

FIRST PRINT

**MEDICALLY ACQUIRED AIDS VICTIMS COMPENSATION
BILL 1991**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to provide for the payment of compensation to persons who have contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome from infected transfused blood or infected blood products.

FIRST PRINT

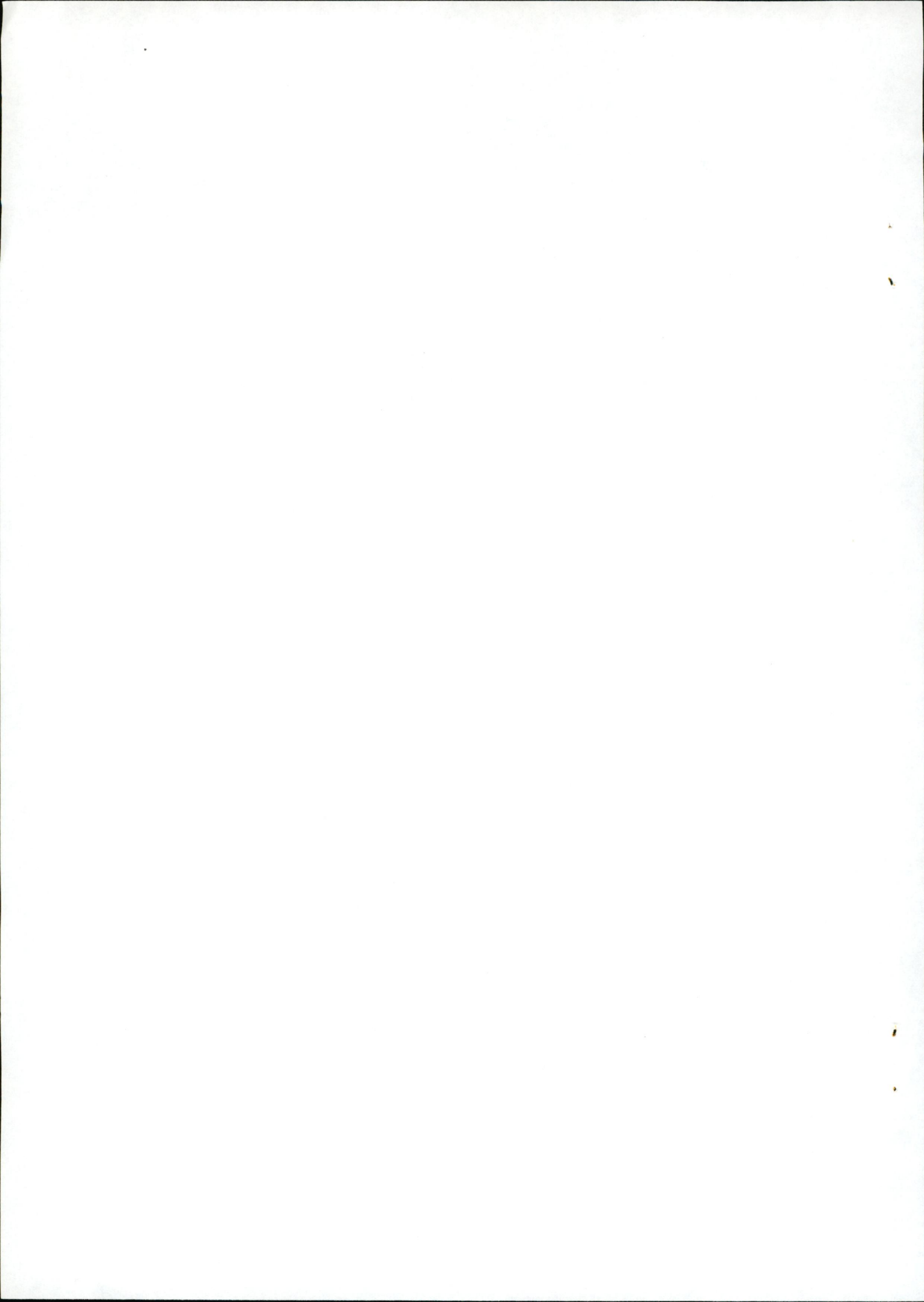
**MEDICALLY ACQUIRED AIDS VICTIMS COMPENSATION
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**MEDICALLY ACQUIRED AIDS VICTIMS COMPENSATION
BILL 1991**

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to provide for the payment of compensation to persons who have contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome from infected transfused blood or infected blood products.

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The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Medically Acquired Aids Victims Compensation Act 1991.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. In this Act:

“**administering authority**” means the body, person or persons appointed by the Minister for Health under section 4;

“**blood products**” means a product or extract derived or extracted from blood by any process of manufacture;

“**eligible person**” means a person referred to in section 5;

“**hospital**” means:

- (a) an incorporated hospital mentioned in the Second Schedule to the Public Hospitals Act 1929; or
- (b) a separate institution mentioned in the Third Schedule to that Act; or
- (c) a hospital mentioned in the Fifth Schedule to that Act; or
- (d) a hospital under the control of an area health service constituted under the Area Health Services Act 1986; or
- (e) a private hospital within the meaning of the Private Hospitals Act 1908;

“**infected**” means infected by Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome;

“**medical practitioner**” means a person who is registered, or taken to be registered, as a medical practitioner under the Medical Practitioners Act 1938.

