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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**HEALTH INSURANCE AMENDMENT (CONTINUING THE OFFICE OF
THE NATIONAL RURAL HEALTH COMMISSIONER) BILL 2020**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Regional Health, Regional
Communications and Local Government, the Hon Mark Coulton MP)

HEALTH INSURANCE AMENDMENT (CONTINUING THE OFFICE OF THE NATIONAL RURAL HEALTH COMMISSIONER) BILL 2020

OUTLINE

The National Rural Health Commissioner Office (the Office) is currently due to cease on 1 July 2020. The Bill amends the *Health Insurance Act 1973* (the HIA) to continue the Office and amend the functions of the Office.

It is essential that the Office continues to function to give rural communities confidence that the enduring challenges of health workforce shortages, higher burden of disease, and the ever present threat of external shocks such as droughts and bushfires, are central to health policy formulation and implementation.

The new Office will be a key source of advice to the Minister, the Department of Health and other agencies in the development of policies and programs. It will take a strategic view of rural-focused initiatives, ensuring they are joined up and complementary. The new Office will provide practical implementation support to Government initiatives – guiding them to work efficiently, effectively and predictably to deliver their intended outcomes for rural health professionals and communities.

The Office will have the capacity to undertake projects to improve rural health access, sustainability and quality. In undertaking projects, the Office will have a strong outcomes focus, considering the practical implementation aspects of reform proposals.

Building on the success of the Office since 2017, the new Office will have the capacity to conduct evidence-based research into issues relating to rural health, providing Government insights from the sector, lived experience of communities and individuals, and evidence from academic and other literature. The Office's strong research capacity will enable it to provide robust, cutting-edge advice to Government.

The Office will drive innovation in policy and delivery. This will include an initial focus on co-design of implementable primary care models that respond to the specific challenges faced by rural communities, assisting Government to identify opportunities for practical trials, to be evaluated by the Office.

The new Office will be able to take a broader perspective in providing advice and support to Government. It will consider the entire health workforce – medical, nursing, allied health and all other health workforce members – in its work. The Office will have a key role in strengthening the rural training pathway, considering innovations to achieve a sustainable and accessible workforce, and will have patient needs at the heart of its work.

The Office will continue to support Government's commitment to progress the Rural Generalist Pathway, in addition to contributing to significant reforms already underway in the Health portfolio including Primary Health Care Reform, development of the National Medical Workforce Strategy and supporting consideration of the outcomes of the Review of the Rural Health Multidisciplinary Training Program.

In taking a broader focus to its work, an expanded Office will incorporate non-statutory Deputy Commissioners, who will play a critical role supporting the National

Rural Health Commissioner and will enable the Office to have expertise across a range of vital rural health disciplines, including nursing, allied and Indigenous Health. The team based approach will ensure the Office is well placed to provide guidance on best practice, multidisciplinary approaches for improving regional, rural and remote health outcomes.

The Office will:

- a) provide advice to the Rural Health Minister about matters relating to health in rural, regional and remote areas, including in relation to:
 - (i) developing, aligning and implementing Commonwealth strategies, priorities or measures so as to improve health outcomes in those areas; and
 - (ii) developing and promoting innovative and integrated approaches to the delivery of health services in those areas so as to improve the quality and sustainability of, and access to, health services in those areas; and
 - (iii) identifying opportunities to strengthen and align health workforce training in those areas; and
 - (iv) strengthening and promoting regionally-based, patient-centred approaches to the delivery of health services in those areas that take into account the needs of the communities, families and individuals in those areas;
- b) undertake projects specified by the Rural Health Minister.
- c) inquire into and report on matters specified by the Rural Health Minister.
- d) support the implementation of Commonwealth strategies, priorities and measures for improving the quality and sustainability of, and access to, health services in those areas.
- e) undertake research, and collect, analyse, interpret and share information, about approaches for improving the quality and sustainability of, and access to, health services in those areas.
- f) consult with stakeholders about matter relating to health in rural, regional or remote areas.
- g) build and maintain effective working relationships with the persons, groups and bodies referred to in (f).

Additional functions relating to regional, rural and remote health are able to be conferred on the National Rural Health Commissioner by legislative instrument. This will enable the National Rural Health Commissioner to be tasked with taking a more active role in implementing rural health initiatives, delivering on-the-ground change to support communities.

