

National Health

No. 100 of 1968

An Act to amend the *National Health Act 1953–1967*.

[Assented to 26 November 1968]

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

Short title
and citation.

1.—(1.) This Act may be cited as the *National Health Act 1968*.

(2.) The *National Health Act 1953–1967** 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 1953–1968*.

* Act No. 95, 1953, as amended by 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; and Nos. 14 and 100, 1967.

2.—(1.) Sections 1, 2, 5 and 22 of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commence-
ment.

(2.) The remaining provisions of this Act shall come into operation on the first day of January, One thousand nine hundred and sixty-nine.

3. Section 3 of the Principal Act is amended by inserting after the words and figures— Parts.

“ Division 5.—Patients in Approved Nursing Homes (Sections 56–58).”

the words and figures—

“ Division 5A.—Handicapped Children in Approved Handicapped Persons Homes (Sections 58A–58C).”

4. Section 4 of the Principal Act is amended—

Interpretation.

(a) by omitting from the definition of “ approved ” in sub-section (1.) the words “ or a nursing home ” and inserting in their stead the words “, a nursing home or a handicapped persons home ”;

(b) by omitting from sub-section (1.) the definition of “ gross fees ” and inserting in its stead the following definitions:—

“ ‘ gross fees ’, in relation to the hospital treatment of a qualified hospital patient, the nursing home care of a qualified nursing home patient or the handicapped person care of a qualified handicapped child, means the amount of fees that would be payable by or on behalf of the patient or the handicapped child to the proprietor of the hospital or home in respect of the treatment or care without deduction of the amount of Commonwealth benefit under Part V. of this Act;

‘ handicapped person care ’ means accommodation, and nursing and other care and attention, of a kind ordinarily provided in homes for handicapped persons;

‘ handicapped persons home ’ means premises in which handicapped persons are received and lodged for the purpose of handicapped person care, but does not include—

(a) an institution conducted by a State;

(b) an institution conducted by a person for the purpose of profit or gain to him or an institution conducted by a body that is carried on for the purpose of profit or gain to its individual members;

(c) a hospital or a nursing home; or

(d) premises the maintenance expenditure of which is provided for under an arrangement entered into under the *Tuberculosis Act 1948*;

(c) by omitting from paragraph (a) of the definition of “ proprietor ” in sub-section (1.) the word “ and ”;

(d) by adding at the end of the definition of “ proprietor ” in sub-section (1.) the following word and paragraph:—

“ and (c) in relation to a handicapped persons home—the authority, person or body of persons conducting the home;”;

and

(e) by inserting in sub-section (1.), after the definition of “ proprietor ”, the following definition:—

“ ‘ qualified handicapped child ’ means a handicapped person who is under the age of sixteen years and is accommodated in an approved handicapped persons home for the purpose of handicapped person care;”.

5. Section 9B of the Principal Act is repealed and the following section inserted in its stead:—

Poliomyelitis
and measles
vaccines.

“ 9B. The Minister may provide, or arrange for the provision of—

(a) vaccine for the purpose of immunising persons against poliomyelitis; and

(b) vaccine for the purpose of immunising persons against measles.”.

Period of
hospital
treatment,
nursing home
care or
handicapped
person care.

6. Section 39 of the Principal Act is amended by omitting the words “ or of a qualified nursing home patient ” and inserting in their stead the words “ , of a qualified nursing home patient or of a qualified handicapped child ”.

7. Section 41 of the Principal Act is repealed and the following sections are inserted in its stead:—

Approval of
handicapped
persons homes.

“ 40A.—(1.) The proprietor of a handicapped persons home may apply, in the authorized form, for approval of the home as an approved handicapped persons home.

“ (2.) Where the Director-General is satisfied that the premises in respect of which the application is made are a handicapped persons home and are adequately fitted, furnished and staffed for the purpose of providing handicapped persons with handicapped person care, the Director-General shall approve the premises as an approved handicapped persons home for the purposes of this Part.

