

NATIONAL HEALTH.

No. 82 of 1962.

An Act to amend the *National Health Act 1953-1961*.

[Assented to 12th December, 1962.]

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 1962*.

Short title
and citation.

(2.) The *National Health Act 1953-1961** 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 1953-1962*.

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.

Commencement.

(2.) Sections four and five, twelve to nineteen and twenty-eight and twenty-nine of this Act and the amendments effected by paragraphs (b) and (c) of section three of this Act shall come into operation on the first day of January, One thousand nine hundred and sixty-three.

3. Section

* Act No. 95, 1953, as amended by No. 68, 1955; Nos. 55 and 95, 1956; No. 92, 1957; No. 68, 1958; No. 72, 1959; and No. 16, 1961.

Parts.**3. Section three of the Principal Act is amended—**

(a) by omitting the words “Part IV.—Pensioner Medical Service (Sections 31–37A).” and inserting in their stead the words “Part IV.—Pensioner Medical Service (Sections 32–37A).”;

(b) by omitting all the words from and including the words “Part V.—Hospital Benefits.” to and including the words “Division 6.—General (Sections 62–65).” and inserting in their stead the words—

“Part V.—Hospital Benefits.

Division 1.—Preliminary (Sections 38–39).

Division 2.—Approval of Premises for the Purposes of this Part (Sections 40–45).

Division 3.—Insured Patients in Approved Hospitals (Sections 46–52).

Division 4.—Uninsured Patients and Pensioners in Approved Hospitals (Sections 53–55).

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

Division 6.—General (Sections 59–64).”;

(c) by omitting the words “Division 1.—General (Sections 66–82).” and inserting in their stead the words “Division 1.—General (Sections 65–82).”.

Interpretation.**4. Section four of the Principal Act is amended—**

(a) by inserting in sub-section (1.), before the definition of “Committee of Inquiry”, the following definition:—

“‘approved’, in relation to a hospital or a nursing home, means approved or deemed to be approved under Division 2 of Part V. of this Act, and ‘approval’ has a corresponding meaning;”;

(b) by omitting from that sub-section the definition of “medical practitioner” and inserting in its stead the following definitions:—

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

‘hospital’

‘ hospital ’ means premises in which patients are received and lodged exclusively for the purpose of hospital treatment, but does not include—

(a) a hospital for the insane, mental hospital, reception house, receiving house or similar institution that is conducted by a State or is in receipt of a grant for maintenance from a State;

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

(c) a nursing home;

‘ hospital fund benefit ’ means the amount payable, otherwise than in respect of Commonwealth benefit under Division 3 of Part V. of this Act, under the rules of a registered hospital benefits organization in respect of a person who is a qualified hospital patient;

‘ hospital treatment ’ means accommodation and nursing care for the purpose of professional attention;

‘ medical practitioner ’ means a person registered or licensed as a medical practitioner under a law of a State or Territory that provides for the registration or licensing of medical practitioners;

‘ nursing home ’ means premises in which patients are received and lodged exclusively for the purpose of nursing home care, but does not include—

(a) a hospital for the insane, mental hospital, reception house, receiving house or similar institution that is conducted by a State or is in receipt of a grant for maintenance from a State; or

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

‘ nursing

‘ nursing home care ’ means accommodation and nursing care for the purpose of professional attention, being accommodation and nursing care of a kind ordinarily provided in a benevolent home, convalescent home, home for aged persons or rest home for patients requiring professional attention; ”; and

(c) by omitting from that sub-section the definition of “ proprietor ” and inserting in its stead the following definitions:—

‘ premises ’ includes a part of premises;

‘ professional attention ’ means—

(a) medical or surgical treatment by or under the supervision of a medical practitioner;

(b) obstetric treatment by or under the supervision of a medical practitioner or registered obstetric nurse; or

(c) dental treatment by or under the supervision of a legally qualified dentist or dental practitioner;

proprietor ’ means—

(a) in relation to a public hospital or public nursing home—the authority or body of persons conducting the hospital or nursing home; and

(b) in relation to a private hospital or private nursing home—the owner of the business or undertaking carried on at the hospital or nursing home;

‘ qualified hospital patient ’ means a person who occupies a bed in an approved hospital for the purpose of hospital treatment, but does not include—

(a) a member of the staff of the hospital receiving hospital treatment in his own quarters; or

(b) a newly born child whose mother also occupies a bed in the hospital, unless there is more than one such child of the same mother, in which case the expression includes each such child in excess of one;

‘ qualified

‘ qualified nursing home patient ’ means a person who occupies a bed in an approved nursing home for the purpose of nursing home care, but does not include—

- (a) a member of the staff of the nursing home receiving nursing home care in his own quarters; or
- (b) a newly born child whose mother also occupies a bed in the nursing home, unless there is more than one such child of the same mother, in which case the expression includes each such child in excess of one; ”.

