

*(As read a first time)*

**SOCIAL WELFARE LEGISLATION (PHARMACEUTICAL  
BENEFITS) AMENDMENT BILL 1990**

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1990

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 23 August 1990

*(Minister for Aged, Family and Health Services)*

**A BILL**

FOR

**An Act to amend the *National Health Act 1953*, the *Social Security Act 1947* and the *Veterans' Entitlements Act 1986***

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

**PART 1—PRELIMINARY**

**Short title**

5     1. This Act may be cited as the *Social Welfare Legislation (Pharmaceutical Benefits) Amendment Act 1990*.

*Commencement: Day of Royal Assent*

**Commencement**

10    2. Each provision of this Act commences on the day shown by the note in italics at the foot of that provision.

*Commencement: Day of Royal Assent*

MR

**PART 2—AMENDMENTS OF THE NATIONAL HEALTH ACT  
1953**

**Principal Act**

3. In this Part, “**Principal Act**” means the *National Health Act 1953*<sup>1</sup>.

*Commencement: Day of Royal Assent*

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**Interpretation**

4. Section 84 of the Principal Act is amended:

(a) by inserting “or” at the end of paragraphs (a) and (aa) of the definition of “concessional beneficiary” in subsection (1);

(b) by omitting from the definition of “concessional beneficiary” in subsection (1) “but does not include a pensioner” and substituting the following word and paragraph:

“; or (d) a pensioner;”;

(c) by omitting from subsection (1) the definition of “relevant entitlement period” and substituting the following definition:

“**‘relevant entitlement period’** means:

(a) in the application of this Part before 1 January 1992:

(i) in relation to a pensioner—the period commencing on 1 November 1990 and ending on 31 December 1991; or

(ii) in relation to any other person—the year commencing on 1 January 1990 or 1 January 1991; or

(b) in the application of this Part on or after 1 January 1992:

(i) the year commencing on 1 January 1992; or

(ii) a succeeding year;”;

(d) by omitting from subsection (1) the definition of “**pensioner benefit prescription**”;

(e) by inserting the following definition:

“**‘general patient’** means a person who is not a concessional beneficiary;”.

*Commencement: 1 November 1990*

**Eligibility for pharmaceutical benefits entitlement cards**

5. Section 84C of the Principal Act is amended:

(a) by inserting in subsection (1) “who is not a pensioner” after “A person”;

*Commencement: 1 November 1990*

(b) by omitting subsection (1) and substituting the following subsection:

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“(1) A person who is a general patient at any time during a relevant entitlement period is eligible to be issued with an entitlement card in respect of that period if:

- 5 (a) the total of the amounts charged under paragraph 87 (2) (b) or (d) for supplies of pharmaceutical benefits made to the person during that period; or
- 10 (b) the total of the amounts charged under paragraph 87 (2) (c) or (d) for supplies of pharmaceutical benefits made to the person and to the person’s family during that period;

is \$50 or an amount that, together with the amount chargeable under paragraph 87 (2) (d) for the supply of a pharmaceutical benefit, would be not less than \$50.”;

*Commencement: 1 January 1991*

15 (c) by inserting after subsection (1) the following subsections:

“(1A) A person who is a pensioner during the relevant entitlement period commencing on 1 November 1990 and ending on 31 December 1991 is eligible to be issued with an entitlement card in respect of that period if either of the following paragraphs applies:

20 (a) the total of:

(i) the amounts charged for supplies of pharmaceutical benefits made to the person during that period when the person was a concessional beneficiary; and

25 (ii) where the person has, during that period, been a general patient—the transferred value of amounts (if any) charged for supplies of pharmaceutical benefits made to the person during that period when the person was a general patient;

30 is not less than \$150;

(b) the total of:

35 (i) the aggregate of amounts charged for supplies of pharmaceutical benefits made to the person and the person’s family during that period when the person was a concessional beneficiary; and

40 (ii) where the person has, during that period, been a general patient—the transferred value of amounts (if any) charged for supplies of pharmaceutical benefits made to the person and the person’s family during that period when the person was a general patient;

is not less than \$150.

