

NATIONAL HEALTH.

No. 68 of 1958.

An Act to amend the *National Health Act* 1953-1957.

[Assented to 8th October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1.—(1.) This Act may be cited as the *National Health Act* 1958.

Short title
and citation.

(2.) The *National Health Act 1953–1957** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *National Health Act 1953–1958*.

**Commence-
ment.**

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) Section six of this Act shall be deemed to have come into operation on the eleventh day of September, One thousand nine hundred and fifty-eight.

Part.

3. Section three of the Principal Act is amended by omitting the words—

“Part VI.—Medical and Hospital Benefit Organizations (Sections 66–82).”

and inserting in their stead the words—

“Part VI.—Medical and Hospital Benefit Organizations.

Division 1.—General (Sections 66–82).

Division 2.—Special Accounts (Sections 82A–82P).”

4. After section eighteen of the Principal Act the following section is inserted:—

**Commonwealth
benefit not
payable in
respect of
contributor
of less than
two months
standing.**

“18A. Where a person becomes a contributor on or after the first day of January, One thousand nine hundred and fifty-nine, Commonwealth benefit is not payable in respect of a professional service rendered to that person or any of his dependants during a period of two months commencing on the day on which that person becomes a contributor except in any case where, under the rules of the registered medical benefits organization concerned, fund benefit is paid by the organization in respect of that professional service.”

5. Section thirty of the Principal Act is repealed and the following section inserted in its stead:—

Offences.

“30.—(1.) A person shall not make a statement, either orally or in writing, or issue or present a document, that is false or misleading in any particular and capable of being used in, in connexion with, or in support of, a claim by a registered medical benefits organization for payment by the Commonwealth of an amount of Commonwealth benefit that is not payable in accordance with this Act.

“(2.) A registered medical benefits organization shall not—

(a) make a false or misleading statement in, in connexion with, or in support of, a claim for Commonwealth benefit; or

(b) obtain payment of Commonwealth benefit or other payment under this Part by means of a false or misleading statement or document.

Penalty : One hundred pounds or imprisonment for six months.”

* Act No 95, 1953, as amended by No. 68, 1955; Nos. 55 and 95, 1956; and No. 92, 1957.

6. Section thirty-nine of the Principal Act is amended by adding at the end thereof the following sub-section:— Interpretation.

“(8.) For the purposes of this Part, where, after the commencement of this sub-section, the Government of a State or an institution conducted by a State commences to pay contributions to the hospital benefits fund of a registered hospital benefits organization on behalf of a person other than a person employed by that Government or by that institution, that person shall not, by reason of the payment of those contributions, be deemed to become a contributor.”.

7. Section sixty-four of the Principal Act is repealed and the following section inserted in its stead:—

“64.—(1.) A person shall not make, either orally or in writing, a false or misleading statement, or present a document that is false or misleading, in, in connexion with, or in support of, an application for approval of a private hospital or a claim for hospital benefit under Division 3 of this Part. Offences.

“(2.) A registered hospital benefits organization shall not—

(a) make a false or misleading statement in, in connexion with, or in support of, a claim for additional benefit; or

(b) obtain payment of additional benefit or other payment under this Part by means of a false or misleading statement or document.

“(3.) A person shall not make a statement, either orally or in writing, or issue or present a document, that is false or misleading in any particular and capable of being used in, in connexion with, or in support of, a claim by a registered hospital benefits organization for payment by the Commonwealth of an amount of additional benefit that is not payable in accordance with this Act.

Penalty: One hundred pounds or imprisonment for six months.”.

8. After the heading to Part VI. of the Principal Act the following heading is inserted:— Division heading inserted.

“*Division 1.—General.*”.

9. Section sixty-six of the Principal Act is repealed and the following section inserted in its stead:—

“66.—(1.) In this Part, unless the contrary intention appears— Interpretation.
 ‘additional benefit’ has the same meaning as in Part V. of this Act;
 ‘approved private hospital’, has the same meaning as in Part V. of this Act;
 ‘Commonwealth benefit’ has the same meaning as in Part III. of this Act;