Certificate
of approval.

“ 41.—(1.) Upon approval of premises as an approved hospital, as an approved nursing home or as an approved handicapped persons home, the Director-General shall cause to be issued to the proprietor of the hospital or home a certificate of approval in the appropriate authorized form.

“ (2.) The proprietor of the hospital or home shall cause the certificate of approval to be displayed in a prominent position in the hospital or home.

“(3.) The proprietor of an approved hospital, an approved nursing home or an approved handicapped persons home who applies to the Director-General for revocation of the approval of the hospital or home, or the proprietor, or the legal personal representative of the proprietor, of an approved hospital, an approved nursing home or an approved handicapped persons home who gives notice to the Director-General in accordance with section forty-three of this Act, shall forward the certificate of approval of the hospital or home with the application or notice.

“(4.) Where the approval of a hospital, nursing home or handicapped persons home is revoked, the proprietor of the hospital or home shall forward the certificate of approval to the Director-General

Penalty: Forty dollars.”.

8. Section 42 of the Principal Act is amended—

- (a) by omitting the words “or approved nursing homes” and inserting in their stead the words “, approved nursing homes, approved handicapped persons homes”; and
- (b) by inserting in sub-section (2.), after the words “nursing home”, the words “, handicapped persons home”.

Inspection of hospitals, nursing homes and handicapped persons homes.

9. Section 43 of the Principal Act is amended—

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) If the proprietor of an approved hospital, an approved nursing home or an approved handicapped persons home ceases to be the proprietor of the hospital or home, he shall, by notice in writing, notify the Director-General forthwith.”; and

- (b) by omitting from sub-section (2.) the words “or of an approved nursing home” and inserting in their stead the words “, of an approved nursing home or of an approved handicapped persons home”.

Notice of retirement or death of proprietor of approved hospital, nursing home or handicapped persons home.

10. Section 44 of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “or of a nursing home” and inserting in their stead the words “, of a nursing home or of a handicapped persons home”;
- (b) by inserting at the end of sub-section (2.) the words “and, if the Director-General considers that the nature of an approved handicapped persons home has changed since the approval under review was given, he may revoke the approval”; and
- (c) by omitting sub-section (3.) and inserting in its stead the following sub-section:—

Variation or revocation of approval by Director-General.

“(3.) Upon receipt of—

- (a) an application in writing by the proprietor of an approved hospital, of an approved nursing home or of an approved handicapped persons home for revocation of the approval of the hospital or home; or
- (b) a notice in writing given in accordance with the last preceding section in respect of an approved hospital, an approved nursing home or an approved handicapped persons home,

the Director-General may revoke the approval of the hospital or home.”.

Review by Minister.

11. Section 45 of the Principal Act is amended by omitting from sub-section (2.) the words “ or as an approved nursing home ” (wherever occurring) and inserting in their stead the words “ , as an approved nursing home or as an approved handicapped persons home ”.

Benefit payable in respect of patients who are not contributors.

12. Section 53 of the Principal Act is amended by omitting from sub-section (4.) the words “ without the deduction referred to in paragraph (a) of the last preceding sub-section ” and inserting in their stead the words “ without being reduced by the amount of the benefit ”.

Benefit payable in respect of nursing home care.

13. Section 56 of the Principal Act is amended by omitting from sub-section (3.) the words “ without the deduction referred to in paragraph (a) of the last preceding sub-section ” and inserting in their stead the words “ without being reduced by the amount of the benefit ”.

Benefit payable only in respect of necessary nursing home care.

14. Section 57 of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Unless the Director-General otherwise directs, Commonwealth benefit for a day on which a qualified nursing home patient receives nursing home care (not being a day in relation to which sub-section (5.) of the next succeeding section applies in respect of the patient) is not payable unless a medical practitioner, within a period of six months before that day, has certified, or, within a period of seven days after that day, certifies, in the authorized form, that the nature of the illness or injury from which the patient is suffering necessitates nursing home care.”.