Appointment of administering authority

4. The Minister for Health must appoint a body, person or persons to administer the scheme for payment of compensation to eligible persons under this Act.

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Persons eligible for compensation

5. A person is eligible for compensation under this Act if the person has contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome as a consequence of:

- (a) receiving a transfusion of infected blood or an infusion of infected blood products in New South Wales between 1st January 1980 and 31st December 1985 (both dates inclusive); or
- (b) having sexual contact at any time with another person who contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome in the manner referred to in paragraph (a); or
- (c) being the natural child of a person who contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome in the manner referred to in paragraph (a) or (b).

Time within which compensation application must be made

6. An application for compensation under this Act by or on behalf of an eligible person must be made within whichever is the later of:

- (a) 12 months after the date of commencement of this Act; or
- (b) 12 months after the person or, in the case of an eligible person who is a child, a parent of the eligible person is informed by a medical practitioner that the eligible person has contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome.

Evidence to be lodged with application

7. An application for compensation under this Act must be accompanied by written certification from the Australian Red Cross Society, the Commonwealth Serum Laboratories Commission, the Department of Health, a hospital or a medical practitioner that the eligible person by or on whose behalf the application is made:

- (a) has received a transfusion of infected blood, infected blood products for infusion or an infusion of infected blood products in New South Wales between 1st January 1980 and 31st December 1985 (both dates inclusive); or
- (b) has acquired Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome as a consequence of sexual contact with another person who contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome in the manner referred to in paragraph (a); or

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- (c) is the natural child of a person who contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome in the manner referred to in paragraph (a) or (b).

Certification of infection

8. The Australian Red Cross Society, the Commonwealth Serum Laboratories Commission, the Department of Health, a hospital or a medical practitioner must, as soon as practicable, on application by or on behalf of an eligible person or the administering authority, provide a certificate for the purposes of section 7 stating whether, to the best of its or his or her knowledge, information and belief, the eligible person by or on whose behalf an application for compensation under this Act is being made:

- (a) received a transfusion of infected blood, infected blood products for infusion or an infusion of infected blood products in New South Wales between 1st January 1980 and 31st December 1985 (both dates inclusive); or
- (b) contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome as a consequence of sexual contact with another person who had contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome in the manner referred to in paragraph (a); or
- (c) is the natural child of a person who contracted Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome in the manner referred to in paragraph (a) or (b).

Amount of compensation

9. The amount of compensation payable to an eligible person under this Act is \$300,000.

Cost of treatment to be paid

10. (1) In addition to the compensation referred to in section 9, an eligible person is entitled to receive the full amount of all costs, charges, expenses and outgoings reasonably incurred by or on behalf of the eligible person for or in respect of medical and hospital treatment for Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome.

(2) The costs, charges, expenses and outgoings referred to in this section include all amounts paid for drugs, medicines, vitamin and nutrient supplements, hospitalisation, ambulances, medical and nursing care and home nursing.

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Application for compensation to be lodged with administering authority

11. (1) An application for compensation under this Act is to be lodged with the administering authority.

(2) Details of all amounts claimed by or on behalf of an eligible person under section 10 are to be lodged with the administering authority.

Administering authority may require further evidence

12. The administering authority may require the lodgment of further evidence in support of an application for compensation or a claim under section 10 or in clarification of such an application or claim and may require such evidence to be verified by statutory declaration.

Discharge and release

13. (1) On receipt of compensation under this Act, an eligible person is taken to forever release, remise and quit, waive, surrender and abandon all actions, suits, proceedings, causes of action, claims, demands, arbitration, debts, dues, costs and expenses of any kind both at law and in equity or arising under the provision of any Act which the eligible person now has or which the eligible person or the eligible person's executors or administrators but for this Act could, would or might at any time or times have or have had on or against any person, company, institution, Government authority or the State of New South Wales and, in particular but without in any way limiting the foregoing, the Australian Red Cross Society, the Commonwealth Serum Laboratories Commission, hospitals operated by the State of New South Wales or any other person by reason or on account of or in any way connected with the contraction by the eligible person of Human Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome by the person or any matter, cause or thing whatever arising from such contraction.

(2) On receipt of the compensation under this Act, the eligible person must indemnify the State of New South Wales and hold the State of New South Wales and, in particular but without in any way limiting the foregoing, hospitals operated by the State of New South Wales and all its institutions and authorities harmless and indemnify them from all actions, suits, proceedings, claims, demands, verdicts, judgments, costs and expenses, legal and otherwise, and of any kind which have arisen or may in future arise out of the contraction by the eligible person of Human

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Immunodeficiency Virus infection or Acquired Immune Deficiency Syndrome or in any way in connection with it by or on the part of the eligible person or any other person claiming under, through or by virtue of the eligible person in respect of the circumstances referred to in this section.

Act to bind Crown

14. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Regulations

15. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
