharmaceutical allowance component of the *MRCA supplement*, *pension supplement*, *veterans supplement* and *war widow/war widower pension* payable

(amount 2), the amount by which amount 1 exceeds amount 2 is the *pharmaceutical reimbursement* for the person.

Note: the amount of any of these supplements may be zero.

**40**

For the Pharmaceutical Reimbursement Calculator an uncounted *co-payment* is a *co-payment* for a *Pharmaceutical benefit* where the *co-payment* is not counted for the purposes of the *safety net* applying to the person.

Note: included here are co-payments for *Pharmaceutical benefits* dispensed under the “Safety Net 20 Day Rule” (subsection 84C(4AA)) of the *National Health Act 1953*.

## **Part 5B—Under Co-payment Data Collection**

### **40A Giving information**

- (1) A *Community Pharmacist* who gives information to the *Secretary* in relation to the supply, under the *Scheme*, of a *Pharmaceutical benefit* by the pharmacist to an *Eligible Person*, is taken to have given that information under, and for the purposes of, the *Scheme*, provided that:
- (a) no claim for payment is made by the Community Pharmacist on the *Commission* or *Department* for dispensing the *Pharmaceutical benefit*; and
  - (b) the dispensing price of the *pharmaceutical benefit* is less than, or equal to, the *co-payment* that would have been paid by the *Eligible Person* for the *pharmaceutical benefit* if it had been dispensed at a price for which a *co-payment* is payable; and
  - (c) the information is given in accordance with the requirements, to the extent applicable, that apply under section 98C of the *National Health Act 1953* to an *approved supplier* giving information to the *Secretary* in relation to the supply to a person of a pharmaceutical benefit, as if references in section 98C to an *approved supplier* and a pharmaceutical benefit are references to, respectively, a *Community Pharmacist* and a *Pharmaceutical benefit* and the pharmaceutical benefit has been supplied under the *Scheme*.

Note: a *Community Pharmacist* includes an *Approved Hospital Authority*.

## Part 6—Miscellaneous

### 41 Standards

The minimum acceptable standard for a *Pharmaceutical benefit* is that described in the regulations under the *Therapeutic Goods Act 1989* which relate to specific standards for drugs.

## Retention of Documents

### 45 Keeping documents-other than for continued dispensing or medication chart prescriptions

- (1) If a *Community Pharmacist* supplies a *Pharmaceutical benefit*, other than a *Pharmaceutical benefit* that is:
- (a) a dangerous drug (defined below); or
  - (b) supplied under section 16A (continued dispensing); or
  - (c) supplied on the basis of a medication chart prescription;

the *Community Pharmacist* must keep a document specified in subsection (2) that relates to the supply for at least 2 years after the supply.

- (2) For subsection (1), the following documents are specified:
- (a) in the case of supply upon a prescription not bearing instructions to supply the *Pharmaceutical benefit* more than once:
    - (i) for a paper-based prescription—the pharmacist/patient copy and the Medicare Australia/DVA copy; or
    - (ii) for an electronic prescription—the electronic prescription;
  - (ab) in the case of supply upon a prescription bearing instructions to supply the *Pharmaceutical benefit* more than once, if it is supplied on the first occasion on which supply is authorised:
    - (i) for a paper-based prescription—the Medicare Australia/DVA copy ;  
or
    - (ii) for an electronic prescription—the electronic prescription and the repeat authorisation;
  - (ac) in the case of supply upon a prescription bearing instructions to supply the *Pharmaceutical benefit* more than once, if it is supplied other than on the first or last occasion on which supply is authorised:
    - (i) for a paper-based prescription—the repeat authorisation for the most recent previous supply; or
    - (ii) for an electronic prescription—the electronic prescription and the repeat authorisation for the most recent previous supply;
  - (b) in the case of supply upon a prescription bearing instructions to supply the *Pharmaceutical benefit* more than once, if it is supplied on the last occasion on which supply is authorised:

## Section 45A

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- (i) for a paper-based prescription—the pharmacist/patient copy and the repeat authorisation for the most recent previous supply; or
- (ii) for an electronic prescription—the electronic prescription and the repeat authorisation for the most recent previous supply;

Note: The document may be kept in an electronic form (see subsection 12(2) of the *Electronic Transactions Act 1999*).

- (3) In this section:

**dangerous drug** means a drug or medicinal preparation in respect of which the law of the State or Territory in which the prescription is written provides that a pharmacist who dispenses that drug or medicinal preparation, or who dispenses it on the last of a number of occasions of supply indicated in a prescription for its supply, must take possession of the prescription and cancel it or deliver it to the authority administering that law.