45 “(1B) A person who is a concessional beneficiary (other than a pensioner) during the relevant entitlement period commencing

on 1 January 1991 is eligible to be issued with an entitlement card in respect of that period if either of the following paragraphs applies:

- (a) the total of:
  - (i) the amounts charged for supplies of pharmaceutical benefits made to the person during that period when the person was a concessional beneficiary; and 5
  - (ii) where the person has, during that period, been a general patient—the transferred value of amounts (if any) charged for supplies of pharmaceutical benefits made to the person during that period when the person was a general patient; 10
 is not less than \$130;
- (b) the total of: 15
  - (i) the aggregate of amounts charged for supplies of pharmaceutical benefits made to the person and the person's family during that period when the person was a concessional beneficiary; and
  - (ii) where the person has, during that period, been a general patient—the transferred value of amounts (if any) charged for supplies of pharmaceutical benefits made to the person and the person's family during that period when the person was a general patient; 20
 is not less than \$130. 25

“(1C) A person who is a concessional beneficiary during a relevant entitlement period commencing on or after 1 January 1992 is eligible to be issued with an entitlement card in respect of that period if either of the following paragraphs applies: 30

- (a) the total of:
  - (i) the amounts charged for supplies of pharmaceutical benefits made to the person during that period when the person was a concessional beneficiary; and 35
  - (ii) where the person has, during that period, been a general patient—the transferred value of amounts (if any) charged for supplies of pharmaceutical benefits made to the person during that period when the person was a general patient; 40
 is \$130 or an amount that, together with the amount chargeable under paragraph 87 (2) (a) for the supply of a pharmaceutical benefit, would be not less than \$130;

(b) the total of:

(i) the aggregate of amounts charged for supplies of pharmaceutical benefits made to the person and the person's family during that period when the person was a concessional beneficiary; and

(ii) where the person has, during that period, been a general patient—the transferred value of amounts (if any) charged for supplies of pharmaceutical benefits made to the person and the person's family during that period when the person was a general patient;

is \$130 or an amount that, together with the amount chargeable under paragraph 87 (2) (a) for the supply of a pharmaceutical benefit, would be not less than \$130.”;

*Commencement: 1 November 1990*

(d) by omitting subparagraphs (4) (b) (i) and (ii);

*Commencement: 1 November 1990*

(e) by omitting from paragraph 84C (4) (c) “\$11.00” (wherever occurring) and substituting “\$15.00”.

*Commencement: 1 November 1990*

6. After section 84C of the Principal Act the following section is inserted:

**Modification of amounts paid**

“84CA. For the purposes of subsections 84C (1A), (1B) and (1C), the transferred value of amounts charged for supplies is worked out by multiplying \$2.50 by the number of supplies.”.

*Commencement: 1 November 1990*

**Pharmaceutical benefits prescription record forms**

7. Section 84D of the Principal Act is amended by omitting paragraphs (4) (a) and (b).

*Commencement: 1 November 1990*

**Limited charges for pharmaceutical benefits**

8. Section 87 of the Principal Act is amended:

(a) by omitting from paragraph (2) (b) “\$11.00” and substituting “\$15.00”;

*Commencement: 1 November 1990*

(b) by omitting paragraph (2) (b) and substituting the following paragraphs:

“(b) upon a general benefit prescription where the supply is to a person who, during the relevant entitlement period in which the supply is made, has previously been charged

\$300 for the supplies of pharmaceutical benefits or an amount that (together with the amount that would, apart from this paragraph, be chargeable in respect of the supply) would be not less than \$300—charge the person \$2.50; or

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(c) upon a general benefit prescription where the supply is to a person who, together with the members of his or family, during the relevant entitlement period in which the supply is made, has previously been charged \$300 for supplies of pharmaceutical benefits or an amount that (together with the amount that would, but for this paragraph, be chargeable in respect of the supply) would be not less than \$300—charge the person \$2.50; or

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(d) upon a general benefit prescription where the supply is to a person to whom paragraph (b) has applied, or a person to whose family paragraph (c) has applied, during the relevant entitlement period in which the supply is made—charge the person \$2.50; or

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(e) upon a general benefit prescription other than one relating to a supply to which paragraph (b), (c) or (d) applies—charge the person to whom the pharmaceutical benefit is supplied \$15.00.”;

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*Commencement: 1 January 1991*

(c) by omitting paragraphs (3A) (a) and (b);

*Commencement: 1 November 1990*

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(d) by omitting paragraphs (3B) (a) and (b);

*Commencement: 1 November 1990*

(e) by omitting from subsection (5) “a pensioner, a dependant of a pensioner or”.