5. Section nineteen of the Principal Act is amended by omitting from sub-section (2.) the definitions of “ hospital treatment ” and “ professional service ” and inserting in their stead the following definition:—

“ ‘ professional service ’ does not include a professional service specified in Part 1 or Part 2 of the Second Schedule to this Act or in item five hundred and forty-one in Part 3 of that Schedule; ”.

Commonwealth benefit not payable where medical expenses payable to public hospitals.

6. Section twenty of the Principal Act is amended by inserting in paragraph (a), after the words “ the *Repatriation (Far East Strategic Reserve) Act 1956*,”, the words “ the *Repatriation (Special Overseas Service) Act 1962*,”.

Commonwealth benefit not payable in respect of certain free treatment or certain examinations.

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

“ 21.—(1.) Where, in respect of medical expenses incurred by a contributor, he has received or established his right to receive a payment by way of compensation or damages (including a payment in settlement of a claim for compensation or damages) under the law of the Commonwealth or of a State or Territory, and the amount of that payment is not less than the amount of those medical expenses, Commonwealth benefit is not payable.

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

“ (2.) Where, in respect of medical expenses incurred by a contributor, he has received or established his right to receive a payment of the kind referred to in the last preceding sub-section, but the amount of that payment is less than the amount of those medical expenses, the Director-General may approve payment of a Commonwealth benefit of an amount not exceeding the amount of—

- (a) the difference between the amount of that payment and the amount of those medical expenses; or
 - (b) the Commonwealth benefit that, but for this section, would be payable,
- whichever is the less.

“ (3.) Where,

“(3.) Where, at the time at which payment of Commonwealth benefit is claimed, it appears to the Director-General that the contributor may be entitled to receive a payment of the kind referred to in sub-section (1.) of this section, but he has not established his right to that payment, Commonwealth benefit is not payable, but the Director-General may, in his discretion, authorize provisional payment of an amount of Commonwealth benefit not exceeding the amount that but for this section would be payable and, if and when the entitlement or otherwise of the contributor to a payment of the kind referred to in sub-section (1.) of this section has been determined, the contributor is liable to repay to the Commonwealth any amount by which the amount of the benefit provisionally paid exceeds such amount (if any) as is payable under the preceding provisions of this section.

“(4.) An amount that a person is liable to repay under the last preceding sub-section is recoverable as a debt due to the Commonwealth.

“(5.) For the purposes of this section, the Minister may determine that the whole or a specified part of a payment in settlement of a claim for compensation or damages shall be regarded as being in respect of medical expenses incurred by a contributor.”.

Repeal of
section 31.

8. Section thirty-one of the Principal Act is repealed.

Agreement with
Australian
Medical
Association.

9. Section thirty-two of the Principal Act is amended by omitting from sub-section (1.) the words “Federal Council of the British Medical Association in Australia ” and inserting in their stead the words “Australian Medical Association ”.

Agreement
with medical
practitioner.

10.—(1.) Section thirty-three of the Principal Act is amended by omitting sub-section (3.) and inserting in its stead the following sub-section:—

“(3.) In the event of the termination of an agreement entered into under the last preceding section—

- (a) all agreements under this section that were in force at the termination of the first-mentioned agreement shall, subject to the next succeeding sub-section, remain in force unless and until a fresh agreement is entered into under the last preceding section; and
- (b) unless and until a fresh agreement is entered into under the last preceding section, the Director-General may enter into an agreement with a medical practitioner in accordance with the common form of pensioner medical service agreement set out in the agreement under the last preceding section that has been terminated.”.

(2.) The

(2.) The sub-section inserted in the Principal Act by the last preceding sub-section shall be deemed to have taken effect on the first day of July, One thousand nine hundred and sixty, and shall continue to have effect notwithstanding the amendment of section thirty-two of the Principal Act effected by the last preceding section.

11. Section thirty-four of the Principal Act is amended by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraph:—

Disallowance
of claims on
report of
Committee of
Inquiry.

“(a) should have been, or should be, paid an amount or a rate less than the amount or rate of fees or allowances prescribed by the regulations; or”.

12. Part V. of the Principal Act is repealed and the following Part is inserted in its stead:—

“ PART V.—HOSPITAL BENEFITS.

Division 1.—Preliminary.

