Australian Government

Military Rehabilitation and Compensation Act 2004

MRCA PHARMACEUTICAL BENEFITS SCHEME

Instrument 2013 No. MRCC 44

I, **MICHAEL RONALDSON,** Minister for Veterans' Affairs, pursuant to subsection 286(3) of the *Military Rehabilitation and Compensation Act 2004*, approve this instrument made by the Military Rehabilitation and Compensation Commission.

Dated this 26th day of November 2013

Michael Ronaldson…….....
Minister for Veterans' Affairs

The Military Rehabilitation and Compensation Commission, pursuant to section 286 of the *Military Rehabilitation and Compensation Act 2004* (the Act):

(a) revokes the instrument made under s.286(1)(c) of the Act known as the *MRCA Pharmaceutical Benefits Scheme* (Instrument 2004 No. M22); and
(b) hereby determines the places at which, the circumstances in which, and the conditions subject to which, pharmaceutical benefits may be provided under Part 3 of Chapter 6 of the Act.

Dated this 13th day of November 2013

The Seal of the)
Military Rehabilitation)
and Compensation Commission)SEAL
was affixed hereto in the)
presence of:)

.....

Simon Lewis..... **SIMON LEWIS** **CHAIR**	Shane Carmody..... **SHANE CARMODY** **MEMBER**	Major General Mark Kelly **MAJOR GENERAL MARK KELLY AO DSC** **MEMBER**
Kylie Emery ……..... **MS KYLIE EMERY** **ACTING MEMBER**		Rear Admiral Robyn Walker AM, RAN .....…… **REAR ADMIRAL ROBYN WALKER AM, RAN** **ACTING MEMBER**

CONTENTS

Name of Scheme

1A. This instrument is the *MRCA Pharmaceutical Benefits Scheme*.

Commencement

1B. This instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Transitional-general

1C. 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*.

Transitional-pharmaceutical reimbursement

1D. 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*.

MRCA Pharmaceutical Benefits Scheme

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

Purpose of the MRCA Pharmaceutical Benefits Scheme

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

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* under subregulation 8A(1) of the *National Health (Pharmaceutical Benefits) Regulations 1960* to an approval under the *National Health Act 1953* of a person described in the subregulation 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 regulation 5E of the *National Health (Pharmaceutical Benefits) Regulations 1960* 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 regulation 5F of the *National Health (Pharmaceutical Benefits) Regulations 1960* for the purposes of the provision in those regulations in which the expression is used.

"Approved Hospital Authority" means a hospital authority approved under section 94 of the *National Health Act 1953* for the purposes of supplying *Pharmaceutical benefits*;

"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 Form**" means a *prescription* in one of the forms specified in paragraph 13(3)(a) of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

"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 regulation 26A of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

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*.

"Department" means the Department of Veterans' Affairs;

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

"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 a form approved by the *Secretary* under sub-subparagraph 19(1)(a)(iia)(B) of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

"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 the text entitled "Explanatory Notes" and the text entitled "RPBS Explanatory Notes" that is published in the document, *Schedule of Pharmaceutical Benefits for Approved Pharmacists and Medical Practitioners*, having the International Standard Serial Number 1037-3667, and in force on the date for the document in Schedule 1, to the extent that that text is not inconsistent with this Scheme;

"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;

"**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 prescription**" means a *prescription* mentioned in paragraph 11B(1);

"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*.

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

"paper-based prescription" means:

(a) a *medication chart prescription*; or

(b) a *prescription* other than a *medication chart prescription* that is prepared in duplicate in accordance with subparagraph 19(1)(a)(i), (ii) or (iii) of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

"paperless claim for payment" means a claim for a payment from the Commonwealth, in relation to the supply of a *Pharmaceutical benefit*:

(a) using the Claims Transmission System, within the meaning given by subsection 99AAA (1) of the *National Health Act 1953*; and

(b) to which, or in which, prescriptions, repeat authorisations or *deferred supply authorisations* are not required to be attached or included.

"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" means the Pharmaceutical Benefits Scheme authorised under the *National Health Act 1953*;

"PBS prescriber" has the meaning it has in subsection 84(1) of 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;

"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.

"**prescription**" means a *paper-based prescription* or an *electronic prescription*, and includes a prescription in an *Authority Prescription Form* and a *medication chart prescription*.