15. After section 57 of the Principal Act, the following section is inserted:—

Qualified nursing home patients requiring intensive nursing home care.

“ 57A.—(1.) The proprietor of an approved nursing home may apply, in the authorized form, to the Director-General for his approval of a person as a person requiring intensive nursing home care.

“(2.) An application under the last preceding sub-section in respect of a person shall be accompanied by a certificate of a medical practitioner, in the authorized form, as to the need of the person for intensive nursing home care.

“(3.) Where the Director-General is satisfied that—

- (a) the person in respect of whom the application is made requires intensive nursing home care; and
- (b) the approved nursing home is adequately fitted, furnished and staffed for the purpose of providing persons with intensive nursing home care,

he may, for such period as he thinks proper, approve the person, in relation to that nursing home, as a person requiring intensive nursing home care.

“(4.) An approval under this section ceases to be in force at the expiration of the period specified in the approval but the Director-General may, at any time before the expiration of that period, review the approval and, if he considers that the person to whom the approval relates no longer requires or is not receiving intensive nursing home care, he may revoke the approval.

“(5.) If, on any day, an approval under this section is in force in respect of a qualified nursing home patient in relation to an approved nursing home, the Commonwealth benefit payable in respect of the patient for that day under sub-section (1.) of section fifty-six of this Act shall, subject to this Part, be increased by an amount of Three dollars.

“(6.) In this section, ‘intensive nursing home care’ means nursing home care for a person who, by reason of infirmity, or any illness, disease, incapacity or disability, is bedridden or virtually bedridden and is wholly or substantially dependent upon nursing care or, by reason of the treatment of any illness, disease, incapacity or disability, is wholly or substantially dependent upon nursing care.”.

16. Section 58 of the Principal Act is amended by omitting from paragraph (b) of sub-section (1.) the words “ the last preceding section ” and inserting in their stead the words “ section fifty-seven of this Act ”.

Claim for benefits.

17. After Division 5 of Part V. of the Principal Act the following Division is inserted:—

“ *Division 5A.—Handicapped Children in Approved Handicapped Persons Homes.*

“ 58A.—(1.) Subject to this Part, there is payable to the proprietor of an approved handicapped persons home, in respect of each qualified handicapped child, Commonwealth benefit of One dollar fifty cents for each day on which the handicapped child receives handicapped person care in that home.

Benefit payable in respect of handicapped person care.

“(2.) Commonwealth benefit under this section is not payable to the proprietor of an approved handicapped persons home for any day in respect of a qualified handicapped child unless—

- (a) where the gross fees for the handicapped person care of the handicapped child for that day exceed the amount of benefit—the amount of the fees actually charged in respect of the handicapped

child for the handicapped person care by the proprietor of the home does not exceed the amount of the gross fees reduced by the amount of the benefit;

- (b) where the gross fees for the handicapped person care of the handicapped child for that day do not exceed the amount of the benefit—no fee is charged in respect of the handicapped child by the proprietor of the home; or
- (c) no fee for the handicapped person care of the handicapped child for that day is payable to the proprietor of the home.

“(3.) Where the gross fees for the handicapped person care of a qualified handicapped child exceed the amount of benefit payable under this section and those fees are charged without being reduced by the amount of the benefit, the Director-General may, in his discretion, direct that the benefit be paid to the person who has paid the fees to the proprietor of the home.

Medical certificate in respect of handicapped child.

“58B. Commonwealth benefit is not payable to the proprietor of an approved handicapped persons home in respect of a qualified handicapped child unless a medical practitioner certifies in the authorized form that the child is a handicapped person and that the nature of the handicap from which he is suffering necessitates or makes desirable handicapped person care.

Claim for benefits.

