

EXPLANATORY STATEMENT
NATIONAL HEALTH ACT 1953
NATIONAL HEALTH (REMOTE ABORIGINAL HEALTH SERVICES PROGRAM)
SPECIAL ARRANGEMENTS AMENDMENT INSTRUMENT 2016 (NO. 1)
PB 17 of 2016 (No. 1)

Authority

Subsection 100(1) of the *National Health Act 1953* (the Act) enables the Minister to make special arrangements for the supply of pharmaceutical benefits. Subsection 100(2) of the Act provides that the Minister may vary or revoke a special arrangement made under subsection 100(1).

Subsection 100(3) of the Act provides that Part VII of the Act, and instruments made for the purposes of Part VII of the Act, have effect subject to a special arrangement made under subsection 100(1).

Purpose

The purpose of the *National Health (Remote Aboriginal Health Services Program) Special Arrangements Amendment Instrument 2016 (No. 1)*, (the *Amendment Instrument*), made under subsections 100(1) and 100(2) of the Act, is to amend the *National Health (Remote Aboriginal Health Services Program) Special Arrangements Instrument 2010* (PB 65 of 2010) (the *Special Arrangement*). The *Special Arrangement* provides for the supply to remote Aboriginal Health Services of pharmaceutical benefits.

The *Amendment Instrument* amends paragraph 9(b) to “an amount equal to the administration, handling and infrastructure fee worked out under the determination under paragraph 98B(1)(a) of the Act” that is payable to an approved pharmacist or an approved hospital authority in respect of the supply of a pharmaceutical benefit to an approved Aboriginal Health Service in accordance with the *Special Arrangement*.

The 'pharmacy mark-up' previously referred to in paragraph 9(b) became the administrative, handling and infrastructure fee on 1 July 2015 via amendment to the paragraph 98B(1)(a) determination. This amendment is a technical change for simplicity and clarity to ensure that it is clear on the face of the special arrangement that the 'pharmacy mark-up' is the administrative, handling and infrastructure fee.

Consultations

The *Amendment Instrument* is minor and machinery in nature.

The *Amendment Instrument* commences on 1 March 2016.

The *Amendment Instrument* is a legislative instrument for the purpose of the *Legislative Instruments Act 2003*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

NATIONAL HEALTH (REMOTE ABORIGINAL HEALTH SERVICES PROGRAM) SPECIAL ARRANGEMENTS AMENDMENT INSTRUMENT 2016 (NO.1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *National Health (Remote Aboriginal Health Services Program) Special Arrangements Amendment Instrument 2016 (No. 1)*, (the *Amendment Instrument*), made under subsections 100(1) and 100(2) of the Act, is to amend Clause 9(b) in the *National Health (Remote Aboriginal Health Services Program) Special Arrangement Instrument 2010* (PB 65 of 2010) (the *Special Arrangement*), as follows:

9(b) an amount equal to the administration, handling and infrastructure fee worked out under the determination under paragraph 98B(1)(a) of the Act; and

The 'pharmacy mark-up' previously referred to in paragraph 9(b) became the administrative, handling and infrastructure fee on 1 July 2015 via amendment to the paragraph 98B(1)(a) determination. This amendment is a technical change for simplicity and clarity to ensure that it is clear on the face of the special arrangement that the 'pharmacy mark-up' is the administration, handling and infrastructure fee.

Human rights implications

The *Amendment Instrument* is a technical and consequential change, updating references to payments to align with changes under paragraph 98B(1)(a) determination of the Act. The *Amendment Instrument* engages Article 2 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The Pharmaceutical Benefits Scheme (PBS) is a benefit scheme which assists with advancement of this human right by providing for subsidised access by patients to medicines. The *Special Arrangement* ensures more ready and equitable access to PBS medicines for Indigenous Australians through the Section 100 Supply of PBS Medicines to Remote Area Aboriginal Health Services (RAAHS) Program. The RAAHS Program addresses three identified barriers that Aboriginal and Torres Strait Islander people living in remote communities experience in accessing essential medicines, being geographical, cultural and financial.

Conclusion

This *Amendment Instrument* is compatible with human rights because it advances the protection of human rights.

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