

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

(Human Services and Health)

HEALTH INSURANCE AMENDMENT BILL 1995

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(Human Services and Health)

A BILL

FOR

An Act to amend the *Health Insurance Act 1973*

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Health Insurance Amendment Act 1995*.

Commencement

- 5 2. This Act commences on the day on which it receives the Royal Assent.

Amendments

3. The *Health Insurance Act 1973* is amended as set out in the Schedule.
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SCHEDULE

Section 3

AMENDMENT OF THE HEALTH INSURANCE ACT 1973

1. After subsection 130(3A):

Insert:

“(3B) Despite subsections (1) and (2), the Managing Director of the Commission may:

- (a) divulge any information about the immunisation of children, other than information that is such as to enable the identification of a particular child, to:
 - (i) a person who is recognised by the Commission as a provider of immunisation to children; or
 - (ii) an officer of the Department; or
 - (iii) an authorised officer of a Government Department, or of an authority, of a State or Territory who has requested the information and has agreed in writing to comply with subsection (3F); or
- (b) if a person who is recognised by the Commission as a provider of immunisation to children requests that information about the immunisation of a particular child be given to the person for use for a purpose relating to the immunisation or health of the child and a parent or guardian of the child consents to the information being so given—divulge the information to the person; or
- (c) divulge information about the immunisation of a particular child to a parent or guardian of the child by sending a document containing the information by post to the parent or guardian at the address of the parent or guardian contained in a record relating to the immunisation of children that is kept by the Commission; or
- (d) if a prescribed body requests that information about the immunisation of children be given to the body for use for a purpose relating to the immunisation or health of children—divulge the information to an authorised officer of the body; or
- (e) divulge any information about the immunisation of children to an authorised officer of a Government Department, or of an authority, of a State or Territory if the officer has requested that the information be given to the officer for use for a purpose relating to the immunisation or health of children and has agreed in writing to comply with subsection (3F).

“(3C) In subsection (3B):

authorised, in relation to an officer to whom information may be divulged, means an officer authorised by the Secretary or the Managing Director of the Commission to receive the information.

SCHEDULE—continued

information means information contained in a record relating to the immunisation of children that is kept by the Commission for the purposes of subsection (3B) but:

- (a) in paragraphs (3B)(a), (b) and (c), does not include information as to the address of the child or a parent or guardian of a child; and
- (b) in paragraphs (3B)(d) and (e), does not include information about a child or a parent or guardian of a child if the parent or guardian has told the Commission that he or she does not wish to be notified when the child needs to be immunised.

purpose relating to the immunisation or health of children means any of the following purposes:

- (a) the recording of information about the immunisation of children;
- (b) the use of information so recorded to determine:
 - (i) when a particular child was last immunised and the nature of the immunisation; or
 - (ii) when a particular child needs to be immunised;
- (c) the notifying of a parent or guardian of a child when the child needs to be immunised.

“(3D) The Secretary or the Managing Director of the Commission may authorise:

- (a) officers of prescribed bodies for the purposes of paragraph (3B)(d); or
- (b) officers of a Government Department, or of an authority, of a State or Territory for the purposes of subparagraph (3B)(a)(iii) or paragraph (3B)(e).

“(3E) A person to whom information is divulged under paragraph (3B)(b), (d) or (e) must not use the information except for the purpose for which it was requested.

Penalty: 5 penalty units.

“(3F) Subject to subsection (3K), a person to whom information is divulged under subparagraph (3B)(a)(i) or (iii) or paragraph (3B)(b), (d) or (e), and any person or employee under the control of the first-mentioned person, must not, directly or indirectly, make a record of, or divulge to any person, any of the information.

Penalty: 5 penalty units.

“(3G) A person to whom information is divulged under subsection (3B) must not, except for the purposes of this Act, be required to divulge the information to a court.

SCHEDULE—continued

“(3H) A person who has in his or her possession, or under his or her control, a document containing information divulged to the person under subsection (3B) must not, except for the purposes of this Act, be required to produce the document in court.

“(3J) Subsections (3F), (3G) and (3H) continue to apply:

- (a) in respect of information that was divulged to a person under subparagraph (3B)(a)(i) or paragraph (3B)(b) even though the person has ceased to be recognised by the Commission as a provider of immunisation to children; and
- (b) in respect of information that was divulged to an officer of a Government Department, or of an authority, of a State or Territory to whom the information was divulged under subparagraph (3B)(a)(iii) or paragraph (3B)(e) even though the person has ceased to be such an officer; and
- (c) in respect of information that was divulged to an officer of a body to whom the information was divulged under paragraph (3B)(d) even though the person has ceased to be such an officer.

“(3K) Subsection (3F) does not apply to the divulging of information by a person if:

- (a) where the information is divulged by a person referred to in subparagraph (3B)(a)(i) or paragraph (3B)(b)—the divulging of the information is necessary for the purposes of the performance by the person of his or her functions as a provider of immunisation to children; or
- (b) where the information is divulged by an officer of a body referred to in paragraph (3B)(d) or of a Government Department or authority referred to in subparagraph (3B)(a)(iii) or paragraph (3B)(e)—the divulging of the information is necessary for the purposes of the performance of his or her duties and functions, or the exercise of his or her powers, in relation to the immunisation of children as an officer of the body, or of the Government Department or authority, as the case may be.

“(3L) A prescribed body referred to in paragraph (3B)(d) must, in relation to any record in the possession of an officer of the body that contains information disclosed to him or her under that paragraph, ensure:

- (a) that the record is protected by any security safeguards that it is reasonable in the circumstances to take, against loss, against unauthorised access, use, modification or disclosure, and against other misuse; and

SCHEDULE—continued

- (b) that, if it is necessary for the record to be given to a person in connection with the provision of a service to the body, everything reasonably within the body's power is done to prevent unauthorised use or disclosure of information contained in the record.

Penalty: 5 penalty units.”.

2. Subsection 130(11):

Omit “or (3A)”, substitute “, (3A) or (3B)”.

3. Subsection 130(13):

After “(3A),” insert “(3B),”.

4. Subsection 130(25):

After “section” insert “, unless the contrary intention appears”.

