

EXPLANATORY STATEMENT

STATUTORY RULES 1983 NO.152

HEALTH INSURANCE COMMISSION REGULATIONS (AMENDMENT)

Issued by Authority of the Minister for Health

Section 44 of the Health Insurance Commission Act 1973 ('the Act') provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 4 of the Act provides for the establishment by the Act of the Health Insurance Commission ('the Commission'). Section 8A of the Act provides that the functions of the Commission are to conduct a medical benefits fund or a hospital benefits fund, or both, in accordance with rules determined by the Commission.

By virtue of section 8C of the Act the functions conferred on the Commission under Part IIB of the Act are additional to those conferred under section 8A. Subsection 8E(1) of that Part provides that the Commission shall perform such functions in relation to health insurance as are prescribed.

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The statutory rules, in amending the Health Insurance Commission Regulations ('the Regulations') prescribe functions conferred on the Commission for the purposes of sub-section 8E(1) of the Act. These new functions relate to A.M.W.S.U. Health Care Limited ('the organization'), a company incorporated in the State of Victoria, registered under Part VI of the National Health Act 1953 as a registered medical benefits and registered hospital benefits organization. The functions are to administer on behalf of the organization, in accordance with an agreement entered into with the organization, the medical benefits and hospital benefits funds conducted by the organization, and to act as trustee of moneys received on behalf of the organization.

The statutory rules would have the effect of authorising retrospectively the entering into, on 29 October 1982, of an agreement between the Commission and the organization. Under this agreement the Commission agreed, with effect from 1 November 1982, to perform extensive administrative tasks on behalf of the organization in relation to the medical and hospital benefits funds conducted by the organization. The Attorney-General's Department advised that the Commission was not authorised by the Act or the Regulations to enter into

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the agreement. Such authority is provided by the statutory rules.

The statutory rules are deemed to have come into operation on 29 October 1982. This retrospectivity of operation does not affect the rights of, or impose liabilities on, any person in a manner prohibited by sub-section 48(2) of the Acts Interpretation Act 1901.

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