*Commencement: 1 November 1990*

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9. After section 98BA of the Principal Act the following section is inserted:

**Tribunal must give effect to certain agreements**

“98BAA. (1) Despite anything else contained in this Part, where the Minister and the Pharmacy Guild of Australia or another pharmacists’ organisation that represents a majority of approved pharmacists have entered into an agreement in relation to the manner in which the Commonwealth price of all or any pharmaceutical benefits is to be ascertained for the purpose of payments to approved pharmacists in respect of the supply by them of pharmaceutical benefits, the Tribunal, in making a determination under subsection 98B (1) while the agreement is in force, must give effect to the terms of that agreement.

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“(2) Where:

(a) at the time an agreement referred to in subsection (1) is entered into, an inquiry under section 98BA is being held or such an inquiry has been completed but the Tribunal has not issued a statement under subsection 98BD (1); or

(b) such an agreement was in force immediately before the commencement of this section and at that time such an inquiry was being held or such an inquiry had been completed but the Tribunal had not issued a statement under subsection 98BD (1);

the Tribunal must terminate the inquiry or, in a case where the inquiry has been completed but a statement has not been so issued, take no further action for the purposes of that inquiry.

“(3) Section 98BA does not apply while there is in force an agreement referred to in subsection (1) except so far as otherwise provided in that agreement.”.

*Commencement: Day of Royal Assent*

#### **Payment for supply of benefits**

10. Section 99 of the Principal Act is amended:

(a) by omitting from paragraph (2) (a) “a pensioner benefit prescription or”;

(b) by omitting from paragraphs (2A) (a), (aa) and (b) “\$11.00” and substituting “\$15.00”.

*Commencement: 1 November 1990*

11. After section 99E of the Principal Act the following Division is inserted in Part VII:

#### **“Division 4A—Indexation**

##### **Interpretation**

“99F. In this Division, unless the contrary intention appears:

‘concessional beneficiary charge’ means each amount of \$2.50 referred to in paragraph 84C (4) (d), section 84CA, paragraph 87 (2) (a) or subsection 99 (2B);

‘concessional beneficiary safety net’ means each amount of \$130 referred to in paragraph 84C (1C) (a) or (b);

‘general patient charge’ means each amount of \$15.00 referred to in paragraph 84C (4) (c) or 87 (2) (e) or subsection 99 (2A);

‘general patient full safety net’ means each amount of \$50 referred to in subsection 84C (1);

‘general patient reduced charge’ means each amount of \$2.50 referred to in paragraph 87 (2) (b), (c) or (d);

**'general patient restricted safety net'** means each amount of \$300 referred to in paragraph 87 (2) (b) or (c);

**'index number'**, in relation to a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician in respect of that quarter. 5

### **Indexation**

"99G. (1) An amount referred to in an item in the CPI Indexation Table below is to be indexed under this section in each year on the indexation day in that item, using the reference quarter in that item and rounding down to the nearest multiple of 10 cents. 10

CPI INDEXATION TABLE			
Item	Amount	Indexation day	Reference quarter
1.	General patient charge	1 August	March
2.	General patient reduced charge	1 October	March
3.	Concessional beneficiary charge	1 October	March
4.	General patient restricted safety net	1 January	September
5.	General patient full safety net	1 January	September
6.	Concessional beneficiary safety net	1 January	September

"(2) Where an amount is to be indexed on an indexation day, this Act has effect as if the indexed amount were substituted for that amount on that day.

"(3) Subject to this section, the indexed amount for an amount to be indexed is worked out using the formula: 15

$$\text{Current figure} \times \text{Indexation factor}$$

where:

**'Current figure'**, as at a particular time in relation to an amount to be indexed, means:

- (a) if the amount has not yet been indexed under this section before that time—the amount; and 20
- (b) if the amount has been indexed under this section before that time—the amount most recently substituted for the amount under this section before that time;

**'Indexation factor'** means the figure worked out under subsection (4). 25

"(4) Subject to subsections (5) and (6), the indexation factor for an

amount to be indexed on an indexation day is worked out using the formula:

$$\frac{\text{Most recent index number}}{\text{Previous index number}}$$

5 where:

‘**Most recent index number**’ means the index number for the most recent reference quarter for the amount ending before the indexation day;

10 ‘**Previous index number**’ means the index number for the reference quarter for the amount immediately preceding the most recent reference quarter for the amount ending before the indexation day.

