

Version
as at 28 October 2021



Health Benefits (Reciprocity with Australia) Act 1999

Public Act 1999 No 18
Date of assent 7 April 1999
Commencement see section 1(2)

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**Agreement on Medical Treatment for Temporary Visitors
Between the Government of New Zealand and the Government
of Australia**

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

1 Short Title and commencement

- (1) This Act may be cited as the Health Benefits (Reciprocity with Australia) Act 1999.

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Health.

- (2) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.
- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 1(2): Health Benefits (Reciprocity with Australia) Act 1999 brought into force, on 1 September 1999, by clause 2 of the Health Benefits (Reciprocity with Australia) Act Commencement Order 1999 (SR 1999/218).

Section 1(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

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The following enactments are repealed:

- (a) the Health Benefits (Reciprocity with Australia) Act 1986:
- (b) *Amendment(s) incorporated in the Act(s).*

Schedule

Agreement on Medical Treatment for Temporary Visitors Between the Government of New Zealand and the Government of Australia

s 2

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 1 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.
- (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.

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 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

Notes

1 *General*

This is a consolidation of the Health Benefits (Reciprocity with Australia) Act 1999 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Health Benefits (Reciprocity with Australia) Act Commencement Order 1999 (SR 1999/218)