“ 38.—(1.) In this Part, unless the contrary intention appears—

Interpretation

- ‘ authorized ’ means authorized by the Director-General;
- ‘ Commonwealth benefit ’ means an amount payable by the Commonwealth by way of benefit in accordance with this Part;
- ‘ contributor ’ means a person who pays contributions, or on whose behalf contributions are paid, to the hospital benefits fund conducted by a registered hospital benefits organization, being a person—
 - (a) who, by reason of those contributions, is entitled, subject to the rules of the organization, to be paid a hospital fund benefit of not less than Sixteen shillings for each day on which he receives hospital treatment in an approved hospital; or
 - (b) by whom or on whose behalf those contributions have been continuously payable from a date as at which he was a contributor within the meaning of the definition of ‘ contributor ’ that was in force for the purposes of Part V. of this Act at that date,

and, except in relation to the payment of contributions, includes a dependant of such a person;

- ‘ dependant ’, in relation to a contributor, means a person in respect of whom, by reason of contributions made by or on behalf of the contributor to the fund of a registered hospital benefits organization, hospital fund benefit is, subject to the rules of the organization, payable for each day on which that person is a qualified hospital patient.

“(2.) For

“(2.) For the purposes of this Part, where, at any time after the eleventh day of September, One thousand nine hundred and fifty-eight, the Government of a State or an institution conducted by a State commenced or 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 have become or to become a contributor.

Period of hospital treatment or nursing home care.

“39. For the purposes of this Part, the day of admission and the day of discharge or death of a qualified hospital patient or of a qualified nursing home patient shall be counted together as one day.

“*Division 2.—Approval of Premises for the Purposes of this Part.*

Approval of hospitals and nursing homes.

“40.—(1.) The proprietor of premises in which patients are received and lodged for hospital treatment or nursing home care, being premises fitted, furnished and staffed for the purpose of providing hospital treatment or nursing home care, may apply, in the authorized form, for approval of the premises as an approved hospital or as an approved nursing home.

“(2.) Where the Director-General is satisfied that the premises in respect of which the application is made are a hospital, the Director-General shall approve the premises as an approved hospital for the purposes of this Part.

“(3.) Where the Director-General is satisfied that the premises in respect of which the application is made are a nursing home, the Director-General shall approve the premises as an approved nursing home for the purposes of this Part.

“(4.) The premises of an institution that, immediately before the commencement of this section, was recognized as a hospital for special account purposes under paragraph (a) of sub-section (2.) of section eighty-two E of the *National Health Act 1953-1961* shall, subject to the succeeding provisions of this Division, be deemed to be an approved hospital for the purposes of this Part.

“(5.) The premises of an institution that, immediately before the commencement of this section, was a public hospital as defined in section thirty-nine of the *National Health Act 1953-1961* or an approved private hospital under Division 4 of Part V. of that Act, but was not recognized for special account purposes under paragraph (a) of sub-section (2.) of section eighty-two E of that Act, shall, subject to the succeeding provisions of this Division, be deemed to be an approved nursing home for the purposes of this Part.

Certificate of approval.

“41.—(1.) Upon approval of premises as an approved hospital or as an approved nursing home, the Director-General shall

shall cause to be issued to the proprietor of the hospital or of the nursing home a certificate of approval in the appropriate authorized form.

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

“(3.) The proprietor of an approved hospital or of an approved nursing home who applies to the Director-General for revocation of the approval of the hospital or nursing home, or the authority, person or body of persons who gives a notice in accordance with section forty-three of this Act, shall forward the certificate of approval of the hospital or nursing home, as the case may be, with the application or notice.

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

Penalty: Twenty pounds.

“42.—(1.) The Director-General may, by writing under his hand, authorize an officer or other person to inspect approved hospitals or approved nursing homes or any premises in respect of which an application for approval has been made.

Inspection of hospitals and nursing homes.

“(2.) The proprietor of such a hospital, nursing home or premises shall permit the officer or person so authorized to inspect the premises at any reasonable time.

Penalty: Twenty pounds.

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

Notice of retirement or death of proprietor of approved hospital or nursing home.

“(2.) If the proprietor of an approved hospital or of an approved nursing home dies, the legal personal representative of the deceased proprietor shall, by notice in writing, notify the Director-General forthwith.

Penalty: Twenty pounds.

“44.—(1.) The Director-General may, at any time, review an approval of a hospital or of a nursing home that is then in force under this Division.

Variation or revocation of approval by Director-General.

“(2.) If the Director-General considers that the nature of an approved hospital or of an approved nursing home has changed since the approval under review was given or deemed to have been given, he may vary the nature of the approval or revoke the approval, as he considers justified in the circumstances of the case.

“(3.) Upon

“ (3.) Upon receipt of—

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

the Director-General may revoke the approval of the hospital or of the nursing home, as the case requires.

Review by
Minister.