“58C.—(1.) For the purpose of obtaining payment of Commonwealth benefits under this Division, the proprietor of an approved handicapped persons home shall submit—

- (a) as soon as practicable after the end of a month, or such other period as the Director-General permits, a claim, in the authorized form, for benefit payable in respect of that month or period;
- (b) any necessary certificate referred to in the last preceding section; and
- (c) such information relating to the claim as is shown in the form to be required or as the Director-General requests.

“(2.) Payments of Commonwealth benefits under this Division shall not be made except in respect of amounts included in a claim duly made and in relation to which any necessary information has been duly furnished.”.

Commonwealth benefit not payable where person is entitled to compensation or damages.

18. Section 59 of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ or nursing home care ” and inserting in their stead the words “ , nursing home care or handicapped person care ”;
- (b) by omitting from sub-section (1.) the words “ or a qualified nursing home patient ” and inserting in their stead the words “ , a qualified nursing home patient or a qualified handicapped child ”;
- (c) by omitting from sub-section (2.) the words “ or nursing home care ” and inserting in their stead the words “ , nursing home care or handicapped person care ”;

- (d) by omitting from sub-section (2.) the words “ or a qualified nursing home patient ” and inserting in their stead the words “ , a qualified nursing home patient or a qualified handicapped child ”;
- (e) by omitting from sub-section (3.) the words “ or the qualified nursing home patient ” and inserting in their stead the words “ , the qualified nursing home patient or the qualified handicapped child ”;
- (f) by inserting in sub-section (3.), after the words “ that patient ”, the words “ or handicapped child ”;
- (g) by omitting from sub-section (5.) the words “ or nursing home care incurred by a patient ” and inserting in their stead the words “ , nursing home care or handicapped person care incurred by a patient or a handicapped child ”; and
- (h) by adding at the end thereof the following sub-section:—
 - “ (6.) In this section, a reference to a qualified hospital patient, a qualified nursing home patient or a qualified handicapped child shall be read as including a reference to a person acting for or on behalf of such a patient or child.”.

19. Section 61 of the Principal Act is amended by omitting the words “ or of an approved nursing home ” and inserting in their stead the words “ , of an approved nursing home or of an approved handicapped persons home ”.

Records to be kept by approved hospitals, nursing homes and handicapped persons homes.

20. Section 62 of the Principal Act is amended—

Offences.

- (a) by omitting from sub-section (1.) the words “ or of a nursing home ” and inserting in their stead the words “ , of a nursing home or of a handicapped persons home ”;
- (b) by omitting from paragraph (a) of sub-section (1.) the words “ or nursing home ” and inserting in their stead the words “ , nursing home or handicapped persons home ”; and
- (c) by inserting after sub-section (2.) the following sub-section:—
 - “ (2A.) In sub-section (1.) of this section, a reference to the proprietor of a handicapped persons home shall be read as including a reference to a person acting on behalf of an authority or body of persons conducting a handicapped persons home.”.

21. Section 66 of the Principal Act is amended—

Interpretation.

- (a) by inserting in sub-section (1.), before the definition of “ Commonwealth benefit ”, the following definitions:—
 - “ ‘ basic benefit entitlement ’, in relation to hospital treatment in respect of which a claim is or may be made by or on behalf of a contributor for hospital fund benefit from a registered hospital benefits organization, means—
 - (a) the amount by which the sum of the gross fees and extra charges incurred in respect of the hospital

treatment exceeds the amount of Commonwealth and miscellaneous fund benefit payable in respect of the hospital treatment; or

- (b) the amount of benefit in respect of the hospital treatment for which the contributor is insured,

whichever is the less;

‘Commonwealth and miscellaneous fund benefit’, in relation to hospital treatment in respect of which a claim is or may be made by or on behalf of a contributor for hospital fund benefit from a registered hospital benefits organization, or in respect of which a contributor is entitled to hospital fund benefit from a registered hospital benefits organization, means the sum of—