- 'contract arrangement' has the same meaning as in Part III. of this Act;
- 'contributor', in relation to a registered medical benefits organization, has the same meaning as in Part III. of this Act and, in relation to a registered hospital benefits organization, has the same meaning as in Part V. of this Act;
- 'fund benefit' means a medical fund benefit or a hospital fund benefit, as the case requires;
- 'gross fees' has the same meaning as in Part V. of this Act;
- 'hospital fund benefit' means the amount, other than in respect of additional benefit, payable under the rules of a registered hospital benefits organization in respect of each day for which a contributor is a qualified patient;
- 'hospital treatment' has the same meaning as in Part V. of this Act;
- 'medical benefits fund' has the same meaning as in Part III. of this Act;
- 'medical expenses' has the same meaning as in Part III. of this Act;
- 'medical fund benefit' means the amount, other than in respect of Commonwealth benefit, payable under the rules of a medical benefits organization in respect of medical expenses incurred by a contributor;
- 'ordinary contributor' means a contributor other than a special account contributor;
- 'pre-existing ailment', in relation to a contributor to a registered organization, means an illness or disability the symptoms of which were in evidence before, or within a specified period immediately after, he became a contributor in relation to that organization;
- 'professional service' has the same meaning as in Part III. of this Act;
- 'public hospital' has the same meaning as in Part V. of this Act;
- 'qualified patient' has the same meaning as in Part V. of this Act;
- 'registered organization' means a registered medical benefits organization or a registered hospital benefits organization, as the case requires;
- 'special account contributor' means a contributor the amounts of whose contributions are for the time being required to be credited to a special account established by a registered organization for the purposes of Division 2 of this Part and includes a person who is a contributor by virtue of being a dependant of a special account contributor;

‘ standard rate benefit ’ means—

- (a) in relation to medical fund benefit—medical fund benefits in respect of all the professional services specified in the First and Second Schedules to this Act, being benefits equal in amounts to the amounts respectively specified in those Schedules in relation to those professional services; and
- (b) in relation to hospital fund benefit—hospital fund benefit at the rate of Sixteen shillings per day;

‘ the Committee ’ means the Registration Committee referred to in section seventy of this Act.

“(2.) In sections eighty-two B, eighty-two C and eighty-two G of this Act, ‘ contributions ’ means weekly contributions, and, for the purposes of those sections, where, in accordance with the rules or practice of a registered organization, a contribution is payable in respect of a period in excess of a week, weekly contributions shall be deemed to be payable at a rate ascertained by dividing the amount of the contribution by the number of weeks in the period, and one such weekly contribution shall be deemed to be payable on the last day of each week of the period.”

10. Section sixty-seven of the Principal Act is amended—

- (a) by omitting from sub-paragraph (i) of paragraph (a) the words “ fund benefit ” and inserting in their stead the words “ medical fund benefit ”; and
- (b) by omitting from paragraph (b) the words “ medical benefits ” (second occurring) and inserting in their stead the words “ medical fund benefits ”.

Eligibility
of organizations
for registration
for purposes
of Part III.

11. Section sixty-eight of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1.) the words “ hospital benefit ” and inserting in their stead the words “ hospital fund benefit ”; and
- (b) by omitting from paragraph (b) of that sub-section the words “ hospital benefits ” (first and second occurring) and inserting in their stead the words “ hospital fund benefits ”.

Eligibility
of organizations
for registration
for purposes
of Part V.

12. Section seventy-two of the Principal Act is amended—

- (a) by omitting from sub-paragraphs (iii) and (iv) of paragraph (a) of sub-section (2.) the words “ fund benefits ” and inserting in their stead the words “ medical fund benefits ”; and
- (b) by omitting from sub-paragraph (iii) of paragraph (b) of that sub-section the words “ hospital benefits ” and inserting in their stead the words “ hospital fund benefits ”.

Report of the
Committee.

13. Section seventy-six of the Principal Act is repealed and the following section inserted in its stead:—

Particulars to be furnished annually to the Director-General.

“ 76.—(1.) A registered organization that is maintaining a special account for the purposes of Division 2 of this Part shall, within three months after the expiration of the organization’s accounting year, or within such further time as the Director-General, on the application of the organization, allows, furnish to the Director-General—

- (a) a copy of the annual report for that year made by the organization to its members;
- (b) a balance-sheet of the medical benefits fund or hospital benefits fund, as the case requires, of the organization as at the end of that year;
- (c) a summary of the amounts credited and debited to the special account for that year;
- (d) a revenue account of the medical benefits fund or hospital benefits fund, as the case requires, of the organization, exclusive of the special account, for that year;
- (e) a statement showing in respect of contributors other than dependants of persons by or on whose behalf contributions are made—
 - (i) the number of special account contributors and the number of ordinary contributors, respectively, at the end of that year;
 - (ii) the number of persons who commenced to be, and the number of persons who ceased to be, special account contributors and ordinary contributors, respectively, during that year; and
 - (iii) the number of special account contributors and the number of ordinary contributors, respectively, who, during that year, changed the benefits for which they were contributing or the rate of contributions that they were making; and
- (f) a statement showing in respect of that year—
 - (i) the administrative and management expenses and other disbursements incurred by, or paid from, the medical benefits fund or hospital benefits fund exclusive of the special account; and
 - (ii) the management expenses debited to the special account.