"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;

"**repeat authorisation form**" means the form mentioned in subparagraph 26 (1A) (a) (i) of the *National Health (Pharmaceutical Benefits) Regulations 1960*, which is used, among other purposes, to support a claim for a payment from the Commonwealth under section 99AAA of the *National Health Act 1953* in relation to a supply of a pharmaceutical benefit;

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

"**residential medication chart**" has the meaning given by paragraph 11B(5);

"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*.

"**RPBS 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 Schedule" means the Schedule of *Pharmaceutical benefits* prepared by the Department of Veterans' Affairs, entitled "Repatriation Schedule of Pharmaceutical Benefits" in force 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*.

"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 subparagraph 19(1)(a)(i), (ii) or (iii) of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

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

"streamlined authority code", for a *Pharmaceutical benefit*, means the streamlined authority code for the *Pharmaceutical benefit* mentioned in the Declaration under subsection 85 (2) of the *National Health Act 1953*, or the Determination under sections 85, 85A and 88, of that Act;

"supply certification form": see paragraph 11C;

"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.

Notification of certain matters in the Explanatory Notes

4. Where it is provided for the *Department* or *the Commission* to notify of certain matters, the publication of the Explanatory Notes shall be taken to constitute such notification to the extent that the *Explanatory Notes* are relevant and are not inconsistent with other notification given by the *Department* or the *Commission*.

Department to notify of certain matters as agent of the Commission

5. 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.

Part 2 — Prescribing of Benefits Procedure by Medical Practitioners

Prior Approval

6. (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*.

Restrictions

7. 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:

(i) the specific or general standards as determined by the relevant Minister under the *Therapeutic Goods Act 1989*; or

(ii) the British Pharmacopoeia, the United States Pharmacopoeia, the European Pharmacopoeia, the Australian Pharmaceutical Formulary, or a prescribed Pharmacology text of international standing;

(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*.

Prescribing provisions

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

Application of PBS Schedule restrictions and RPBS Schedule restrictions

9. 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.

Prescriptions to conform with State or Territory Law

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

Form of prescriptions

11. 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 1960*; 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 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*.

Item in residential medication chart is prescription

11B Medication Chart Items

(1) A completed item in a *residential medication chart* is a *prescription* (a *medication chart prescription*) if the chart contains the information set out for

the chart in a condition determined under paragraph 93A (2) (b) of the *National Health Act 1953* save that any variation to that information, as set out in the chart, that denotes a connection to the *Scheme* does not prevent an item in the chart from being a *prescription*.

(2) However, a completed item in a *residential medication chart* is not a *medication chart prescription* if it provides for the supply of a *Pharmaceutical benefit* to more than one person.

(3) A *medication chart prescription* must not be prepared using a computer program that operates, or may operate, to indicate on a prescription by default that only the brand of *Pharmaceutical benefit* specified in the *prescription* is to be supplied.

(4) If an item in a *residential medication chart* requires a *streamlined authority code* (if any) to be entered, the code is the streamlined authority code that is part of:

(a) the circumstances determined by the Minister under paragraph 85 (7) (b) of the *National Health Act 1953* for the *Pharmaceutical benefit* that is prescribed; or

(b) the conditions determined by the Minister under subsection 85A (2A) of the *National Health Act 1953* for the *Pharmaceutical benefit* that is prescribed.

(5) In this paragraph:

completed item in a residential medication chart means a section of the chart:

(a) in which the *medical practitioner* prescribing the *Pharmaceutical benefit* has:

(i) entered the information about the *Pharmaceutical benefit* that the section requires the *medical practitioner* to enter; and

(ii) written the date of prescribing; and

(iii) written his or her signature; and

(b) in which appears the letters ‘PBS’ or ‘RPBS’.

Examples for subparagraph (a) (i)

Particulars sufficient to identify the *Pharmaceutical benefit* being prescribed, and the dose, route and frequency of administration of the *Pharmaceutical benefit*.

Note An item in a *residential medication chart* may set out fields that only need to have information filled in if the information is relevant to that *prescription*.

residential medication chart means a chart:

(a) for prescribing, and recording the administration of, a *Pharmaceutical benefit* to an *Eligible Persons* receiving *residential care*; and

(b) subject to (1), that contains the standard fields and characteristics for the chart, as set out in a condition determined under paragraph 93A (2) (b) of the *National Health Act 1953*.