“ 45.—(1.) The proprietor of an approved hospital or of an approved nursing home may, at any time, by writing under his hand request the Minister to vary the nature of an approval that is then in force under this Division.

“ (2.) The proprietor of premises in respect of which—

- (a) an application for approval as an approved hospital or as an approved nursing home has not been granted by the Director-General; or
- (b) approval as an approved hospital or as an approved nursing home has been revoked by the Director-General,

may, by writing under his hand, request the Minister to review the matter.

“ (3.) Upon receipt of a request under either of the last two preceding sub-sections, the Minister shall, after such investigation of the matter as he considers necessary, either confirm the decision of the Director-General or grant such approval as he considers justified in the circumstances of the case.

“ *Division 3.—Insured Patients in Approved Hospitals.*

Commonwealth
benefit payable
in respect of
contributors.

“ 46.—(1.) Where a contributor receives hospital treatment in an approved hospital, there is payable, subject to this Part, Commonwealth benefit of One pound for each day on which that contributor is a qualified hospital patient.

“ (2.) Where hospital fund benefit is not payable in respect of a day on which a contributor is a qualified hospital patient—

- (a) for the reason that all contributions due and owing by the contributor to the organization have not been paid; or
- (b) for a reason other than the reason specified in the last preceding paragraph, if payment of the benefit could have been refused for the reason so specified,

the amount of Commonwealth benefit per day is Eight shillings instead of One pound.

“ (3.) The last preceding sub-section does not apply where on the date as from which hospital fund benefit ceased to be payable the contributor was in receipt of unemployment benefit or sickness benefit under the *Social Services Act 1947–1962.*

“ 47.—(1.) Commonwealth

“ 47.—(1.) Commonwealth benefit under this Division is payable to the registered hospital benefits organization to the fund of which contributions are paid by or on behalf of the contributor concerned or, if contributions are paid by him or on his behalf to more than one registered hospital benefits organization, to whichever one of those organizations he selects. Payment of benefit.

“ (2.) Commonwealth benefit under this Division in respect of any day is not payable to the organization unless and until—

- (a) where a charge has been made by the proprietor of the approved hospital concerned in respect of the hospital treatment of the contributor for that day—the organization has paid to the contributor or to the proprietor on behalf of the contributor, otherwise than by way of hospital fund benefit, an amount equal to the amount of Commonwealth benefit; or
- (b) where no charge has been made by the proprietor of the approved hospital concerned in respect of the hospital treatment of the contributor for that day—the organization has paid to the proprietor, in respect of that treatment, an amount equal to the amount of Commonwealth benefit.

“ (3.) The last preceding sub-section does not apply to or in relation to an approved hospital that, under sub-section (2.) of section sixty-eight of this Act, is deemed to be a hospital benefits organization and is registered as such.

“ 48.—(1.) Where a contributor receives hospital treatment in an approved hospital in the period of two months commencing on the day on which he became a contributor and, under the rules of the registered hospital benefits organization to the fund of which contributions are paid by him or on his behalf, no hospital fund benefit or an amount of hospital fund benefit of less than Sixteen shillings per day is paid by the organization in respect of the days in that period on which he is a qualified hospital patient, the amount of Commonwealth benefit per day is Eight shillings instead of One pound. Reduced benefit payable in respect of contributor of less than two months' standing.

“ (2.) The last preceding sub-section does not apply to or in relation to—

- (a) hospital treatment in an approved hospital that, under sub-section (2.) of section sixty-eight of this Act, is deemed to be a hospital benefits organization and is registered as such, where the hospital treatment is provided without charge or at a charge reduced by not less than Sixteen shillings per day; or
- (b) a contributor who has been a qualified nursing home patient during any part of the period of two months immediately before the day on which he became a contributor.

“ 49. A Commonwealth

Benefit under this Division not payable if benefit payable under section fifty-four.

“ 49. A Commonwealth benefit under this Division is not payable in respect of a qualified hospital patient for any day for which Commonwealth benefit is payable in respect of that patient under section fifty-four of this Act.

Payment of Commonwealth benefits in the event of suspension or cancellation of registration of organization.

“ 50.—(1.) Where the registration of a registered hospital benefits organization is suspended or cancelled under section seventy-nine of this Act, Commonwealth benefits under this Division are not payable in respect of the period for which the suspension or cancellation takes effect, unless the Minister in respect of a particular hospital benefits organization otherwise directs.

“ (2.) Where the Minister gives a direction under the last preceding sub-section, the Minister may also direct that the Commonwealth benefits shall be payable to the contributors to the organization concerned in such manner, and subject to such conditions, as the Minister determines.

Claims by organizations for Commonwealth benefits.