The Office will be reviewed after five years of operation to assess its effectiveness and achievements, and to identify the appropriateness or required improvements to legislated functions, operations and governance.

The amendments in the Bill are required to enable the extension of the Office and continued appointment of a National Rural Health Commissioner as an independent statutory office position under the HIA. Statutory authority will assure stakeholders that the Office is protected as an independent body that will advise Government.

This continues the 2016 election commitment to establish a National Rural Health Commissioner and builds on the \$550 million Stronger Rural Health Strategy investment, the National Medical Workforce Strategy, Primary Health Care Reform and changes to the training system to provide more opportunities to work and train rurally. Work to develop innovative models of care will build on the Office's achievements to date, which have included delivering advice on establishing a National Rural Generalist Pathway and advice on improving the accessibility, quality and distribution of rural allied health services.

Financial Impact Statement

The financial impact of extending the Office is cost neutral, funded from existing program funding.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

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This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Overview of the Bill

The Office of the National Rural Health Commissioner (the Office) currently has a sunset date of 1 July 2020. The Bill amends the *Health Insurance Act 1973* (the HIA) to continue the Office and to amend its functions.

The Office will:

- a) Provide independent and impartial advice to the Minister about matters relating to health in rural, regional and remote areas, including in relation to:
 - (i) Developing, aligning and implementing Commonwealth strategies, priorities or measures so as to improve health outcomes in those areas; and
 - (ii) Developing and promoting innovative and integrated approaches to the delivery of health services in those areas so as to improve the quality and sustainability of, and access to, health services in those areas; and
 - (iii) Identifying opportunities to strengthen and align health workforce training in those areas; and
 - (iv) Strengthening and promoting regionally-based, patient-centred approaches to the delivery of health services in those areas that take into account the needs of the communities, families and individuals in those areas.
- b) Undertake projects specified by the Rural Health Minister.
- c) Inquire into and report on a matter specified by the Rural Health Minister.
- d) Support the implementation of Commonwealth strategies, priorities and measures for improving the quality and sustainability of, and access to, health services in those areas.
- e) Undertake research, and collect, analyse, interpret and share information, about approaches for improving the quality and sustainability of, and access to, health services in those areas.
- f) Consult with stakeholders about matter relating to health in rural, regional or remote areas.
- g) Build and maintain effective working relationships with the persons, groups and bodies referred to in (f).

Human rights implications

This Bill promotes the right to health, as contained in article 12(1) of the International Covenant on Economic Social and Cultural Rights (ICESR). The World Health Organisation constitution states that ‘the right to health includes access to timely, acceptable, and affordable health care of appropriate quality’.

Data shows that people living in rural and remote areas have higher rates of hospitalisation, mortality, injury and poorer access to, and use of, health care services compared with those living in metropolitan areas.

In recognition of this, it is essential that the National Rural Health Commissioner Office continues, so that it can place rural and remote issues at the forefront of Government decision making. The Office, through its key functions will improve the right of access for rural communities to a variety of health services, programs and conditions necessary for the highest attainable standard of health. A key function will involve identifying opportunities to strengthen health workforce training in rural, regional and remote areas, contributing to strengthening Australia's rural training pipeline. A practical focus of this will include supporting the delivery of a National Rural Generalist Pathway.

The Office will consider the wide range of socio-economic factors that promote conditions in which people can lead a healthy life, including the underlying determinants of health, such as food and nutrition, housing, and safe working conditions.

The continuation of the Office is compatible with human rights legislation and will provide an informed and independent mechanism to facilitate access to the right medical professionals, with the right skills, in the right place at the right time.

Conclusion

This Bill is compatible with human rights and promotes the right to health.

**The Hon Mark Coulton MP, Minister for Regional Health, Regional
Communications and Local Government**

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NOTES ON CLAUSES

Clause 1 – Short Title

Clause 1 provides for the short title of the Act to be the *Health Insurance Amendment (Continuing the Office of the National Rural Health Commissioner) Act 2020*.

Clause 2 – Commencement

Subclause 2(1) provides that each provision of the Act specified in column 1 of the table commences or is taken to have commenced in accordance with column 2 of the table. Any other statement in column 2 of the table has effect according to its terms. The commencement will be the later of immediately after the commencement of Schedule 2 to the *Health Insurance Amendment (National Rural Health Commissioner) Act 2017*; and the day this Act receives Royal Assent.