- (a) the amount of Commonwealth benefit payable under Part V. of this Act in relation to the hospital treatment;

- (b) an amount of hospital fund benefit paid or payable by another registered hospital benefits organization in respect of the hospital treatment; and

- (c) an amount paid or payable by another registered hospital benefits organization, or by a registered medical benefits organization, in respect of extra charges in relation to the hospital treatment;”;

- (b) by omitting the definition of “standard rate benefit” from subsection (1.) and inserting in its stead the following definition:—

“ ‘standard rate benefit’ means medical fund benefits in respect of the medical services specified in the Schedule to this Act, being benefits equal in amounts to the amounts respectively specified in that Schedule in relation to those medical services;”.

22.—(1.) After section 81 of the Principal Act the following section is inserted:—

“ 81A.—(1.) Where—

- (a) a person ceases to be a pensioner;
- (b) within two months before, or within three months after, so ceasing, he became or becomes a contributor to a registered medical benefits organization or a registered hospital benefits organization;
- (c) a professional service or hospital treatment is rendered to the contributor, or to one of his dependants, after he ceases to be a pensioner and within a period of two months after he became or becomes such a contributor; and
- (d) under a rule of the organization, the contributor would not, but for this section, be entitled to payment of fund benefit in respect of that professional service or hospital treatment by reason that it was rendered during a waiting period prescribed by a rule of the organization,

Provisions
applicable to
persons ceasing
to be
pensioners.

payment of that fund benefit by the organization may, notwithstanding the rule, be made.

“(2.) Where a claim for fund benefit is lodged by or on behalf of an ordinary contributor in respect of a professional service or hospital treatment rendered to himself or one of his dependants and the benefit would not, but for the last preceding sub-section, be payable, the organization may elect to treat the contributor as a special account contributor in relation to the claim and, upon so doing, this Act shall apply to and in relation to the contributor as if the claim were a claim in relation to which sub-section (1.) or sub-section (1A.), as the case may be, of section eighty-two c of this Act applies.”

(2.) In the application of the section inserted in the Principal Act by the last preceding sub-section during the period commencing on the day on which this Act receives the Royal Assent and ending on the thirty-first day of December, One thousand nine hundred and sixty-eight, the reference in sub-section (2.) of that section to sub-section (1A.) of section eighty-two c of this Act shall be disregarded.

23. Section 82c of the Principal Act is amended—

(a) by omitting sub-section (1.) and inserting in its stead the following sub-sections:—

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

- (a) a claim for medical fund benefit is lodged by or on behalf of an ordinary contributor in respect of a professional service which is rendered to himself or to one of his dependants and in relation to which he is insured;
- (b) by reason only of the rules of the organization relating to the eligibility of an ordinary contributor to be paid fund benefit in respect of a pre-existing ailment or relating to the maximum fund benefit payable to an ordinary contributor, the organization is entitled to disallow the claim or to reduce the amount of fund benefit that would otherwise be payable (whether or not that amount is itself less than standard rate benefit) to an amount that is less than standard rate benefit; and
- (c) the organization does not elect to pay, in respect of the claim, fund benefit not less than—
 - (i) standard rate benefit; or
 - (ii) if the contributor is insured for medical fund benefit less than standard rate benefit—the benefit for which he insured,

the organization shall credit to the special account the amount of the contributions referred to in sub-section (2.) of this section.

Contributors
suffering from
chronic
illnesses, etc.

