

EXPLANATORY STATEMENT

STATUTORY RULES 1982 NO. 84

ISSUED BY AUTHORITY OF THE MINISTER FOR HEALTH

NATIONAL HEALTH REGULATIONS (AMENDMENT)

Section 140 of the National Health Act 1953 ('the Act') provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which are required or permitted by the Act to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

An organization registered under the Act as a registered hospital benefits organization is required by the Act to permit any contributor to a hospital fund conducted by it to contribute in respect of himself and his dependants to a "basic hospital benefits table". According to the definition of "basic hospital benefits table" defined in sub-section 4(1) of the Act, such a table must incorporate a specified range of benefits. Included in that range, by virtue of paragraph (c) of

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the definition, must be benefits in respect of charges by recognized hospitals for professional services rendered to in-patients of the recognized hospital, not entitled to compensation or damages, by medical practitioners employed by, or under arrangements made by, the recognized hospital.

Also included in the range of benefits specified for the purposes of the definition of basic hospital benefits table, are such other benefits as are prescribed for the purposes of paragraph (f) of the definition. Benefits for the purposes of paragraph (f) are prescribed by regulation 3B of the National Health Regulations. The benefits prescribed by regulation 3B are similar in all respects to those specified by paragraph (c) of the definition of basic hospital benefits table except that they relate to services rendered in hospitals referred to in section 120D of the Repatriation Act 1920 ("repatriation hospitals"). Section 120D of that Act provides in respect of the establishment, control and administration of hospitals by the Repatriation Commission established under that Act.

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Because of amendments made to the definition of "recognized hospital" as defined for the purposes of the Act in sub-section 3(1) of the Health Insurance Act 1973, by the Health Acts Amendment Act 1981, which received the Royal Assent on 25 June 1981, a recognized hospital now includes a hospital, not in a State (defined to include the Northern Territory) that is a party to a cost-sharing agreement with the Commonwealth under section 30 of the Act, and is declared in writing by the Minister for Health to be a recognized hospital. The repatriation hospitals in the States other than South Australia and Tasmania, which remain parties to agreements under section 30 of the Act, were declared by the Minister for Health to be recognized hospitals. As a result, repatriation hospitals, other than those in South Australia and Tasmania, that are recognized hospitals, were referred to by paragraph (c) of the definition of a basic hospital benefits table as well as, for the purposes of paragraph (f) of the definition, by regulation 3B. Since the benefits specified in paragraph (c) of the definition in respect of recognized hospitals are the exact equivalent of those specified in regulation 3B in respect of repat-

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riation hospitals, there existed a duplication of the provisions of regulation 3B in respect of those repatriation hospitals not in South Australia or Tasmania which are now also recognized hospitals.

The statutory rule repeals the current regulation 3B and substitutes an amended regulation 3B referring only to repatriation hospitals in South Australia and Tasmania. The statutory rule in so doing removes any legal inconsistency resulting from the effective duplication of provisions described above and so removes any possible doubt as to the validity of the provisions of regulation 3B in respect of the repatriation hospitals in South Australia and Tasmania.

The statutory rule also adds Woomera Hospital to those hospitals specified in regulation 3B. This is required in order that the benefits provided for therein apply, for the purposes of the definition of a basic hospital benefits table, in respect of professional services rendered to in-patients, not entitled to

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compensation or damages, by hospital employed medical practitioners at that hospital. Woomera Hospital is not a Repatriation hospital but is owned by the Commonwealth. As a Commonwealth hospital, Woomera Hospital is not a recognized hospital for the purposes of the cost-sharing agreement with South Australia and, as a result of the existence of that agreement, cannot be declared by the Minister to be a recognized hospital according to the abovementioned amended definition of recognized hospital. Since Woomera Hospital is not able to be a recognized hospital, and cannot, therefore, be referred to by paragraph (c) of the definition of basic hospital benefits table, special provision for it has been made in the amended regulation 3B.

The statutory rule came into effect on the date of its notification in the Commonwealth of Australia Gazette.

Authority: Section 140 of the
National Health Act 1953.

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