Subclause 2(2) provides that any information in column 3 of the table is not part of the Act. It also clarifies that any information may be inserted in column 3, or information in it may be edited, in any published version of the Act.

Clause 3 – Schedule(s)

This clause provides that legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms. Schedule 1 amends the *Health Insurance Act 1973* (HIA) to continue the statutory position of the National Rural Health Commissioner.

SCHEDULE 1 — National Rural Health Commissioner

Health Insurance Act 1973

Item 1 – Subsection 3(1)

This item inserts in subsection 3(1) of the HIA definitions clarifying that *paid work* means work for financial gain or reward (whether as an employee, self-employed person or otherwise); and *Rural Health Minister* means the Minister responsible for health in rural, regional or remote areas.

Item 2 – Before Part VAA

This item inserts a new part to the HIA ‘Part VA – National Rural Health Commissioner’.

79AA Object of this Part

Subsection 79AA provides that the object of this Part is to establish the National Rural Health Commissioner (the Commissioner) to assist in improving health outcomes in rural, regional and remote areas, particularly in relation to improving the quality and sustainability of, and access to, health services in those areas.

79AB Simplified outline of this Part

Subsection 79AB provides a simplified explanation of the Bill noting that the Commissioner will provide advice to the Rural Health Minister about matters relating to health in rural, regional and remote areas; undertake specified projects about those matters; inquire into and report on specified aspects of those matters; support the implementation of Commonwealth strategies, priorities and measures; consult with a broad range of rural, regional and remote stakeholders about those matters; build and maintain effective working relationships with these stakeholders ; and other functions conferred on the Commissioner by a Commonwealth law.

The Commissioner must perform those functions in an independent and impartial manner.

The Rural Health Minister must cause an independent review of the Office within six months of the fifth anniversary of the Office commencing.

79AC National Rural Health Commissioner

Subsection 79AC provides that a Commissioner position is to be established.

79AD Functions of the National Rural Health Commissioner

Subsection 79AC(1) provides that the functions of the Commissioner are:

- (a) to provide advice to the Rural Health Minister about matters relating to health in rural, regional or remote areas, including in relation to:
 - (i) developing, aligning and implementing Commonwealth strategies, priorities or measures so as to improve health outcomes in those areas; and
 - (ii) developing and promoting innovative and integrated approaches to the delivery of health services in those areas so as to improve the quality and sustainability of, and access to, health services in those areas; and
 - (iii) identifying opportunities to strengthen and align health workforce training in those areas; and
 - (iv) strengthening and promoting regionally-based, patient-centred approaches to the delivery of health services in those areas that take into account the needs of the communities, families and individuals in those areas;
- (b) to undertake projects specified by the Rural Health Minister under subsection (3);
- (c) to inquire into and report on matters specified by the Rural Health Minister under subsection (4);
- (d) to support the implementation of Commonwealth strategies, priorities and measures for improving the quality and sustainability of, and access to, health services in those areas;
- (e) to undertake research, and to collect, analyse, interpret and share information, about approaches for improving the quality and sustainability of, and access to, health services in those areas;
- (f) to consult with the following persons, groups and bodies about matters relating to health in those areas:
 - (i) health professionals;
 - (ii) State and Territory governmental bodies;
 - (iii) industry, non-profit and other community groups;
 - (iv) other health stakeholders;

- (g) to build and maintain effective working relationships with the persons, groups and bodies referred to in paragraph (f);
- (h) to perform any function conferred on the Commissioner under a law of the Commonwealth.

Subsection 79AD(2) provides that the Commissioner must perform those functions in an independent and impartial manner.

Subsection 79AD(3) provides that for the purposes of paragraph (1)(b), the Rural Health Minister may give a written notice to the Commissioner requesting that they undertake a project that relates to health in rural, regional or remote areas; and is specified in the notice; and completes the project within the timeframe specified in the notice.

Subsection 79AD(4) provides that for the purposes of paragraph (1)(c) that the Rural Health Minister may give a written notice to the Commissioner requesting the Commissioner to inquire into a matter that related to health in rural, regional or remote areas; and is specified in notice; and give a written report on the matter to the Rural Health Minister within the timeframe specified in the notice. .

Subsection 79AD(5) provides that the Commissioner must comply with a notice given under subsection (3) or (4).

