

HEALTH BENEFITS (RECIPROCITY WITH AUSTRALIA) BILL

EXPLANATORY NOTE

General Policy Statement

The key policy underlying this Bill is to:

- Replace the Agreement on Medical Treatment for Temporary Visitors Between the Government of New Zealand and the Government of Australia dated 2 April 1986 with the Agreement on Medical Treatment for Temporary Visitors Between the Government of New Zealand and the Government of Australia dated 4 May 1998 (“the Agreement”); and
- Ensure that immediately necessary inpatient and outpatient public hospital services, pharmaceuticals, and maternity services will continue to be provided to temporary visitors from the other country on terms no less favourable than would apply to residents of the host country; and
- Remove general practitioner and other out-of-hospital medical services (except immediately necessary maternity services) from the scope of the reciprocal arrangement between the 2 countries.

Clause by Clause Analysis

Clause 1 relates to the Short Title and commencement of the Bill. The Bill comes into force on a date to be appointed by Order in Council. The commencement of the Bill is deferred because the Agreement is not yet in force. Although the Agreement was signed by Australia and New Zealand on 4 May 1998, the Agreement does not come into force until the 2 countries specify a date for this purpose in an exchange of Notes. This process is set out in Article 7 (1) of the Agreement. Accordingly, it is appropriate to defer the Bill coming into force until this process has been completed.

Clause 2 gives the Agreement the force of law in New Zealand. The Agreement is set out in the *Schedule*.

Clause 3 repeals the Health Benefits (Reciprocity with Australia) Act 1986 as this Bill supersedes that Act.

Hon Bill English

HEALTH BENEFITS (RECIPROCITY WITH AUSTRALIA)

ANALYSIS

Title	SCHEDULE
1. Short Title and commencement	Agreement on Medical Treatment for Temporary Visitors Between the Government of New Zealand and the Government of Australia
2. Reciprocity agreement to have effect	
3. Repeals	

A BILL INTITULED

An Act to provide for reciprocity with Australia in relation to pharmaceutical, hospital, and maternity benefits

5 BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Health Benefits (Reciprocity with Australia) Act 1998.

10 (2) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

2. Reciprocity agreement to have effect—The provisions contained in the agreement set out in the Schedule have effect so far as they relate to New Zealand.

3. Repeals—The following enactments are repealed:

- 15 (a) The Health Benefits (Reciprocity with Australia) Act 1986;
(b) So much of the Fourth Schedule of the Health Reforms (Transitional Provisions) Act 1993 as relates to the Health Benefits (Reciprocity with Australia) Act 1986.
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Section 2**SCHEDULE**

AGREEMENT ON MEDICAL TREATMENT FOR TEMPORARY VISITORS BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF AUSTRALIA
 The Government of New Zealand and the Government of Australia,
 Desirous of providing immediately necessary medical treatment for residents of the territory of one Party temporarily in the territory of the other Party,
 Have agreed as follows:

ARTICLE I*Interpretation*

For the purpose of this Agreement:

(1) "competent authorities" means:

- (a) in relation to Australia, the Department of Health and Family Services, or such other department which may in the future carry out the relevant functions of the Department of Health and Family Services.
- (b) in relation to New Zealand, the Ministry of Health, or such other department which may in the future carry out the relevant functions of the Ministry of Health.

(2) "evidence of residence" means:

- (a) in relation to an Australian resident temporarily in the territory of New Zealand, a current Australian passport or any other current passport endorsed to the effect that the holder is entitled to reside in Australia indefinitely; and
- (b) in relation to a New Zealand resident temporarily in the territory of Australia:
 - (i) a current New Zealand passport; or
 - (ii) any other current passport or current certificate of identity endorsed to the effect that the holder is entitled to reside in New Zealand indefinitely; or
 - (iii) a current refugee travel document granted by the Government of New Zealand.

(3) "medical treatment" means:

- (a) in relation to Australia, pharmaceutical benefits provided to a general patient as defined under the National Health Act 1953, and any public hospital service provided to a public patient within the public health system provided under the Health Insurance Act 1973, and any determination or authorisation made under the Health Insurance Act 1973; and
- (b) in relation to the territory of New Zealand (excluding Niue), pharmaceutical benefits (excluding any additional pharmaceutical benefit provided to a holder of a community services card issued pursuant to the Health Entitlement Cards Regulations 1993 or any replacement regulations), and hospital services and maternity services provided in accordance with the relevant funding agreement (as defined in section 21 (1) of the Health and Disability Services Act 1993);
- (c) in relation to Niue, pharmaceutical benefits and hospital services provided under the Niue Act 1966.