Note A *residential medication chart* may also be used for prescribing, and recording the administration of, drugs, medicines and other substances that are not a *Pharmaceutical benefit*.

Supply Certification Form

11C Supply Certification Form Criteria

(1) A *supply certification form* means a form that:

(a) is included by a *Community Pharmacist* in a *paperless claim for payment* as certification that the supply of a *Pharmaceutical benefit* is made in accordance with the *Scheme*, and except where the *Scheme* is inconsistent with the *National Health Act 1953*, that Act; and

(b) includes the following details:

(i) the name and approval number of the *Community Pharmacist*;

(ii) the address of the premises at or from which the *Pharmaceutical benefit* mentioned in (iv) is supplied, being premises at or from which the *Community Pharmacist* is approved under the *National Health Act 1953* to supply a *Pharmaceutical benefit*;

(iii) the number used by the *Community Pharmacist* to identify the claim period;

(iv) for each type of *prescription* that is covered by the claim—the serial numbers of the *Pharmaceutical benefits* that have been supplied and that are the subject of the claim, identified using a range of serial numbers for each of the following categories:

(A) general patients;

(B) *concessional beneficiaries*, dependants of *concessional beneficiaries* and holders of *concession cards;*

(C) holders of *entitlement cards*;

(v) the total number of claims for each category mentioned in (iv) (A) to (C);

(vi) (A) a certification that the *Pharmaceutical benefit* mentioned in (iv) has been supplied in accordance with the *Scheme* and the *National Health Act 1953* and instruments made under that Act; or

(B) a certification that the *Pharmaceutical benefit* mentioned in (iv) has been supplied in accordance with the *Scheme* and, to the extent the *National Health Act 1953* or instruments thereunder do not conflict with the *Scheme*, that Act and the instruments made under it;

(vii) a declaration that the information in the form is correct, signed by the *Community Pharmacist* or an authorised representative of the pharmacist;

(viii) particulars that identify the person signing the form under (vii).

Example for (b) (iv)

A *medication chart prescription* is a type of *prescription.*

When prescriptions are invalid

12. 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 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*.

Maximum quantity and repeats allowed

13. 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*.

Prescribing outside the RPBS Schedule or PBS Schedule

14. 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.

Medical Practitioner subject to this Scheme

15. 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

Supply of Pharmaceutical Benefits — Procedure by Community Pharmacists

16. 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: There was a trial of medication chart prescribing in 20 or so selected residential care facilities in NSW. The Department of Health & Ageing managed the trial and obtained relevant amendments to the legislation it administers in order for medication charts to be recognised as prescriptions. The trial was for the period August 2012-January 2013.

From 19 March 2013, medication chart prescribing will be implemented in a phased approach.

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 regulation 8A of the *National Health (Pharmaceutical Benefits) Regulations 1960*; 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*.

(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 subregulation 25(2) of the *National Health (Pharmaceutical Benefits) Regulations 1960* (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.

Substitution of lesser priced alternative brand of drug

17. 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*.

Community Pharmacist to be satisfied as to entitlement

18. (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.

Dispensing of deleted items

19. *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.

Use of forms as notified by the Department or the Commission

20. 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.

Refund in certain circumstances

22. 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.

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

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

(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

Lodgement of Claims by Community Pharmacists

24A. Paragraph 24 not apply

(1) Paragraph 24 does not apply in relation to the supply of a *Pharmaceutical benefit* on the basis of a *medication chart prescription*.

(2) A claim for payment in relation to the supply of a *Pharmaceutical benefit* on the basis of a *medication chart prescription* is to be made accordance with section 99AAA of the *National Health Act 1953* (paperless claim for payment).

Note: a claim using the Claims Transmission System within the meaning given by subsection 99AAA(1) of the *National Health Act 1953* is a *paperless claim for payment* – see paragraph 25(2).

24. 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".**

24B. Supply of Pharmaceutical Benefit on Basis of Medication Chart Prescription

(1) This paragraph applies in relation to the supply of a *Pharmaceutical benefit* on the basis of a *medication chart prescription*.