Subsection 79AD(6) provides that the written notice is not a legislative instrument. This subsection is declaratory of the law and does not represent an exclusion from the requirements of the *Legislation Act 2003*.

Subsection 79AC(7) provides that as additional functions, the Rural Health Minister may by legislative instrument, confer on the Commissioner a function that relates to health in rural, regional or remote areas.

79AE Keeping the Rural Health Minister Informed

Subsection 79AE(1) provides that the Commissioner must keep the Rural Health Minister informed of the activities of the Commissioner and provide the Rural Health Minister with any information specified under subsection 79AE(2).

Subsection 79AE(2) provides that for the purposes of paragraph (1)(b) the Rural Health Minister may issue a written notice to the Commissioner requesting that the Commissioner provides information relates to the Commissioner's activities; and is specified in the notice; and is provided to the Rural Health Minister within the timeframe specified in the notice.

Subsection 79AE(3) provides that the Commissioner must comply with a notice given under subsection 79AE(2).

Subsection 79AE(4) clarifies that a notice under subsection 79AE(2) is not a legislative instrument. This subsection is declaratory of the law and does not represent an exclusion from the requirements of the *Legislation Act 2003*.

79AF Appointment

Subsection 79AF(1) provides that the Commissioner is to be appointed by the Rural Health Minister by written instrument, on a full-time basis or a part-time basis.

A note under Subsection 79AF(1) provides that the Commissioner may be re-appointed, as provided for by section 33AA of the *Acts Interpretation Act 1901*.

Subsection 79AF(2) provides that the Commissioner will hold the term of office for the period specified in the instrument. The period must not exceed 2 years.

Subsection 79AF(3) provides a person is only eligible to be appointed as the Commissioner if the person has experience in rural health. Experience in rural health may include time practising as a health professional in a rural area; having extensive knowledge/academic research of rural health issues or other relevant experience in rural health able to be demonstrated.

79G Acting appointments

Subsection 79AG provides that the Rural Health Minister may, by written instrument, appoint a person to act as the Commissioner on a full time or part time basis. This is during a vacancy in the office of the Commissioner (whether or not an appointment has previously been made to the office); or during any period, or during all periods, when the Commissioner is absent from duty or from Australia or is for any reason unable to perform the duties of the office.

A note under Subsection 79AG provides that for rules applying to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

79AH Terms and Conditions

Subsection 79AH provides that the Commissioner holds office on the terms and conditions (if any) in relation to matters not covered by this Part that are determined by the Rural Health Minister.

79AI Remuneration

Subsection 79AI(1) provides that the Commissioner is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Commissioner is to be paid the remuneration that is prescribed by the instrument under subsection (4).

Subsection 79AI(2) provides that the Commissioner is to be paid the allowances that are prescribed by the instrument under subsection (4).

Subsection 79AI(3) provides that this section has effect subject to the *Remuneration Tribunal Act 1973*.

Subsection 79AI(4) provides that the Rural Health Minister may, by legislative instrument, prescribe remuneration for the purposes of subsection (1) and allowances for the purposes of subsection (2).

79AJ Leave of Absence

Subsection 79AJ(1) provides that if the Commissioner is appointed on a full-time basis, he or she has the recreation leave entitlements that are determined by the Remuneration Tribunal.

Subsection 79AJ(2) provides that if the Commissioner is appointed on a full time basis, the Rural Health Minister may grant him or leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Rural Health Minister determines.

Subsection 79AJ(3) provides that if the Commissioner is appointed on a part-time basis, the Rural Health Minister may grant him or leave of absence on the terms and conditions that the Rural Health Minister determines.

79AK Other paid work

Subsection 79AK(1) provides that if the Commissioner is appointed on a full-time basis, he or she must not engage in paid work outside the duties of his or her office without the Rural Health Minister's approval.

Subsection 79AK(2) provides that if the Commissioner is appointed on a part-time basis, he or she must not engage in any paid work that, in the Rural Health Minister's opinion, conflicts or could conflict with the proper performance of his or her duties.

79AL Resignation

Subsection 79AL(1) provides that the Commissioner may resign his or her appointment by notifying the Rural Health Minister in writing.

Subsection 79AL(2) provides that the resignation takes effect on the day it is received by the Rural Health Minister or, if a later day is specified in the resignation, on that later day.