SCHEDULE—*continued*

ARTICLE 1—*continued*

Interpretation—continued

- (4) “resident” means:
- (a) in relation to Australia, a person who is an Australian resident as defined in and for the purposes of the Health Insurance Act 1973; and
 - (b) in relation to New Zealand, a person who is a New Zealand resident of the territory of New Zealand.
- (5) “temporarily in the territory” means:
- (a) in relation to the territory of Australia, lawfully present but not resident in that territory; and
 - (b) in relation to the territory of New Zealand, lawfully present but not ordinarily resident in that territory.
- (6) “territory” means:
- (a) in relation to Australia, the territory of Australia, excluding all external territories other than the territories of Cocos (Keeling) Islands and Christmas Island; and
 - (b) in relation to New Zealand, the territory of New Zealand including Tokelau together with the associated self-governing State of Niue.
- (7) “public patient” means, in relation to a public hospital service in Australia, a person who is eligible for medical treatment as a public patient under the Health Insurance Act 1973.

ARTICLE 2

Persons to Whom Agreement Applies

(1) Subject to paragraph (2) of this Article, this Agreement applies to a resident of the territory of one Party who, at the time of seeking medical treatment, is able to provide evidence of residence in that territory and who is temporarily in the territory of the other Party.

(2) This Agreement does not apply to any resident of the territory of one Party who enters the territory of the other Party for the specific purpose of seeking medical treatment.

(3) Notwithstanding paragraph (2) of this Article, where a resident of the territory of one Party is:

(a) a member of the crew or passenger on an aircraft; or

(b) a passenger on any vessel, or crew on any non-commercial vessel;

who is travelling to, leaving from, or diverted to the territory of the other Party and the need for medical treatment arose during that flight or voyage, that resident is entitled to that medical treatment.

ARTICLE 3

Medical Treatment

A resident of the territory of one Party (being a person to whom this Agreement applies according to Article 2) who, in the opinion of the provider of medical treatment, needs immediately necessary medical treatment while in the territory of the other Party, shall be provided with such medical treatment as is clinically necessary for the diagnosis, alleviation or care of the condition requiring attention, on terms no less favourable than would apply to a person who is a resident of the latter territory.

SCHEDULE—*continued*

ARTICLE 4

Financial Arrangements

(1) Neither Party shall be liable to make any payment to the other Party in respect of medical treatment provided under Article 3.

(2) Any amount payable for medical treatment provided under Article 3, pursuant to this Agreement, shall be borne by the person in respect of whom the medical treatment is provided.

ARTICLE 5

Communication Between Competent Authorities

(1) The competent authorities shall send to each other, as soon as possible, details of any changes in legislation, determinations, authorisations or funding agreements in force in their respective territories which may significantly affect the nature and scope of services provided under this Agreement.

(2) Matters relating to the interpretation or application of this Agreement shall be resolved by consultation between the competent authorities.

ARTICLE 6

Application of Agreement

(1) At any time, the Parties may agree to amend this Agreement in writing.

(2) References in this Agreement to any legislation, determination, authorisation, or funding agreement also include any legislation, determination, authorisation, or funding agreement which replaces, amends, supplements, or consolidates the legislation, determination, authorisation, or funding agreement referred to.

(3) For the purposes of this Agreement, unless the context otherwise requires, other words and expressions used in the Agreement have the meanings assigned to them respectively under the legislation or funding agreement referred to in Article 1 paragraph (3).

ARTICLE 7

Term of Agreement

(1) This Agreement shall enter into force on the date specified in the Notes exchanged between the Parties through diplomatic channels notifying each other in writing that all their respective requirements for the entry into force of this Agreement have been fulfilled.

(2) This Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other written notice through diplomatic channels of its intention to terminate this Agreement.

(3) In the event that this Agreement is terminated in accordance with paragraph (2), the Agreement shall continue to have effect in relation to medical treatment which was being provided immediately prior to or at the expiry of the period referred to in that paragraph.

(4) On entry into force, this Agreement shall supersede the Agreement on Medical Treatment Between the Government of Australia and the Government of New Zealand, done at Rotorua on 2 April 1986.

(5) Notwithstanding paragraph (4) of this Article, the Parties agree that the Agreement on Medical Treatment Between the Government of Australia and the Government of New Zealand, done at Rotorua on 2 April 1986, shall continue to have effect in relation to medical treatment which

SCHEDULE—*continued*

ARTICLE 7—*continued*

Term of Agreement—continued

was being provided to any person under that Agreement immediately prior to or at the date of supersession.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Melbourne this fourth day of May 1998.

ROGER SOWRY
For the Government of New Zealand

MICHAEL RICHARD LEWIS
WOOLDRIDGE
For the Government of Australia