

Medical Indemnity (Prudential Supervision and Product Standards) Amendment Regulations 2003 (No. 1) 2003 No. 129

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 129

Issued by the Minister for Revenue and Assistant Treasurer

Medical Indemnity (Prudential Supervision and Product Standards) Act 2003

Medical Indemnity (Prudential Supervision and Product Standards) Amendment Regulations 2003 (No. 1)

Section 33 of the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* (the Act) provides that the Governor-General may make regulations prescribing 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 Act provides that from 1 July 2003, medical indemnity insurance is only to be provided by general insurers under contracts of insurance. The Act also provides for minimum product standards for medical indemnity insurance contracts in certain circumstances. In particular, the Act allows for regulations that would require an offer of 'run-off' cover to be made in certain prescribed circumstances and on certain terms and conditions. Run-off cover is insurance cover taken out by a professional who has had a claims-made policy, when the professional ceases practice, for example upon retirement. The purpose of run-off cover is to provide protection for claims that may arise in relation to incidents that occurred while the professional was engaged in practice.

On 28 May 2003, the Administrator in Council approved the *Medical Indemnity (Prudential Supervision and Product Standards) Regulations 2003* (the Principal Regulations). The Government has responded to doctors' concerns about the availability of appropriate run-off cover for medical practitioners by amending the Principal Regulations. The Act and the Principal Regulations will commence on 1 July 2003.

Subsections 4(1) and 4(4) of the *Acts Interpretation Act 1901*, read together, provide that amendments may be made to regulations for the purpose of the Act between passing and commencement of the Principal Regulations.

The regulations are specifically designed to prescribe a minimum run-off cover product, and in no way prevent medical indemnity insurance providers from offering cover on more generous terms and conditions than those prescribed in these regulations.

The Government has committed to putting in place arrangements that will secure appropriate and affordable ongoing retirement cover by 1 July 2004. The standards prescribed in the regulations are intended to be interim measures. These regulations guarantee doctors retiring in 2003-04 will have access to adequate retirement cover in the interim.

The regulations:

- define the terms 'permanent disablement' and 'permanent retirement'; and
- require, as a minimum, that:

- an offer of run-off cover be made when a medical practitioner permanently retires at or after the age of 60, dies or becomes permanently disabled;
- run-off cover must be made available initially for the remainder of the term of the medical indemnity contract held prior to run-off being triggered, and then the offer renewed annually for at least 6 years; and
- the terms and conditions of any offer required by the regulation be the same as the minimum offered by the medical indemnity provider to practising doctors in the year of renewal.

The regulations will commence on 1 July 2003.