“ (2.) If a registered organization is not maintaining a special account for the purposes of Division 2 of this Part, the provisions

of the last preceding sub-section apply to and in relation to the organization as if there were no reference in those provisions to special account contributors or to the special account.

“(3.) Where an organization is registered both as a medical benefits organization and a hospital benefits organization, the particulars required to be furnished in accordance with the preceding provisions of this section shall be set out separately in respect of the medical benefits fund and the hospital benefits fund.

“(4.) Particulars referred to in paragraph (e) of sub-section (1.) of this section shall be set out separately in respect of the respective classes of fund benefits for which the contributions were made and the respective rates of those contributions.

“(5.) Particulars referred to in sub-paragraph (ii) of paragraph (e) of sub-section (1.) of this section shall be set out separately in respect of contributors who were changed from ordinary contributors to special account contributors and *vice versa* and ordinary contributors and special account contributors, respectively, who were not so changed.

“(6.) The organization shall certify as to the truth and correctness of the information contained in documents furnished in accordance with paragraphs (b) to (f) (inclusive) of sub-section (1.) of this section.

Penalty: One hundred pounds.”.

14. Section eighty-two of the Principal Act is amended by omitting from paragraph (b) of sub-section (1.) the word “Part” and inserting in its stead the word “Division”.

15. The following Division is added at the end of Part VI. of the Principal Act:—

“*Division 2.—Special Accounts.*

“82A. For the purposes of this Division, a registered organization may, with the approval of the Minister, on or after the first day of January, One thousand nine hundred and fifty-nine, establish a special account in connexion with the medical benefits fund or the hospital benefits fund conducted by the registered organization.

Establishment
of special
accounts.

“82B.—(1.) After the establishment of a special account by a registered organization the amounts of the contributions of contributors who have attained the age of sixty-five years shall be credited to that account in accordance with the succeeding provisions of this section.

Contributions
of contributors
who have
attained the
age of sixty-
five years to
be credited to
special account.

“(2.) Where a contributor had attained the age of sixty-five years before the day on which the special account was established, the organization shall credit to the special account the amounts of all contributions by or on behalf of the contributor that become payable after that day.

“(3.) Where a contributor attains the age of sixty-five years after the establishment of the special account, the organization shall credit to the special account the amounts of all contributions by or on behalf of the contributor that become payable after his attaining that age.

“(4.) Where a person who has attained the age of sixty-five years becomes a contributor after the establishment of the special account, the organization shall credit to the special account the amounts of all contributions that become payable by or on behalf of the contributor.

Contributors
suffering from
chronic illness,
&c.

“82c.—(1.) Where, after the establishment of a special account by a registered organization—

(a) a claim for fund benefit, in respect of a professional service or hospital treatment rendered to himself or one of his dependants, is lodged by or on behalf of an ordinary contributor;

(b) under the rules of the organization relating to the eligibility of an ordinary contributor to be paid fund benefit in respect of a chronic illness or a pre-existing ailment or relating to the maximum fund benefit payable to an ordinary contributor in respect of a specified period, the organization is entitled to disallow the claim or to reduce the amount of fund benefit that would otherwise be payable below standard rate benefit; and

(c) the organization does not elect to pay, in respect of the claim, fund benefit not less than standard rate benefit, the organization shall credit to the special account the amounts of the contributions referred to in the next succeeding sub-section.

“(2.) The contributions the amounts of which are to be credited to the special account in accordance with the last preceding sub-section are, subject to section eighty-two G of this Act, all contributions by or on behalf of the contributor that became or become payable after—

(a) the day six months immediately before the day of the rendering of the professional service or of the commencement of the hospital treatment in respect of which the claim is lodged; or

(b) the day immediately after the rendering of the professional service or the ending of the hospital treatment in respect of which a claim by the contributor was last met by the organization,

whichever is the later.

“ 82D. Where a registered organization has established a special account, any amount of medical fund benefit or hospital fund benefit, as the case may be, to which a special account contributor becomes entitled in respect of a professional service or hospital treatment rendered on or after—

Payment of benefits.

- (a) the date of the establishment of the special account; or
- (b) the day on which the first contribution in respect of the contributor the amount of which was credited to the special account became payable,

whichever is the later, shall be debited to the special account.

“ 82E. The Minister shall not approve of the establishment of a special account by a registered organization unless, under the rules of the organization—

Rules of organization establishing special account to contain certain provisions.