“(5) Subject to subsections (6) and (7), an indexation factor is to be worked out to 3 decimal places.

15 “(6) If an indexation factor worked out under subsection (5) would, if it were worked out to 4 decimal places, end in a number that is greater than 4, the indexation factor is to be increased by 0.001.

“(7) If an indexation factor worked out under subsections (4), (5) and (6) would be less than 1, the indexation factor is to be increased to 1.

20 “(8) Subject to subsection (9), if at any time (whether before or after the commencement of this section), the Australian Statistician publishes an index number for a quarter in substitution for an index number previously published by the Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of this section.

25 “(9) If at any time (whether before or after the commencement of this section) the Australian Statistician changes the reference base for the Consumer Price Index, regard is to be had, for the purposes of applying this section after the change takes place, only to index numbers published in terms of the new reference base.”.

*Commencement: 1 February 1991*

### **PART 3—AMENDMENTS OF THE SOCIAL SECURITY ACT 1947**

#### **Principal Act**

35 12. In this Part, “**Principal Act**” means the *Social Security Act 1947*.

*Commencement: 1 November 1990*

13. After Part XVI of the Principal Act the following Part is inserted:

#### **“PART XVIIA—PHARMACEUTICAL SUPPLEMENT**

#### **Interpretation**

40 “151A. In this Part:

**'card pensioner'** means:

(a) a person:

(i) to whom or in respect of whom a pension or allowance referred to in paragraph (a) of the definition of 'pensioner' in subsection 4 (1) of the *National Health Act 1953* is being paid; and

(ii) who is a prescribed person under section 251A of this Act; or

(b) a person to whom paragraph (aa) or (ab) of that definition applies;

**'pharmaceutical supplement'** means the supplement payable under this Part;

**'supplement period'** means the period from 1 November 1990 to 19 March 1991 (inclusive).

**Qualification for pharmaceutical supplement**

"151B. Subject to section 151C, a card pensioner is qualified to receive a pharmaceutical supplement.

**Pharmaceutical supplements only payable during supplement period**

"151C. Persons are only qualified to receive pharmaceutical supplements during the supplement period.

**Rate of pharmaceutical supplements**

"151D. (1) The rate of pharmaceutical supplement for an unmarried person is \$2.50 per week.

"(2) Subject to subsection (3), the rate of pharmaceutical supplement for a married person is \$1.25 per week.

"(3) Where subsection 33 (2) or 118 (1B) applies to a married person, the rate of pharmaceutical supplement payable to the person is \$2.50 per week.

**Payment of pharmaceutical supplements**

"151E. A person's pharmaceutical supplement is payable on each day during the supplement period on which a pension, allowance or benefit because of which the person is a card pensioner is paid to or in respect of the person and on which the person is qualified for the supplement."

*Commencement: 1 November 1990*

**PART 4—AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986**

**Principal Act**

14. In this Part, "Principal Act" means the *Veterans' Entitlements Act 1986*<sup>3</sup>.

*Commencement: 1 November 1990*

15. After Part VII of the Principal Act the following Part is inserted:

**“PART VIIA—PHARMACEUTICAL SUPPLEMENT**

**Interpretation**

5 “118A. In this Part:

‘card pensioner’ means a person to whom paragraph (b) or (ba) of the definition of ‘pensioner’ in subsection 4 (1) of the *National Health Act 1953* applies;

10 ‘pharmaceutical supplement’ means the supplement payable under this Part;

‘supplement period’ means the period from 1 November 1990 to 19 March 1991 (inclusive).

**Qualification for pharmaceutical supplement**

15 “118B. Subject to section 118C, a card pensioner is eligible to receive a pharmaceutical supplement.

**Pharmaceutical supplements only payable during supplement period**

“118C. Persons are only eligible to receive pharmaceutical supplements during the supplement period.