(2) A *Community Pharmacist* may supply a *Pharmaceutical benefit* on the basis of a *medication chart prescription* only if:

(a) a copy of the *residential medication chart* is given to the *Community Pharmacist*; and

(b) the *residential medication chart* is written in accordance with any requirements for the chart in the *National Health (Pharmaceutical Benefits) Regulations 1960* and any conditions determined under paragraph 93A (2) (b) of the *National Health Act 1953*, except where those requirements and conditions inconsistent with the *Scheme*; and

(c) the date on which the *Pharmaceutical benefit* is supplied by the Community Pharmacist is:

(i) during the period of validity of the *residential medication chart*; and

(ii) is no later than the stop date (if any) indicated in the prescription; and

(d) the *Community Pharmacist* writes on the copy of the *residential medication chart* the following for the supply:

(i) the *Community Pharmacist's* name and *approval number* under regulation 8A of the *National Health (Pharmaceutical Benefits) Regulations 1960*;

(ii) an identification number for the supply;

(iii) the date on which the *Pharmaceutical benefit* is supplied.

(3) For paragraph (2) (c), the period of validity of a *residential medication chart*:

(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 *residential 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 *residential medication chart* on 11 June.
The period of validity of the *residential 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*.

(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.

(4A) Paragraph 13 of the *Scheme* and paragraph 85A(2)(a) of the *National Health Act 1953* apply in relation to maximum quantities of pharmaceutical items or a *Pharmaceutical benefit*.

(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*;

(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 subsection (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 *residential medication chart* will end before administration of that quantity in accordance with the prescription would finish.

(7) A *Community Pharmacist* that is an *Approved Hospital Authority* must not supply a *Pharmaceutical benefit* on the basis of a *medication chart prescription.*

(8) For a supply of a *Pharmaceutical benefit* on the basis of a *medication chart prescription* 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*.

(9) The *Community Pharmacist* or *Approved Medical Practitioner* must include the information collected under subsection (8) 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 supply on the basis of a *medication chart prescription*.

(10) If a *Pharmaceutical benefit* is supplied on the basis of a *medication chart prescription* a number of times greater than the number specified in the prescription, then subject to subregulation 25(2) of the *National Health (Pharmaceutical Benefits) Regulations 1960* (the regulations):

(a) subregulation (1) of the regulations does not apply; and

(b) subregulation (3) or (4) of the regulations applies as if:

(i) the supply is made to the facility providing the *residential care* to the person for whom the prescription was written; and

(ii) the words 'immediate supply necessary' and the supplier's signature were required to be written on the copy of the *residential medication chart* given to the supplier.

25. Claims Requirements & Payment

(1) Payment under this *Scheme* is subject to compliance with paragraph 24B or 24, as the case requires.

(2) For a *paperless claim for payment*, payment is subject to the *Community Pharmacist* including a completed *supply certification form* in the *paperless claim for payment*.

Part 5 — Payments to Community Pharmacists

Dispensing fee payable to Community Pharmacists

26. The dispensing fee payable to *Community Pharmacists* (excluding *Approved Medical Practitioners, Authorised Nurse Practitioner* or *Authorised Midwife* and *Approved Hospital Authorities*) for the supply by them, under this *Scheme*, of *Pharmaceutical benefits* in the form of ready prepared items or of extemporaneously prepared items, shall be the fee payable to pharmacists under the *PBS* for the supply by them of a *Pharmaceutical benefit* of similar form.

Dispensing fee payable to Approved Medical Practitioners and Approved Hospital Authorities

27. The dispensing fee payable to *Approved Medical Practitioners, Approved Hospital Authorities, Authorised Nurse Practitioner* or *Authorised Midwife* for the supply by them, under this *Scheme*, of *Pharmaceutical benefits*, in the form of ready prepared items or of extemporaneously prepared items, shall be the fee payable to *Approved Medical Practitioners* or *Approved Hospital Authorities*, *Authorised Nurse Practitioner* or *Authorised Midwife* under the *PBS* for the supply by them of a *Pharmaceutical benefit* of similar form.

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*.

Other Fees — similar PBS pharmaceutical benefit

28. Where a *Pharmaceutical benefit* is provided which is not covered by paragraphs 26 or 27, payment is to be made in accordance with the fee payable under the *PBS* for provision of a similar *Pharmaceutical benefit*.

