AUSTRALIA

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

Statutory Rules 2003 No. 129[2]

I, GUY STEPHEN MONTAGUE GREEN, Administrator of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003.*

Dated 12 JUN 2003 2003

G S M Green
Administrator

By His Excellency's Command

HELEN COONAN
Minister for Revenue and Assistant Treasurer

1 Name of Regulations

These Regulations are the *Medical Indemnity (Prudential Supervision and Product Standards) Amendment Regulations 2003 (No. 1)*.

2 Commencement

These Regulations commence on 1 July 2003.

3 Amendment of *Medical Indemnity (Prudential Supervision and Product Standards) Regulations 2003*

Schedule 1 amends the *Medical Indemnity (Prudential Supervision and Product Standards) Regulations 2003*.

Schedule 1 Amendments

(regulation 3)

[1] After regulation 3

insert

3A Permanent disablement and permanent retirement

(1) In these Regulations, a reference to the ***permanent disablement*** of a health care professional of a particular kind is a reference to circumstances in which the health care professional:

(a) incurs an injury, or suffers from an illness that:

(i) is permanent, or likely to be permanent; and

(ii) makes the health care professional unable to continue practice as a health care professional of that kind; and

(b) has a medical certificate, issued by a medical practitioner, stating those matters; and

(c) has ceased to continue to practise as a health care professional.

(2) In these Regulations, a reference to the ***permanent retirement*** of a health care professional is a reference to circumstances in which the health care professional has totally and permanently discontinued the practice of providing health care.

[2] After regulation 7

insert

8 Additional offer of run-off cover when particular events happen during claims period for regulated insurance contract — medical practitioners

(1) This regulation applies in relation to a health care professional, mentioned in paragraph 23 (1) (a) of the Act, who is a medical practitioner.

(2) For paragraph 23 (1) (b) of the Act, each of the following is a prescribed event in relation to the medical practitioner:

(a) the medical practitioner's death;

(b) the medical practitioner's permanent disablement;

(c) the medical practitioner's permanent retirement as a medical practitioner at or after 60 years of age.

Note After a prescribed event, the insurer that provides the practitioner's medical indemnity cover must make an offer to provide medical indemnity cover for the medical practitioner in relation to otherwise uncovered prior incidents: see Division 2 of Part 3 of the Act.

(3) For subparagraph 23 (1) (c) (i) of the Act, and subject to subregulation (4), an offer made in relation to the medical practitioner must satisfy the following requirements:

(a) the offer must be to provide medical indemnity cover in relation to claims that are made during a period that includes the whole of the period (the ***first period***):

(i) starting when the prescribed event occurs; and

(ii) ending at the end of the claims period for the medical indemnity cover that was applicable immediately before the prescribed event;

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unless medical indemnity cover is in place, at the occurrence of the prescribed event, and continues to operate in relation to claims that are made during the first period;

(b) the offer must be to provide medical indemnity cover that:

(i) includes an obligation for the insurer to offer to renew the cover annually after:

(A) if medical indemnity cover is in place, at the occurrence of the prescribed event, and continues to operate in relation to claims that are made during the first period — the end of the claims period for that cover; or

(B) in any other case — the end of the first period; and

(ii) specifies that the total period during which the cover may be renewed, in accordance with the offers mentioned in subparagraph (i), is at least 6 years, starting:

(A) if medical indemnity cover is in place, at the occurrence of the prescribed event, and continues to operate in relation to claims that are made during the first period — at the end of the claims period for that cover; or

(B) in any other case — at the end of the first period; and

(iii) specifies that the cover is to be first offered, and renewed in accordance with the offers mentioned in subparagraph (i), as follows:

(A) if the original cover was subject to any special or non-standard terms, conditions or exclusions, by way of endorsement or otherwise, the offer may provide that those special or non-standard terms, conditions and exclusions will apply;

(B) for any matter to which sub-subparagraph (A) does not apply, the insurer must offer the same terms and conditions (other than terms and conditions about the price of the cover or period during which the cover may be renewed) as the standard medical indemnity cover offered by the insurer at the time of each offer of renewal to practicing medical practitioners in the same category or class for the purposes of the insurer's underwriting criteria as the medical practitioner to whom the offer is to be made; and

(iv) specifies that if the medical practitioner, or the medical practitioner's representative, declines to accept an offer to renew made by the insurer in accordance with subparagraph (i), the insurer is authorised to decline to make further offers to renew the cover.

Note 1 The obligations in this regulation are not intended to restrict an insurer's opportunities to offer to provide medical indemnity cover in circumstances not set out in the regulation, or on terms and conditions that are more generous than required by the regulation.

Note 2 An offer to which this regulation applies must also be a complying offer as required by section 24 of the Act, as well as complying with the *Insurance Contracts Act 1984*.

(4) The obligations in subregulation (3) cease to apply if:

(a) a medical practitioner who has been permanently disabled starts to practise as a medical practitioner of the same kind as the medical practitioner was before the permanent disablement; or

(b) a medical practitioner who has retired starts to practise as a health care professional.

(5) The obligations in paragraph (3) (b) cease to apply if the medical practitioner takes out medical indemnity cover to which Division 2 of Part 3 of the Act applies that:

(a) is different to the cover to which that paragraph applies; or

(b) is provided by another insurer.

Notes

1. These Regulations amend Statutory Rules 2003 No. 109.
2. Notified in the *Commonwealth of Australia Gazette* on 2003. 19 June