To amend the National Health Act 1953 so as to establish an independent Tribunal to determine the rates of remuneration payable to chemists for the supply of pharmaceutical benefits.

Main Provisions

Clause 3 proposes several new definitions in s.84 of the Act, relating to other amendments proposed in the Bill which establish a Pharmaceutical Benefits Remuneration Tribunal. Clause 3(b), (d) and (e) amend references to the British Pharmacopoeia to account for its changed publishing authority.

Clause 4 repeals s.98A and 98B of the Act and inserts new s.98A and 98B which establish a Pharmaceutical Benefits Remuneration Tribunal. Proposed s.98A(1) provides that the Tribunal shall comprise a Chairman appointed by the Governor-General and two other Members appointed by the Minister, all such appointments to be on a part-time basis with the Chairman being a Deputy President of the Australian Conciliation and Arbitration Commission. Proposed s.98B(1) provides that the function of the Tribunal is to be the determination of the manner in which the Commonwealth price for all or any pharmaceutical benefits is to be ascertained for the purpose of payments to the supplying pharmaceutical chemist, and sets out the criteria which the Tribunal may use in performing this function. Proposed s.98BA(1) provides for the Tribunal to hold such a price inquiry at intervals of no more than 12 months. Under s.98B(5) the Tribunal is required to have regard to any principles determined by the Australian Conciliation and Arbitration Commission as being appropriate for the fixation of award wages or salaries. Section 98BA(3) provides for interested
persons to make submissions in person or by representation before the Tribunal. Section 98BB provides that the Chairman of the Tribunal alone, or in the company of either or both members, shall constitute the Tribunal for the purposes of any proceedings before it. Section 98BC provides that the procedure of the Tribunal lies within the discretion of the Tribunal, and that it is not bound by any rules of evidence but may inform itself of any matter in such manner as it thinks just, according to equity, good conscience and the substantial merits of the case. Under s.98BC(2) proceedings before the Tribunal shall be public except where under s.98BC(3) the Tribunal may consider a private proceeding to be appropriate in which case under s.98BC(4) the Tribunal may admit or prohibit the attendance of specified persons at the proceeding. Under s.98BC(5) the Chairman shall preside at proceedings before the Tribunal, and all questions to be decided shall be decided by a majority of votes of the Members. The Chairman has a deliberative vote and, if necessary, a casting vote.

Proposed s.98BD provides for the Tribunal to issue in writing at a public proceeding a statement of its findings and the reasons for them when it has held an inquiry under s.98BA. A report setting out the terms of the statement is to be submitted to the Minister, and a notice setting out the terms of the statement is to be published in the Gazette. Proposed s.98BE provides for a determination of the Tribunal to come into operation on a date set by the Tribunal in its determination, not being earlier than the date on which the determination was made public.

Clause 5 proposes to amend s.98C(2) so that the Minister may request the Tribunal to make a report to him on matters relating to the Tribunal's function.

Clause 7 proposes a new s.98E which provides that the Chairman, if he thinks it desirable, may direct that any document, or evidence of other materials presented to a proceeding before the Tribunal shall be treated as confidential, and that a person who by virtue of his office or employment under or for the purposes of the Act shall not infringe that confidentiality except when it is necessary for the purposes of a prosecution under or arising out of this Act.

Clause 9 provides that determinations made under s.98B(1) before the commencement of this Act shall remain in force after the commencement of this Act.

Clause 10 provides for the Tribunal to complete its
first inquiry under s.98BA and issue its findings arising from that inquiry before 1 July 1981.

For further information, if required, contact:

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4 May 1981