- (a) the rate of contributions payable by a special account contributor is not, by reason of his being a special account contributor, different from that payable by an ordinary contributor who insures for the same fund benefits;
- (b) except as provided in the succeeding paragraphs of this section, a special account contributor is entitled to the same fund benefits as if he were an ordinary contributor;
- (c) a special account contributor is not, in respect of professional services or hospital treatment rendered on or after the date of the establishment of the special account or the day on which the first contribution in respect of the contributor the amount of which was credited to the special account became payable, whichever is the later, excluded from entitlement to—
 - (i) standard rate benefit; or
 - (ii) if he is insured for benefits less than standard rate benefit—the benefits for which he is insured,
 by any rule of the organization relating to the eligibility of a contributor for payment of fund benefit in respect of a chronic illness or a pre-existing ailment or relating to the maximum fund benefit payable in respect of a specified period;
- (d) a special account contributor is not entitled to payment of fund benefit in respect of a professional service or hospital treatment rendered to him during a specified period of not less than eight weeks commencing on the day on which he became a contributor, except in the case of injury by accident;

- (e) except as provided in the last preceding paragraph, any provision of the rules under which an ordinary contributor is not entitled to payment of fund benefit, or is not entitled to payment in full of the fund benefit for which he is insured, in respect of a professional service or hospital treatment rendered during a waiting period prescribed by the rules, applies equally to and in relation to special account contributors and ordinary contributors;
- (f) a special account contributor who is also a special account contributor in relation to another registered organization is not entitled to payment of any fund benefit after payment of fund benefit in respect of the first claim made by him after he became a special account contributor in relation to a second registered organization;
- (g) any provision for payment by the organization of fund benefit for a medical or other remedial service or treatment in respect of which this Act makes no provision for Commonwealth benefit or additional benefit applies uniformly to and in relation to special account contributors and ordinary contributors;
- (h) in the case of a registered hospital benefits organization, hospital fund benefit is not payable in respect of accommodation and nursing care of a special account contributor at an institution unless—
 - (i) it is an institution other than a benevolent home, convalescent home, home for aged persons, rest home or an institution that provides accommodation principally for permanent patients; and
 - (ii) it is recognized by the Director-General as a hospital for the purpose of this paragraph;
- (i) in the case of a registered hospital benefits organization, the rate of hospital fund benefit per day payable in respect of a special account contributor does not exceed the amount (if any) by which the gross fees per day exceed the total of Eight shillings per day plus the amount of additional benefit per day payable by the Commonwealth under Part V. of this Act plus the amount (if any) per day paid in respect of the contributor by any other registered hospital benefits organization in respect of the same period of hospital treatment;
- (j) in the case of a registered medical benefits organization, the amount of any medical fund benefit payable in respect of a special account contributor does not

exceed the amount by which ninety per centum of the fee charged for the professional service rendered to the contributor exceeds the amount of the Commonwealth benefit prescribed by this Act in respect of that professional service plus the amount (if any) paid in respect of the contributor by any other registered medical benefits organization in respect of the same professional service; and

- (k) any provision enabling an act of grace payment to be made applies only to and in relation to an ordinary contributor.

“ 82F. Where, under the rules of a registered organization, a concessional rate of contributions is applicable to contributors within a specified class and all or some of the contributors within that class are special account contributors, the organization shall, at the end of the organization’s accounting year, credit to the special account an amount equal to the difference between the total amount of the contributions that became payable by the special account contributors within that specified class in respect of that year and the total amount of the contributions that would have become so payable by them if the contributions of all contributors had been adjusted so that, without affecting the total amount of the contributions payable to the organization, no concessional rates of contributions were applicable to contributors within that class.

Contributors at concessional rates.

“ 82G.—(1.) Where a contributor is a special account contributor, the registered organization may, at any time before he has attained the age of sixty-five years but not earlier than two years after his becoming a special account contributor, decide that he shall cease to be a special account contributor and be accepted as an ordinary contributor.

Special account contributor under sixty-five years of age may be made an ordinary contributor.

“ (2.) Whenever the registered organization so decides, the amounts of contributions by or on behalf of the contributor payable after the date of the decision shall not be credited to the special account.

“ 82H.—(1.) Within thirty days after a person, not being a dependant of a contributor, becomes a special account contributor the registered organization shall inform the Director-General of the name of the person and the reason why he has become a special account contributor.

Information to be supplied to Director-General.

“ (2.) Where a special account contributor becomes an ordinary contributor, the registered organization shall, within thirty days after the making in relation to the contributor of the decision referred to in the last preceding section, inform the Director-General of the name of the contributor and the date on which the amounts of his contributions ceased to be credited to the special account.