“ 51.—(1.) For the purpose of obtaining payment of Commonwealth benefits under this Division, a registered hospital benefits organization shall submit—

- (a) as soon as practicable after the end of a month, or of such other period as the Director-General permits, a claim in the authorized form for Commonwealth benefits payable under this Division in respect of that month or period; and
- (b) 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.

Advances.

“ 52.—(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, in respect of any month or other period, an advance to a registered hospital benefits organization for the purpose of enabling the organization to make payment of amounts equal to the amounts of Commonwealth benefits under this Division.

“ (2.) Where an advance has been made in pursuance of the last preceding sub-section in respect of a month or other period and the total amount of Commonwealth benefits under this Division payable to the organization in respect of that month or other period is less than the amount advanced, the amount of the difference is recoverable as a debt due to the Commonwealth.

“ *Division*

“ *Division 4.—Uninsured Patients and Pensioners in Approved Hospitals.*

“ 53.—(1.) Subject to this Part, there is payable to the proprietor of an approved hospital, in respect of a qualified hospital patient who is not a contributor, Commonwealth benefit of Eight shillings for each day on which the patient is a qualified hospital patient in that hospital.

Benefit payable
in respect of
patients who
are not
contributors.

“ (2.) Commonwealth benefit is not payable under this section in respect of a qualified hospital patient for any day for which Commonwealth benefit is payable in respect of that patient under the next succeeding section.

“ (3.) Commonwealth benefit under this section is not payable to the proprietor of an approved hospital for any day in respect of a qualified hospital patient unless—

- (a) where the gross fees for the hospital treatment of the patient for that day exceed the amount of the benefit—the amount of the fees actually charged in respect of the patient by the proprietor of the hospital for the hospital treatment does not exceed the amount of the gross fees reduced by the amount of the benefit;
- (b) where the gross fees for the hospital treatment of the patient for that day do not exceed the amount of the benefit—no fee is charged in respect of the patient by the proprietor of the hospital for the hospital treatment; or
- (c) no fee for the hospital treatment of the patient for that day is payable to the proprietor of the hospital.

“ (4.) Where the gross fees for the hospital treatment of a qualified hospital patient exceed the amount of Commonwealth benefit payable under this section and those fees are charged without the deduction referred to in paragraph (a) of the last preceding sub-section, the Director-General may, in his discretion, direct that the benefit be paid to the patient or to the person (if any) who has paid the fees to the proprietor of the hospital.

“ 54.—(1.) Where the proprietor of an approved hospital, being a public hospital, certifies in the authorized form that no fees were charged in respect of pensioners who were qualified hospital patients in that hospital during a specified period, there is payable to the proprietor of the hospital, in respect of each such pensioner, Commonwealth benefit of One pound sixteen shillings for each day on which the pensioner was a qualified hospital patient in that hospital during that period.

Pensioners.

“ (2.) For the purpose of the last preceding sub-section, ‘ pensioner ’ means a person, being a pensioner or a dependant of a pensioner, who was classified, in accordance with the normal practice of the hospital, as a public ward patient.

“ 55.—(1.) For

Claims for
benefits.

“ 55.—(1.) For the purpose of obtaining payment of Commonwealth benefits under this Division, the proprietor of an approved hospital shall submit—

- (a) as soon as practicable after the end of a month, or of such other period as the Director-General permits, a claim, in the authorized form, for Commonwealth benefits under this Division in respect of that month or period; and
- (b) 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 to the proprietor of a hospital 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.

“ *Division 5.—Patients in Approved Nursing Homes.*

Benefit payable
in respect of
nursing home
care.

“ 56.—(1.) Subject to this Part, there is payable to the proprietor of an approved nursing home, in respect of each qualified nursing home patient, Commonwealth benefit of One pound per day for each day on which the patient receives nursing home care in that nursing home.

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

- (a) where the gross fees for the nursing home care of the patient for that day exceed the amount of benefit—the amount of the fees actually charged in respect of the patient for the nursing home care by the proprietor of the nursing home does not exceed the amount of the gross fees reduced by the amount of the benefit;
- (b) where the gross fees for the nursing home care of the patient for that day do not exceed the amount of the benefit—no fee is charged in respect of the patient by the proprietor of the nursing home for the nursing home care; or
- (c) no fee for the nursing home care of the patient for that day is payable to the proprietor of the nursing home.

“ (3.) Where the gross fees for the nursing home care of a qualified nursing home patient exceed the amount of benefit payable under this section and those fees are charged without the deduction referred to in paragraph (a) of the last preceding sub-section, the Director-General may, in his discretion, direct that the benefit be paid to the patient or to the person (if any) who has paid the fees to the proprietor of the nursing home.

