

# TASMANIA

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## HEALTH AMENDMENT (FEES VALIDATION) BILL 2015

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# **HEALTH AMENDMENT (FEES VALIDATION)**

## **BILL 2015**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*  
20 August 2015

*(Brought in by the Minister for Health, the Honourable  
Michael Darrel Joseph Ferguson)*

### **A BILL FOR**

**An Act to amend the *Public Health Act 1997* to validate certain fees charged, or purportedly charged, under the *Health (Fees) Regulations 2007* or the *Health (Fees) Regulations 1997* and the collection, or purported collection, of such fees, to amend the *Health (Fees) Regulations 2007*, and for related purposes**

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART 1 – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the *Health Amendment (Fees Validation) Act 2015*.

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Part 1 – Preliminary

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**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

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**PART 2 – HEALTH (FEES) REGULATIONS 2007  
AMENDED**

**3. Principal Regulations**

In this Part, the *Health (Fees) Regulations 2007*\*  
are referred to as the Principal Regulations.

**4. Regulation 3 amended (Interpretation)**

Regulation 3 of the Principal Regulations is  
amended as follows:

- (a) by inserting the following definition after  
the definition of *Health Care Card*:

***hospital*** means a public hospital or a  
private hospital;

- (b) by omitting the definition of *nursing-  
home-type patient* and substituting the  
following definition:

***nursing-home-type patient*** has the  
meaning it has in regulation 3A;

- (c) by inserting the following definition after  
the definition of *Pensioner Concession  
Card*:

***private hospital*** means a private  
hospital within the meaning of  
the Commonwealth Act;

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\*S.R. 2007, No. 92

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**5. Regulation 3A inserted**

After regulation 3 of the Principal Regulations,  
the following regulation is inserted:

**3A. Meaning of *nursing-home-type patient***

- (1) For the purposes of these regulations, a person is a nursing-home-type patient on a day if he or she is in a public hospital being provided with accommodation and nursing care on that day and the day is a chargeable day.
- (2) For the purposes of subregulation (1), a person is in a public hospital being provided with accommodation and nursing care on a day that is a chargeable day if he or she is a patient in a public hospital being provided with accommodation and nursing care on that day and the day –
  - (a) occurs in a continuous period of more than 35 days in which the patient is in a hospital being provided with accommodation and nursing care; and
  - (b) is not a day in the first 35 days of that continuous period; and
  - (c) is not a day to which relates a certificate from a medical practitioner to the effect that the patient is in need of acute care.

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- (3) For the purpose of ascertaining whether a patient is in a public hospital being provided with accommodation and nursing care on a day that occurs in a continuous period, there is to be taken into account –
- (a) any period, during which that patient was provided with accommodation and nursing care as a patient in that hospital, or in another hospital, that occurs before that day and that forms one continuous period with that day; or
  - (b) if there are 2 or more periods, during which that patient was provided with accommodation and nursing care as a patient in that hospital, or in another hospital, that occur before that day and that form one continuous period with one another and with that day – those earlier periods.
- (4) For the purposes of subregulation (3)(a) and (b), 2 periods –
- (a) that are periods during which a patient is provided with accommodation and nursing care as a patient in a hospital (whether or not the same hospital); and

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- (b) that are separated from each other by a period of not more than 7 days during which the patient was not provided with accommodation and nursing care as a patient in any hospital –

are to be taken to form one continuous period with one another.

**6. Regulation 4 amended (Fees for non-nursing-home-type patients)**

Regulation 4 of the Principal Regulations is amended as follows:

- (a) by omitting subregulation (1);
- (b) by inserting in subregulation (2) “on a day on which the person is not a nursing-home-type patient” after “public hospital”;
- (c) by inserting in subregulation (3) “on a day on which the person is not a nursing-home-type patient” after “hospital”.

**7. Regulation 5 substituted**

Regulation 5 of the Principal Regulations is rescinded and the following regulation is substituted:



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**5. Fees for nursing-home-type patients**

The fees specified in Schedule 2 are prescribed as the fees payable by or on behalf of a patient for hospital services provided in a public hospital to the patient on a day on which the patient is a nursing-home-type patient.

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**PART 3 – HEALTH ACT 1997 AMENDED**

**8. Principal Act**

In this Part, the *Health Act 1997*\* is referred to as the Principal Act.

**9. Section 7A inserted**

After section 7 of the Principal Act, the following section is inserted:

**7A. Validation of certain fees charged, amendment of regulations, &c.**

(1) In this section –

*amending Act* means the *Health Amendment (Fees Validation) Act 2015*;

*former regulations* means the *Health (Fees) Regulations 2007* as in force during the validation period;

*rescinded regulations* means the *Health (Fees) Regulations 1997* as in force during the validation period;

*subsequent regulations* means the *Health (Fees) Regulations 2007*

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\*No. 13 of 1997

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as in force immediately after the  
amending Act commences;

***validation day*** means the day on  
which the amending Act  
commences;

***validation period*** means the period  
beginning on 1 April 2007 and  
ending immediately before the  
validation day.

- (2) This section applies to a fee that was, before the validation day, charged, or purportedly charged, under regulation 5 of the former regulations, in respect of a period within the validation period, if the fee would have been, but for this section, invalidly charged by reason only that the former regulations, rather than the subsequent regulations, were in effect during the validation period.
- (3) This section also applies to a fee that was, before the validation day, charged, or purportedly charged, under regulation 6 of the rescinded regulations, in respect of a period within the validation period, if the fee would have been, but for this section, invalidly charged by reason only that the expression “nursing-home-type patient” did not have, in the rescinded regulations, the meaning set out in regulation 3A of the subsequent regulations.

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- (4) A fee to which this section applies is taken to be, and to always have been, validly charged and, if collected or purportedly collected, validly collected.
- (5) Despite subsection (2), this section does not apply in relation to a fee charged, or purportedly charged, to a person if the fee was collected, or purportedly collected, from the person and then refunded to the person before the validation day.
- (6) The amendment of the former regulations by Part 2 of the amending Act does not prevent the subsequent regulations being subsequently amended or rescinded by any regulations made under this Act.

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**PART 4 – CONCLUDING PROVISION**

**10. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.