79AM Termination of appointment

Subsection 79AM(1) provides that the Rural Health Minister may terminate the Commissioner's appointment for misbehaviour; or if the Commissioner is unable to perform his or her duties because of physical or mental incapacity.

Subsection 79AM(2) provides that the Rural Health Minister may terminate the appointment of the Commissioner if he or she:

- (i) becomes bankrupt; or
- (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
- (iii) compounds with his or her creditors; or
- (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
- (v) if the Commissioner is appointed on a full-time basis—the Commissioner is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
- (vi) if the Commissioner is appointed on a full-time basis—the Commissioner engages, except with the Rural Health Minister's approval, in paid work outside the duties of his or her office [see subsection 79AK(1)];

- (vii) if the Commissioner is appointed on a part-time basis—the Commissioner engages in paid work that, in the Rural Health Minister’s opinion, conflicts or could conflict with the proper performance of his or her duties [see subsection 79AK(2)];
- (viii) the Commissioner fails, without reasonable excuse, to comply with section 79AN.

79AN Disclosure of interests

Subsection 79AN provides that the Commissioner must disclose to the Rural Health Minister the details of any direct or indirect financial or monetary interests that the Commissioner has or acquires that conflict or could conflict with the proper performance of the National Rural Health Commissioner’s functions.

This would include, for example, notification of any interests in, including financial interests or membership of a rural health professional/peak body. It would include if the Commissioner provides clinical based health services in a rural area.

79AO Application of the finance law

Subsection 79AO(1) provides that for the purposes of the finance law, as meant by the *Public Governance, Performance and Accountability* (PGPA Act), the Commissioner is an official of the Department.

A note under subsection 79AO(1) provides that the Commissioner’s responsibilities as an official under finance law include duties in relation to exercising due care and diligence, acting in good faith and for a proper purpose, and not misusing information or position. The note refers to Division 3, of Part 2-2 of the PGPA Act.

Subsection 79AO(2) provides that section 29 of the PGPA Act dealing with the duty to disclose interests does not apply to the Commissioner.

A note under subsection 79AO(2) provides that section 29 of the PGPA Act does not apply to the Commissioner because a duty is imposed on the Commissioner under subsection 79AN of the HIA.

79AP Annual report

Subsection 79AP(1) provides that the Commissioner must prepare and give to the Rural Health Minister, for presentation to the Parliament, an annual report on the Commissioner’s activities during the previous financial year.

A note at the end of 79AP(1) draws the reader’s attention to section 34C of the *Acts Interpretation Act 1901* which provides additional rules regarding annual reports.

Subsection 79AP(2) provides that the annual report must contain the details of the Commissioner’s activities during the reporting period, and any other matters that the Rural Health Minister would direct the Commissioner to include in the report under subsection 79AQ.

Subsection 79AP(3) provides that the report must be given to the Rural Health Minister by the 15th day of the fourth month after the end of the reporting period, or

the end of any further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.

Subsection 79AP(4) provides that the report may be included in a report prepared in relation to the Department and given to the Minister administering the Health Insurance Act under section 46 of the PGPA Act 2013.

79AQ Minister may give directions to the National Rural Health Commissioner

Subsection 79AQ(1) provides that the Rural Health Minister may, by notifiable instrument, give written directions to the Commissioner about the performance of the Commissioner's functions; and matters to be included in the report under section 79AP.

Subsection 79AQ(2) provides that the Commissioner is obliged to comply with a direction provided by the Rural Health Minister under 79AQ(1).

79AR Assistance from APS employees

Subsection 79AR(1) provides that the Secretary of the Department of Health may enter into an arrangement with the Commissioner for the services of APS employees in the Department to be made available to assist the Commissioner.

Subsection 79AR(2) provides that staff made available to the Commissioner under arrangements made between the Commissioner and the Secretary will be subject to the directions of the Commissioner.

79AS Review of the operation of this Part

Subsection 79AS(1) provides that the Rural Health Minister must cause an independent review of the work of the Commissioner within six months after the fifth anniversary of the date that Part VA commences.

Subsection 79AS(2) provides that whoever undertakes the review must provide the Rural Health Minister with a written report of their findings.

Subsection 79AS(3) provides that the Rural Health Minister must table a copy of the review findings in each House of the Parliament within 15 sitting days of that House after the report is received.