

EXPLANATORY STATEMENT

STATUTORY RULES 1986 NO 20

ISSUED BY THE AUTHORITY OF THE MINISTER FOR HEALTH

HEALTH INSURANCE ACT 1973

HEALTH INSURANCE REGULATIONS (AMENDMENT)

Sub-section 133(1) of the Health Insurance 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.

The Health Legislation Amendment Act (No 2) 1985 inserted a number of new sections into the Act which require the making of consequential regulations for the purposes of those sections. New sub-section 3D(1) of the Act provides, among other things, that a medical practitioner domiciled in Australia who is a fellow of an organisation that is declared by the regulations to be a professional organisation in relation to a particular specialty and who has obtained a relevant qualification, shall upon payment of the prescribed fee, be recognised as a specialist for the purposes of the Act.

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New sub-section 3E(2) of the Act provides that where a Ministerial determination is required for the recognition of a practitioner not domiciled in Australia the practitioner will be required to pay a prescribed fee when applying for recognition. Section 61 of the Act was also amended, among other things, to require the payment of a prescribed fee by practitioners seeking recognition as specialists or consultant physicians upon the recommendation of a Specialist Recognition Advisory Committee.

New Part VB of the Act which provides for the new Medicare Participation Review Committees, requires, among other things, the declaration by regulation of professional organisations for the purposes of the definition of 'professional organisation' in sub-section 124B(1).

New sub-section 129AC(2) enables the General Manager of the Health Insurance Commission to enter into an arrangement with a person for the payment of an amount recoverable for unlawfully paid benefits and payments made under the Act. The sub-section further provides that interest at the prescribed rate would be payable where no arrangement has been made within 90 days of notification of the debt or where the person subsequently defaults on the debt.

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3.

The Statutory Rules give effect to the new provisions of the Act. A Proclamation fixed 22 February 1986 as the date of commencement for these new provisions. Section 4 of the Acts Interpretation Act 1901 provides, among other things, that where an Act as amended confers a power to make legislation, including regulations, then the power may be exercised before the Act concerned comes into operation as if it had come into operation and takes effect on the day on which the Act concerned comes into operation. The Statutory Rules came into operation on the date fixed by the Proclamation.

Regulation 2 of the Statutory Rules inserted new regulation 2ABA into the Health Insurance Regulations ('the Regulations') to declare professional organisations in relation to particular specialties and the relevant qualification in relation to those organisations for the purposes of sub-section 3D(1).

The fee of \$30, prescribed for the purposes of new sub-sections 3D(1), 3E(2) and 61(1A) in new regulations 2ABB, 2ABC and 9AA, respectively, is set out in regulations 2 and 3 of the Statutory Rules.

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4.

Regulation 4 of the Statutory Rules inserts new regulation 9AB into the Regulations to declare the Australian Dental Association Incorporated, the Australian Medical Association and the Australian Optometrical Association to be professional organisations for the purposes of the definition of 'professional organisation' in sub-section 124B(1) of the Act.

Regulation 5 will provide that the prescribed rate of interest for the purposes of sub-section 129AC(2) of the Act shall be 15 per cent per annum.

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