“ 57.—(1.) Unless

“ 57.—(1.) Unless the Director-General otherwise determines, Commonwealth benefit in respect of a period of nursing home care of a qualified nursing home patient is not payable unless—

Benefit payable only in respect of necessary nursing home care.

(a) before or upon the commencement of that period a medical practitioner certifies in the authorized form that the nature of the illness or injury from which the patient is suffering necessitates nursing home care of the kind indicated in the certificate; and

(b) where that period includes the whole of one or more months, a medical practitioner certifies at the end of each month that the nature of the illness or injury from which the patient was suffering necessitated his nursing home care for the duration of that month.

“ (2.) Commonwealth benefit in respect of a qualified nursing home patient is not payable for any day in excess of such period of nursing home care as the Director-General considers reasonably necessary, having regard to the nature of the illness or injury from which the patient is or was suffering and any certificate given in accordance with the last preceding sub-section.

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

Claims for benefits.

(a) as soon as practicable after the end of a month, or of 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.

“ *Division 6.—General.*

“ 59.—(1.) Where, in respect of expenditure incurred by him for hospital treatment or nursing home care, a qualified hospital patient or a qualified nursing home patient has received or established his right to receive a payment by way of compensation or damages (including a payment in settlement of a claim for compensation or damages) under the law of the Commonwealth or of a State or Territory, and the amount of that payment is not less than the amount of that expenditure, Commonwealth benefit is not payable.

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

“ (2.) Where

“(2.) Where, in respect of expenditure for hospital treatment or nursing home care incurred by a qualified hospital patient or a qualified nursing home patient, he has received or established his right to receive a payment of the kind referred to in the last preceding sub-section, but the amount of that payment is less than the amount of that expenditure, the Director-General may approve payment of a Commonwealth benefit of an amount not exceeding the amount of—

- (a) the difference between the amount of that payment and the amount of that expenditure; or
- (b) the Commonwealth benefit that, but for this section, would be payable,

whichever is the less.

“(3.) Where, at the time at which payment of Commonwealth benefit is claimed, it appears to the Director-General that the qualified hospital patient or the qualified nursing home patient may be entitled to receive a payment of the kind referred to in sub-section (1.) of this section, but he has not established his right to that payment, Commonwealth benefit is not payable, but the Director-General may, in his discretion, authorize provisional payment of an amount of Commonwealth benefit not exceeding the amount that but for this section would be payable and, if and when the entitlement or otherwise of the person who was that patient to a payment of the kind referred to in sub-section (1.) of this section has been determined, that person is liable to repay to the Commonwealth any amount by which the amount of the benefit provisionally paid exceeds such amount (if any) as is payable under the preceding provisions of this section.

“(4.) An amount that a person is liable to repay under the last preceding sub-section is recoverable as a debt due to the Commonwealth.

“(5.) For the purposes of this section, the Minister may determine that the whole or a specified part of a payment in settlement of a claim for compensation or damages shall be regarded as being in respect of expenditure for hospital treatment or nursing home care incurred by a patient.

“60. If the Director-General so requests, the proprietor of an approved hospital shall supply, in the authorized form, as soon as practicable after the end of each month, a statement setting out particulars relating to persons who have been qualified hospital patients in the hospital for periods exceeding eight weeks.

Penalty: Twenty pounds.

“61. The proprietor of an approved hospital or of an approved nursing home shall keep such records as will enable claims for Commonwealth benefits to be verified and shall permit those records to be inspected at any reasonable time by an officer or person authorized to make inspections of those records.

Penalty: Twenty pounds.

“62.—(1.) The

Monthly statement by proprietor of approved hospital.

Records to be kept by approved hospitals and nursing homes.

“ 62.—(1.) The proprietor of a hospital or of a nursing home 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— Offences.

- (a) an application for approval of a hospital or nursing home; or
- (b) a claim for a Commonwealth benefit under this Part.

“ (2.) In the last preceding sub-section a reference to the proprietor of a hospital or a nursing home shall be read as including a reference to—

- (a) a person acting on behalf of the authority or body of persons conducting a public hospital or a public nursing home; or
- (b) a person having the management or control of the business or undertaking carried on at a private hospital or a private nursing home,

as the case requires.

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

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

Penalty: One hundred pounds or imprisonment for six months.

“ 63.—(1.) The regulations may provide for payment by the Commonwealth of hospital benefits in respect of persons who— Hospital treatment outside Australia.

- (a) are residents of Australia or the spouses, children or prescribed dependants of residents of Australia;
- (b) are temporarily absent from Australia; and
- (c) are patients in hospitals, as defined by the regulations, outside Australia,

at such rates and subject to such conditions as are specified by or under the regulations.