“(1A.) Where, after the establishment of a special account by a registered hospital benefits organization—

- (a) a claim for hospital fund benefit is lodged by or on behalf of an ordinary contributor in respect of hospital treatment rendered to himself or one of his dependants;
- (b) the amount of the Commonwealth and miscellaneous fund benefit payable in respect of the hospital treatment is less than the sum of the gross fees and extra charges incurred in respect of the treatment;
- (c) by reason only of the rules of the organization relating to the eligibility of an ordinary contributor to be paid hospital 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 the benefit to an amount that is less than the basic benefit entitlement in relation to the hospital treatment; and
- (d) the organization does not elect to pay, in respect of the claim, fund benefit not less than the amount that is the basic benefit entitlement in relation to the hospital treatment,

the organization shall credit to the special account the amount of the contributions referred to in the next succeeding sub-section.”;

- (b) by omitting from sub-section (2.) the words “to the special account in accordance with the last preceding sub-section” and inserting in their stead the words “to a special account in accordance with either of the last two preceding sub-sections”; and
- (c) by adding at the end thereof the following sub-section:—

“(3.) Where—

- (a) after the establishment of a special account by a registered hospital benefits organization, a claim for hospital fund benefit is lodged by or on behalf of an ordinary contributor in respect of a period during which the contributor or one of his dependants has received treatment in a nursing home; and
- (b) the Director-General is satisfied that—
 - (i) the contributor or his dependant was suffering from an illness or injury requiring hospital treatment of the kind provided in an approved hospital; and
 - (ii) the treatment provided was of a standard substantially equivalent to the standard of hospital treatment that he would have received in an approved hospital,

the Director-General shall direct that the treatment shall, for the purposes of this section, be deemed to be hospital treatment.”.

24. Section 82D of the Principal Act is amended—

(a) by omitting from sub-section (1A.) all the words from and including the words “ the sum of ” (second occurring) and inserting in their stead the words “ the amount of Commonwealth and miscellaneous fund benefit payable in respect of the hospital treatment ”; and

Payment of benefits.

(b) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“ (2.) Where, for the purposes of a rule referred to in paragraph (h) of sub-section (1.) of the next succeeding section, the Director-General has approved payment of a benefit in respect of a period during which a person was in an institution other than an approved hospital, that benefit shall, for the purposes of this section, be deemed to be in respect of hospital treatment.”.

25. Section 82E of the Principal Act is amended by omitting paragraph (c) of sub-section (1.) and inserting in its stead the following paragraphs:—

“ (c) in the case of a registered hospital benefits organization, a special account contributor is not, in respect of a claim for hospital fund benefit in relation to hospital treatment (being hospital treatment rendered on or after the date of the establishment of the special account or the day on which there became payable the first contribution in respect of the contributor the amount of which was credited to the special account, whichever is the later) excluded from entitlement to basic benefit entitlement by any rule of the organization relating to the eligibility of the 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;

Rules of organization establishing special account to contain special provisions.

“ (ca) in the case of a registered medical benefits organization, a special account contributor is not, in respect of a claim for medical fund benefit in relation to professional services (being professional services rendered on or after the date of the establishment of the special account or the day on which there became payable the first contribution in respect of the contributor the amount of which was credited to the special account, 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 pre-existing ailment or relating to maximum fund benefit payable;”.

26. Section 139A of the Principal Act is amended by omitting from paragraph (a) of sub-section (1.) the words “ or an approved nursing home ” and inserting in their stead the words “ , an approved nursing home or an approved handicapped persons home ”.

Evidence.

Waiving of
waiting periods
for certain
increased
hospital
benefits.

27.—(1.) Where hospital fund benefit is payable by a registered hospital benefits organization in respect of hospital treatment rendered to a special account contributor or one of his dependants during a period that—

(a) commences on or after the first day of January, and ends on or before the thirty-first day of May, One thousand nine hundred and sixty-nine; and

(b) is a waiting period, or part of a waiting period (being a waiting period that ends not later than that last-mentioned date) prescribed by a rule of the organization, during which, by reason of the contributor having increased the benefits for which he is insured, payment in full of fund benefit is not payable,

payment of that benefit by the organization may, notwithstanding the rule, be made in full.

(2.) Words and phrases used in the last preceding sub-section have the same meaning as in the Principal Act as amended by this Act.
