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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

HEALTH LEGISLATION (POWERS OF INVESTIGATION) AMENDMENT BILL 1996

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Health and Family Services,
the Hon. Dr Michael Wooldridge, MP)

HEALTH LEGISLATION (POWERS OF INVESTIGATION) AMENDMENT BILL 1996

OUTLINE

This Bill proposes to make arrangements for certain investigative powers held by the Health Insurance Commission to remain in force.

It proposes to do this by repealing Section 2 of the *Health Legislation (Powers of Investigation) Amendment Act 1994*, and Item 68 of Schedule 1 of the *Human Services and Health Legislation Amendment Act (No. 3) 1995*, both of which are sunset clauses that would ordinarily take effect on 1 July 1996.

Section 2 of the *Health Legislation (Powers of Investigation) Amendment Act 1994* provides that the entire Act should cease to have force on and from 1 July 1996. The Act itself provides for a number of important powers of investigation which permit the Health Insurance Commission to obtain information, conduct searches in order to monitor compliance with Medicare guidelines, execute search warrants and seize materials for the purposes of evidence.

The sunset clause itself was the result of a hearing before the Senate Standing Committee on Legal and Constitutional Affairs. It was inserted to allow a reasonable amount of time to pass for the Parliament to make a judgement about whether the powers had been abused in any way by the Health Insurance Commission. Having withstood concerns about the abuse of such powers, it is important that those powers now be preserved in order to give full effect to the role and function of the Health Insurance Commission as a regulatory body over Medicare practices and fraud.

Similarly, Item 68 of Schedule 1 of the *Human Services and Health Legislation Amendment Act (No.3) 1995* provides that Item 66 and the amendments made by Item 66 of Schedule 1 of that Act cease to be in force from 1 July 1996. The Health Insurance Commission will not be able to use the powers conferred by Item 66 unless Item 68 of Schedule 1 is repealed.

Item 66 ensures procedural fairness in relation to the seizure of evidential materials for the purposes of investigating Medicare fraud and over-servicing. Item 66 does this by imposing an obligation upon authorised officers or assisting officers to return material seized under Divisions 4 & 5 of the *Human Services and Health Legislation Amendment Act (No.3) 1995* when the reason warranting the seizure no longer exists or a decision is made not to use the material in evidence.

FINANCIAL IMPACT STATEMENT

The *Health Legislation (Powers of Investigation) Amendment Act 1994* was part of the 1993 Budget measures to reduce medical fraud and overservicing. This Bill will allow those measures to continue to be achieved.

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NOTES ON CLAUSES

Clause 1 - Short title

This is the formal provision that specifies the short title of the Act as the *Health Legislation (Powers of Investigation) Amendment Act 1996*.

Clause 2 - Commencement

This clause provides that the Act commences on the day on which it receives Royal Assent, or, if Royal Assent has not been given before 1 July 1996, then the Act is taken to have commenced on 30 June 1996.

Clause 3 - Schedule

The Schedule sets out the Acts that are to be amended by this Act and the terms in which they are to be amended.

Schedule - Amendments of Acts

The Schedule, at item 1, amends section 2 of the *Health Legislation (Powers of Investigation) Amendment Act 1994*, by omitting the section - that is, the sunset clause of that Act.

The Schedule, at item 2, amends the *Human Services and Health Legislation Amendment Act (No.3) 1995*, by omitting Item 68 of Schedule 1 - that is, the sunset clause provisions of that Act.



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