“ (2.) In this section, ‘ resident of Australia ’ means a person who resides in Australia and includes a person—

- (a) whose domicile is in Australia, unless the Director-General is satisfied that his permanent place of abode is outside Australia; or

(b) who

(b) who has actually been in Australia, continuously or intermittently, during more than one-half of the year ending on the thirtieth day of June immediately preceding the date on which the person became a patient, unless the Director-General is satisfied that his usual place of abode is outside Australia and that he does not intend to take up residence in Australia.

Territories.

“ 64. There are payable towards the maintenance of a public hospital in a Territory such sums as are agreed upon between the Treasurer and the Minister.”.

13. The following section is inserted in Part VI. of the Principal Act, before section sixty-six:—

Saving.

“ 65.—(1.) Notwithstanding the repeal of the *Hospital Benefits Act* 1951 effected by section thirty-eight of the *National Health Act* 1953, where, under the Hospital Benefits Regulations made under the repealed Act, an organization (including a hospital deemed to be an organization under those Regulations) was registered, and that registration was in force immediately before the commencement of this section, the organization shall be deemed to have been registered as a hospital benefits organization under this Part, and the provisions of this Act apply to and in relation to that organization accordingly.

“ (2.) Where registration of an organization referred to in the last preceding sub-section was granted on terms and conditions, the organization shall be deemed to have been registered under this Part on the same terms and conditions.”.

Interpretation.

14. Section sixty-six of the Principal Act is amended by omitting the definitions of “additional benefit”, “approved private hospital”, “gross fees”, “hospital fund benefit”, “hospital treatment”, “public hospital” and “qualified patient”.

Eligibility of organizations for registration for purposes of Part V.

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

(a) by omitting from paragraph (a) of sub-section (1.) the words “Six shillings” and inserting in their stead the words “Sixteen shillings”; and

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

“ (2.) An approved hospital that, by reason of payments made by, or on behalf of, a person, provides hospital treatment for that person or for the spouse or a dependant of that person without charge or at a reduced charge shall be deemed to be a hospital benefits organization under the rules of which an amount of not less than Sixteen shillings per day is payable to such a person for each day on which he is a qualified hospital patient.”.

16. Section

16. Section eighty-two of the Principal Act is amended by omitting from sub-section (4.) the words " the additional benefit " and inserting in their stead the words " a Commonwealth benefit ". Offences.

17. Section eighty-two D of the Principal Act is amended by adding at the end thereof the following sub-section:— Payment of benefits.

" (2.) Where, in accordance with a rule referred to in paragraph (h) of sub-section (1.) of the next succeeding section, the Director-General has approved of any payment of benefit, the amount so paid shall be debited to the special account."

18. Section eighty-two E of the Principal Act is amended— Rules of organization establishing special account to contain certain provisions.

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

" (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—

(i) except in the case of injury by accident; or

(ii) in the case of hospital treatment— unless he was a qualified nursing home patient during any part of the period of eight weeks immediately before he became a qualified hospital patient; ”;

(b) by omitting from paragraph (g) of that sub-section the words " Commonwealth benefit or additional benefit " and inserting in their stead the words " Commonwealth benefit under Part III. or under Division 3 of Part V. of this Act ”;

(c) by omitting paragraph (h) of that sub-section and inserting in its stead the following paragraph:—

" (h) in the case of a registered hospital benefits organization, benefit is not payable from the special account of the fund in respect of a period during which a special account contributor was a patient in an institution other than an approved hospital unless payment of the benefit has been approved by the Director-General; ”;

(d) by

(d) by omitting sub-paragraphs (i) to (iv) of paragraph (i) of that sub-section and inserting in their stead the following sub-paragraphs:—

- “ (i) the amount of Commonwealth benefit payable under Division 3 of Part V. of this Act in respect of that period;
- (ii) the amount of hospital fund benefit (if any) paid or payable in respect of the contributor by any other registered hospital benefits organization in respect of that period; and
- (iii) any amount paid or payable by the registered hospital benefits organization, by any other registered hospital benefits organization or by any registered medical benefits organization in respect of the extra charges incurred in respect of the contributor during that period; ”; and

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

“ (2.) For the purposes of paragraph (h) of the last preceding sub-section, the Director-General shall approve payment of benefit from the special account of the fund in respect of a period in which a special account contributor has received treatment in a nursing home, if he is satisfied that—

- (i) the special account contributor 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.”.

Interpretation.

19. Section eighty-four of the Principal Act is amended by inserting in sub-section (1.), after the definition of “ brand ”, the following definition:—

“ ‘ hospital ’ means premises in which patients are received and lodged for the purpose of hospital treatment; ”.