“(3.) Where, under an arrangement made by the registered organization to the satisfaction of the Director-General, records of the organization containing the information referred to in the preceding provisions of this section are available for inspection by the Director-General, the organization shall be deemed to comply with the requirement to inform the Director-General in accordance with those provisions.

Records relating
to special
account
contributor.

“82j.—(1.) A registered organization that establishes a special account shall maintain records showing in respect of each special account contributor by or on behalf of whom contributions are made—

- (a) the name and date of birth of each person covered by the contributions;
- (b) the fund benefit for which he is insured and any fund benefit for which he was insured at any time since the date on which he became a special account contributor or in the period of six months immediately preceding that date;
- (c) the rate of the contributions payable by him;
- (d) the date on which the first contribution in respect of the contributor the amount of which was credited to the special account became payable;
- (e) the nature of any chronic illness or pre-existing ailment of any person covered by the contributions that is known to the organization;
- (f) particulars of each payment to him of fund benefit debited to the special account; and
- (g) the date on which, and the reason for which, he ceases to be a special account contributor.

“(2.) A registered organization that has established a special account shall keep financial records of that account separate and distinct from any other financial records maintained by the organization.

Other debits to
special account.

“82k. A registered organization that has established a special account may, in addition to amounts debited to the special account in accordance with section eighty-two D of this Act, debit to the special account—

- (a) any amount previously credited to the special account in relation to contributions of a person (being a person who had been a contributor) in respect of a period for which that person was no longer a contributor; and
- (b) the amount of any reasonable management expenses.

Reimbursement
of organization
in respect of
amount
standing to
debit of
special
account.

“82l.—(1.) If—

- (a) as at the end of the accounting year during which a registered organization establishes a special account;

- (b) as at the end of any subsequent accounting year for which it maintains a special account; or
- (c) as at the date on which a registered organization ceases to maintain a special account,

the sum of the amounts credited to the special account in accordance with this Division is less than the sum of the amounts debited to the special account in accordance with this Division, the Director-General, on behalf of the Commonwealth, shall pay to the organization an amount equal to the amount of the difference, and the organization shall credit to the special account the amount so paid.

“(2.) The Director-General may deduct from any amount payable to the organization under the last preceding sub-section any amount debited to the special account otherwise than in accordance with this Act and the rules of the organization.

“82M.—(1.) The Director-General may, in his absolute discretion, on behalf of the Commonwealth, on such security and on such terms and conditions as he thinks fit, make an advance to a registered organization that has established a special account for the purpose of enabling the organization to meet claims for payment of fund benefits by special account contributors.

Advances.

“(2.) Where an advance has been made in pursuance of the last preceding sub-section and any amount payable by the Director-General under the last preceding section in respect of the accounting year of the organization in which the advance was made is less than the amount advanced, the amount of the difference is recoverable as a debt due to the Commonwealth.

“82N.—(1.) A registered organization that has established a special account may at any time cease to maintain the special account.

Organization may cease to maintain special account.

“(2.) The organization shall, within seven days after ceasing to maintain the special account, notify the Director-General in writing of the fact and of the date on which it ceased to maintain the special account.

“82P.—(1.) A registered organization shall not contravene, or fail to comply with, a provision of this Division.

Offences.

“(2.) A registered organization shall not—

- (a) make or present to the Director-General or to an officer or person doing duty in relation to this Division a statement or document that is false or misleading in any particular; or
- (b) obtain any payment under this Division by means of a false or misleading statement or document.

Penalty: One hundred pounds.”

Medical
consultants.

16. Section one hundred and eleven A of the Principal Act is amended by inserting after sub-section (1.) the following sub-section:—

“(1A.) Where a matter referred to a Committee of Inquiry established under section one hundred and ten of this Act relates to the writing by a medical practitioner of prescriptions for the supply of pharmaceutical benefits under Part VII. of this Act, the Committee may, subject to the Minister’s approval, employ a medical practitioner as consultant upon the matter.”.

17. After section one hundred and thirty-four B of the Principal Act the following sections are inserted:—

Defence in
certain
prosecutions.

“ 134C. In a prosecution under this Act of a person for making a statement, or issuing or presenting a document, that is false or misleading in a particular it is a defence if the person charged shows that he did not know and had no reason to suspect that the statement or document was false or misleading, as the case may be.

Continuing
obligation to
comply with
Act.

“ 134D. Where a provision of this Act provides for the doing of any act by a registered organization, the organization continues to be liable to do that act, notwithstanding that the organization or the public officer of the organization has been convicted of an offence for failing to do that act and that the time allowed for due compliance with that provision has expired.”.