Other Fees — notified rates

29. Where a *Pharmaceutical benefit* is provided which is not covered by paragraphs 26, 27 or 28, payment is to be made in accordance with such conditions and at such rates as the *Department* or the *Commission* from time to time notifies.

Fees not payable in some circumstances

30. The fees payable under paragraphs 26, 27, 28 or 29, 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*.

Community Pharmacist not entitled to demand or receive payments

31. 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.

Community Pharmacist to issue receipt where certain payments received

32. 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.

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.

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

37 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 (as if the amount is *veterans supplement*) according to section 198F of the *Veterans' Entitlements Act 1986* 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* 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*.

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-payment*s 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

Standards

41. The minimum acceptable standard for a *Pharmaceutical benefit* is that described in the following documents:

(a) the British Pharmacopoeia or the Pharmaceutical Codex as amended and authorised by regulations under the *Therapeutic Goods Act 1989*;

(b) the regulations under the *Therapeutic Goods Act 1989* which relate to specific standards for drugs;

(c) the Australian Pharmaceutical Formulary which describe drugs and medicinal preparations;

(d) previous editions of the British Pharmacopoeia, Pharmaceutical Codex or the Australian Pharmaceutical Formulary which describe drugs and medicinal preparations; and

(e) the Extra Pharmacopoeia, the European Pharmacopoeia, the United States Pharmacopoeia or similar pharmaceutical texts of international standing which describe drugs.

Editions of monographs and standards

42. The monographs and standards contained in the latest authorised editions of the documents listed in paragraph 41 take precedence over earlier editions unless a specific edition is specified.

Order of precedence

43. The order of precedence for drug monographs and standards is in the same order as set out in paragraph 41, with the monographs of the British Pharmacopoeia having precedence over all others and thereafter in accordance with State or Territory law.

Retention of Documents

45. Keeping documents

(a) Subject to (b) and (c) a *Community Pharmacist* is to retain such *prescriptions*, forms, records and other documents in relation to the supply of a *Pharmaceutical benefit* under the *Scheme* as are mentioned in regulation 32 of the *National Health (Pharmaceutical Benefits) Regulations 1960*, for the periods mentioned in regulation 32, as if a reference to a pharmaceutical benefit in that regulation is a reference to a *Pharmaceutical benefit* under the *Scheme*;

(b) If the *Community Pharmacist* supplies Pharmaceutical benefits to a person under section 16A of the *Scheme* (continued dispensing) the pharmacist is to keep the following information for at least 2 years from the date on which the *Pharmaceutical benefits* were supplied by the pharmacist:

(i) the information that supports the claim for payment made under section 99AAA of the *National Health Act 1953* in relation to the supply of the *Pharmaceutical benefits*;

(ii) the information, about the supply of the *Pharmaceutical benefits*, that is given to the *PBS prescriber* or *RPBS prescriber* who most recently prescribed the *Pharmaceutical benefits* to the person.

(c) If a *Community Pharmacist* supplies a *Pharmaceutical benefit* on the basis of a *medication chart prescription*, the pharmacist is to keep a copy of the *residential medication chart* in which the *prescription* is written for at least 2 years from the date on which the last *Pharmaceutical benefit* was supplied by the pharmacist on the basis of a *prescription* in the *residential medication chart*.

Agreement with the Pharmacy Guild of Australia

46. 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, in force on 1 November 2013, are incorporated-by-reference into the *Scheme*:

List A

- *Explanatory Notes*
- *RPBS Schedule*
- the British Pharmacopoeia
- the United States Pharmacopoeia
- the European Pharmacopoeia
- the Australian Pharmaceutical Formulary
- a prescribed Pharmacology text of international standing
- the Pharmaceutical Codex as amended and authorised by regulations under the *Therapeutic Goods Act 1989*.

List B

The following documents are incorporated-by-reference into the *Scheme*:

- previous editions of the British Pharmacopoeia which describe drugs and medicinal preparations
- previous editions of the Pharmaceutical Codex as amended and authorised by regulations under the *Therapeutic Goods Act 1989* which describe drugs and medicinal preparations
- previous editions of the Australian Pharmaceutical Formulary which describe drugs and medicinal preparations.

Note: paragraph 43 provides that the later versions of certain documents in list A take precedence over earlier versions of the documents in List B