**Pharmaceutical
Benefits
Advisory
Committee.**

20. Section one hundred and one of the Principal Act is amended—

(a) by omitting from paragraph (b) of sub-section (1.) the words “ British Medical Association in Australia ” and inserting in their stead the words “ Australian Medical Association ”; and

(b) by

(b) by inserting, after sub-section (2A.), the following sub-section:—

“(2B.) A member of the Committee appointed by the Minister shall hold office during the Minister’s pleasure.”.

21. Section one hundred and eight of the Principal Act is amended by omitting from sub-section (1.) the words “British Medical Association in Australia” and inserting in their stead the words “Australian Medical Association”.

Medical Services Federal Committee of Inquiry.

22. Section one hundred and ten of the Principal Act is amended by omitting from sub-section (2.) the words “British Medical Association” and inserting in their stead the words “Australian Medical Association”.

Medical Services State Committees of Inquiry.

23. Section one hundred and twelve A of the Principal Act is amended by omitting the words “British Medical Association” and inserting in their stead the words “Australian Medical Association”.

Medical and Hospital Benefits State Committees of Inquiry.

24. Notwithstanding the amendments made by sections twenty to twenty-three of this Act, a person who, immediately before the commencement of this section, held office as a member of a committee by virtue of an appointment by the Minister, under the *National Health Act* 1953, or that Act as amended from time to time, from among medical practitioners nominated by the Federal Council of the British Medical Association in Australia or by the Council of the branch of the British Medical Association in a State shall, after the commencement of this section, continue to hold office, subject to the Principal Act, as amended by this Act, as a member of the committee and, while holding office, shall be deemed to have been appointed by the Minister from among medical practitioners nominated as provided by the Principal Act, as amended by this Act, with respect to the committee.

Saving of certain appointments.

25. Section one hundred and twenty-seven of the Principal Act is amended by omitting from sub-section (1.) the words “The Committee” and inserting in their stead the words “A Committee”.

Committee may examine upon oath or affirmation.

26. Section one hundred and thirty-four A of the Principal Act is repealed and the following sections are inserted in its stead:—

“134A.—(1.) The Minister may, if he thinks fit, cause to be published in the *Gazette* particulars of or relating to any action that he or the Director-General has taken under section thirty-four, thirty-five, ninety-five or one hundred and thirty-three of

Publication of particulars of certain actions taken under this Act.

this

this Act, including a statement of the reason for that action, which may take the form of, or include, a reference to, or an abstract from, any relevant report by a Committee of Inquiry.

“(2.) A publication in the *Gazette* shall not be made in pursuance of the last preceding sub-section until—

- (a) the period within which an appeal may be brought against the action referred to in that sub-section has expired; and
- (b) if such an appeal is brought, judgment has been given on that appeal.

“(3.) The Minister or the Director-General may, in any report or statement on or relating to the administration of this Act or the operation of this Act or a part of this Act, publish such particulars of, or comments on, cases or matters referred to in sub-section (1.) of this section as he considers necessary or desirable in the public interest, and for that purpose the public interest shall be taken to extend to the prevention or discouragement of conduct that involves contravention of any provision of this Act or the regulations or an abuse of those provisions or failure to discharge conscientiously duties or obligations under those provisions.

“(4.) An action or proceeding, civil or criminal, does not lie against a person for publishing in good faith a copy of, or a fair extract from, or a fair abstract of, a publication made in accordance with the preceding provisions of this section.

“(5.) A publication shall be deemed to be made in good faith if the person by whom it is made is not actuated by ill will to the person affected by the publication or by any other improper motive.

“(6.) Nothing in this section authorizes publication of the name of a patient or particulars that would enable a patient to be identified.

Time within which certain appeals may be brought.

“134AA. Notice of an appeal under section thirty-seven or under section ninety-seven of this Act shall be lodged within thirty days after the person affected by the action taken by the Minister has been given notice of that action.”

27. After section one hundred and thirty-six of the Principal Act the following section is inserted:—

Filling of vacancies on committees.

“136A.—(1.) Whenever a vacancy occurs in the office of a member of a Committee who was appointed by the Minister from among persons of a specified description nominated by a specified body, the Minister may request the appropriate body to nominate a specified number of persons of that description and may fill the vacancy by appointing a person from among the persons so nominated.

“(2.) In

1962.

National Health.

No. 82.

“(2.) In this section, ‘Committee’ means a committee constituted under this Act.”.

28. Section one hundred and thirty-seven of the Principal Act is amended by omitting from sub-section (1.) the words “ or section forty ”.

Payments to
be made out
of the National
Welfare Fund.

29. Section one hundred and thirty-nine A of the Principal Act is amended by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraph:—

Evidence.

“(a) any premises were or were not an approved hospital or an approved nursing home for the purposes of Part V. of this Act;”.