### **45A Keeping documents—continued dispensing**

- (1) If a Community Pharmacist supplies a Pharmaceutical benefit to a person under section 16A (continued dispensing), the pharmacist is to keep the following information for at least 2 years from the date on which the Pharmaceutical benefit was supplied by the Community Pharmacist:
- (a) the information that supports the claim for payment made under section 24 (in effect, under section 99AAA of the *National Health Act 1953*) in relation to the supply of the Pharmaceutical benefit including the repeat authorisation form;
  - (b) the information, about the supply of the Pharmaceutical benefit, that is given to the *MPBS prescriber* who most recently prescribed the Pharmaceutical benefit to the person.

Note: The document may be kept in an electronic form (see subsection 12(2) of the *Electronic Transactions Act 1999*).

### **45B Keeping documents—medication chart prescriptions**

- (1) If a Community Pharmacist supplies a Pharmaceutical benefit on the basis of a medication chart prescription, the pharmacist is to keep the medication chart, or a copy of the medication chart on which the Community Pharmacist wrote the details mentioned in 16AA(2)(c) in relation to the prescription, for at least 2 years from the date of supply.

Note: The document may be kept in an electronic form (see subsection 12(2) of the *Electronic Transactions Act 1999*).

**46 Agreement with the Pharmacy Guild of Australia**

The *Commission* may enter into agreements concerning the administration of this Part with The Pharmacy Guild of Australia and, subject to this Part, shall abide by such agreements.

**SCHEDULE 1 – INCORPORATED DOCUMENTS**

The following documents are incorporated-by-reference into the *Scheme* in the version in which they exist on 1 January 2018:

- *Explanatory Notes*
- *RPBS Explanatory Notes*
- *PBS or Pharmaceutical Benefits Scheme*
- *RPBS Schedule*

Note: “RPBS Schedule” is defined to mean the Repatriation Schedule of Pharmaceutical Benefits which is further defined.

- *Sixth Community Pharmacy Agreement*

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.



**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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#### Endnote 3—Legislation history

<b>Number</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
2013 No. MRCC44	29 Nov 2013 (F2013L02012)	30 Nov 2013	
2015 No. R1/MRCC1	30 Mar 2015 (F2015L00376)	1 Apr 2015	s 3, s 4
2015 No. MRCC45	24 Dec 2015 (F2015L02137)	Sch Part A: 25 Dec 2015 (s 2(1) item 2) Sch Part B: 1 Jan 2016 (s 2(1) item 3)	—
2016 No. R49/MRCC49	06 Dec 2016 (F2016L01872)	1 Jan 2017	—
2017 No. R14/MRCC14	21 June 2017 (F2017L00705)	1 July 2017	—
2017 No. R7/MRCC7	14 December 2017 (F2017L01618)	1 January 2018	—

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**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
s 1B.....	rep LIA s 48D
<b>Part 1</b>	
s 3 .....	am 2015 No R1/MRCC1; F2015L02137; am. F2017L01618
s 4 .....	rs 2015 No R1/MRCC1
<b>Part 2</b>	
s 7.....	rs. F2017L01618
s 11.....	am. F2017L01618
s 11B.....	am 2015 No R1/MRCC1; F2015L02137
s 11AA.....	ad. 2015 No. R1/MRCC1
s 11A .....	ad. 2015 No. R1/MRCC1; am. F2017L01618
s 11B.....	rs. 2015 No. R1/MRCC1
s 11C.....	rep. 2015 No. R1/MRCC1
s 16 .....	am 2015 No R1/MRCC1; am F2017L01618
s 16AA.....	ad. 2015 No. R1/MRCC1; am F2017L01618
s 16A .....	am. F2017L01618
s 16AB.....	ad. 2015 No. R1/MRCC1
s 24A .....	rep. 2015 No. R1/MRCC1
s 24 .....	am 2015 No. R1/MRCC1
s 24B.....	rep. 2015 No. R1/MRCC1
s 25 .....	rs. 2015 No. R1/MRCC1
<b>Part 5</b>	
s 26 .....	rs F2015L02137
s 27 .....	rep F2015L02137
s 28 .....	rep F2015L02137
s 29 .....	rep F2015L02137
s 30 .....	am F2015L02137
s 37.....	rs. 2015 No. R1/MRCC1
s 41.....	rs.. F2017L01618
s 42.....	rep. F2017L01618
s 43 .....	rep. F2017L01618
s 45 .....	rs. 2015 No. R1/MRCC1; am. F2017L01618
s 45A .....	ad. 2015 No. R1/MRCC1; am. F2017L01618
s 45B.....	ad. 2015 No. R1/MRCC1; am. F2017L01618
Schedule 1 .....	am. 2015 No. R1/MRCC1
	rs F2015L02137; rs F2017L00705; rs F2017L01618

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