**Rate of pharmaceutical supplements**

20 “118D. (1) Subject to subsection (2), the rate of a pharmaceutical supplement for a person is \$5 per fortnight.

“(2) The rate of a pharmaceutical supplement for a person in receipt of a pension at the rate specified in paragraph 47 (1) (b) is \$2.50 per fortnight.

25 **Payment of pharmaceutical supplements**

“118E. A person’s pharmaceutical supplement is payable:

(a) in the case of a person who is paid a pension under this Act—  
on each pension pay day during the supplement period on  
which the person is eligible for the supplement; or

30 (b) in any other case—on such days as the Secretary considers appropriate.”.

*Commencement: 1 November 1990*

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**NOTES**

1. No. 95, 1953, as amended. For previous amendments, see No. 68, 1955; Nos. 55 and 95, 1956; No. 92, 1957; No. 68, 1958; No. 72, 1959; No. 16, 1961; No. 82, 1962; No. 77, 1963; No. 37, 1964; Nos. 100 and 146, 1965; No. 44, 1966; Nos. 14 and 100, 1967; No. 100, 1968; No. 102, 1969; No. 41, 1970; No. 85, 1971; No. 114, 1972; Nos. 49 and 202, 1973; No. 37, 1974; Nos. 1, 13 and 93, 1975; Nos. 1, 60, 91, 99, 108, 157 and 177, 1976; Nos. 98 and 100, 1977; Nos. 36, 88, 132 and 189, 1978; Nos. 54, 91 and 122, 1979; Nos. 117 and 131, 1980; Nos. 40, 74, 92, 118, 163 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 35, 54 and 139, 1983; Nos. 46, 63, 72, 120, 135 and 165, 1984; Nos. 24, 53, 65, 70, 95, 127 and 167, 1985; Nos. 28, 75, 94 and 115, 1986; Nos. 22, 44, 72, 118, 131 and 132, 1987; Nos. 79, 87, 99 and 155, 1988; No. 95, 1989; and No. 3, 1990.
  
2. No. 26, 1947, as amended. For previous amendments, see Nos. 38 and 69, 1948; No. 16, 1949; Nos. 6 and 26, 1950; No. 22, 1951; Nos. 41 and 107, 1952; No. 51, 1953; No. 30, 1954; Nos. 15 and 38, 1955; Nos. 67 and 98, 1956; No. 46, 1957; No. 44, 1958; No. 57, 1959; No. 45, 1961; Nos. 1 and 95, 1962; No. 46, 1963; Nos. 3 and 63, 1964; Nos. 57 and 152, 1965; No. 41, 1966; Nos. 10 and 61, 1967; No. 65, 1968; No. 94, 1969; Nos. 2 and 59, 1970; Nos. 16 and 67, 1971; Nos. 1, 14, 5 and 79, 1972; Nos. 1, 26, 48, 103 and 216, 1973; Nos. 2, 23 and 91, 1974; Nos. 34, 56, 101 and 110, 1975; Nos. 26, 62 and 111, 1976; No. 159, 1977; No. 128, 1978; No. 121, 1979 (as amended by Nos. 37 and 98, 1982); No. 130, 1980; Nos. 61 and 170, 1981; No. 159, 1981 (as amended by No. 98, 1982); Nos. 37, 38 and 148, 1982; Nos. 4 and 36, 1983; No. 69, 1983 (as amended by No. 78, 1984); Nos. 46, 78, 93, 120, 134 and 165, 1984; Nos. 24, 52, 95, 127 and 169, 1985; Nos. 5, 28, 33, 106, 130 and 152, 1986; Nos. 77, 88 and 130, 1987; Nos. 13, 35, 58, 75 and 85, 1988; Nos. 133 and 135, 1988 (as amended by Nos. 84 and 164, 1989); Nos. 59, 83, 84, 163 (as amended by No. 164, 1989) and 164, 1989; and No. 56, 1990.
  
3. No. 27, 1986, as amended. For previous amendments, see Nos. 106 and 130, 1986; Nos. 78, 88 and 130, 1987; Nos. 13, 35, 75, 99 and 134, 1988; No. 135, 1989 (as amended by No. 84, 1989); and Nos. 59, 83 and 164, 1989.





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