



2004B00014

TRIPLICA

**Administering Department:**

Please include this copy with documents sent to  
Federal Executive Council Secretariat in connection  
with the making of this legislation.

**ExCo Secretariat:**

Please complete this copy by inserting signatures, date of  
making and instrument no. and send to:

Legislative Services and Publication Unit

Office of Legislative Drafting

Attorney-General's Department



## Medical Indemnity Amendment Regulations 2004 (No. 1)<sup>1</sup>

Statutory Rules 2004 No. 2

8

I, PHILIP MICHAEL JEFFERY, Governor-General of the  
Commonwealth of Australia, acting with the advice of the  
Federal Executive Council, make the following Regulations  
under the *Medical Indemnity Act 2002*.

Dated 19 FEB 2004 2004

PM Jeffery

Governor-General

By His Excellency's Command

TONY ABBOTT

Minister for Health and Ageing

## Contents

1	Name of Regulations	2
2	Commencement	2
3	Amendment of <i>Medical Indemnity Regulations 2003</i>	2
<b>Schedule 1</b>	<b>Amendment taken to have commenced on 1 January 2004</b>	3
<b>Schedule 2</b>	<b>Amendments commencing on gazettal</b>	4

### 1 Name of Regulations

These Regulations are the *Medical Indemnity Amendment Regulations 2004 (No. 1)*.

### 2 Commencement

These Regulations commence, or are taken to have commenced, as follows:

- (a) on 1 January 2004 — regulations 1 to 3, and Schedule 1;
- (b) on the date of their notification in the *Gazette* — Schedule 2.

### 3 Amendment of *Medical Indemnity Regulations 2003*

Schedules 1 and 2 amend the *Medical Indemnity Regulations 2003*.

---

**Schedule 1      Amendment taken to have  
commenced on 1 January  
2004**  
(regulation 3)

**[1]      Regulation 4A**

*omit*

\$500 000

*insert*

\$300 000

---

## Schedule 2      Amendments commencing on gazettal

(regulation 3)

**[1]      Paragraph 6 (1) (d)**

*omit*

before 15 October in the contribution year,

*insert*

before the payment day for the contribution year,

**[2]      Paragraph 6A (1) (d)**

*omit*

at least 15 days

**[3]      Regulation 7**

*substitute*

**7      IBNR indemnity contribution exemption (persons  
with comprehensive retroactive cover provided by an  
MDO or insurer)**

- (1) For subsection 52(4) of the Act, a person who is a participating member of a participating MDO (the *former medical indemnity provider*) is exempt from IBNR indemnity contribution generally if subregulation (2) or (3) applies to the person.

- 
- (2) This subregulation applies to a person if:
- (a) on 30 June 2003 the person had, or before 1 July 2003 the person had made arrangements to have, an indemnity arrangement with an MDO under which the person is, or will be, indemnified in relation to claims against or by the person in relation to all past incidents, without any further premium payments by the person (other than any payment agreed between the person and the provider at the time the indemnity arrangement was or is made); and
  - (b) on 1 July 2004 the person had an insurance contract or contracts with one or more insurers (a ***current medical indemnity provider***) under which the person is, and will continue to be, indemnified in relation to claims against or by the person in relation to all past incidents, without any further premium payments by the person (other than any payment agreed between the person and the provider at the time the insurance contract or contracts were entered into); and
  - (c) before the payment day for the contribution year starting on 1 July 2003, the person gives to the HIC, in writing:
    - (i) a statement from the former medical indemnity provider to the effect that the former medical indemnity provider would not be able, in the ordinary course of its business, to indemnify the person in relation to any claims against or by the person in relation to past incidents; and
    - (ii) a statement from the MDO to the effect that on 30 June 2003 the person had, or before 1 July 2003 the person had made arrangements to have, an indemnity arrangement with the MDO under which the person is, or will be, indemnified in relation to claims against or by the person in relation to all past incidents, without any further premium payments by the person (other than any payment agreed between the person and the provider at the time the indemnity arrangement was or is made); and

- 
- (iii) a statement from each current medical indemnity provider to the effect that on 1 July 2004 the person had an insurance contract or contracts with the provider under which the person is, and will continue to be, indemnified in relation to claims against or by the person in relation to all past incidents, without any further premium payments by the person (other than any payment agreed between the person and the provider at the time the insurance contract or contracts were entered into).

*Note for paragraph (c)* The payment day for the contribution year starting on 1 July 2003 is 1 September 2004.

- (3) This subregulation applies to a person if:
  - (a) on 30 June 2003 the person had, or before 1 July 2003 the person had made arrangements to have, an insurance contract or contracts with one or more insurers (a ***current medical indemnity provider***) under which the person is or will be, and will continue to be, indemnified in relation to claims against or by the person in relation to all past incidents, without any further premium payments by the person (other than any payment agreed between the person and the provider at the time the insurance contract or contracts were or are entered into); and
  - (b) before the payment day for the contribution year starting on 1 July 2003, the person gives to the HIC, in writing:
    - (i) a statement from the former medical indemnity provider to the effect that the former medical indemnity provider would not be able, in the ordinary course of its business, to indemnify the person in relation to any claims against or by the person in relation to past incidents; and

- 
- (ii) a statement from each current medical indemnity provider to the effect that on 30 June 2003 the person had, or before 1 July 2003 the person had made arrangements to have, an insurance contract or contracts with the provider under which the person is, or will be, and will continue to be, indemnified in relation to claims against or by the person in relation to all past incidents, without any further premium payments by the person (other than any payment agreed between the person and the provider at the time the insurance contract or contracts were or are entered into).

*Note for paragraph (b)* The payment day for the contribution year starting on 1 July 2003 is 1 September 2004.

- (4) In this regulation:

***past incident***, for a person, means an incident that:

- (a) occurred in the course of, or in connection with, the practice of a medical profession by the person; and
- (b) is covered by the IBNR indemnity scheme; and
- (c) was covered by the former medical indemnity provider.

*Note* The purpose of this regulation is to exempt from IBNR indemnity contribution generally medical practitioners and health professionals who, before 1 July 2003, had obtained, or, in certain cases, had made arrangements to obtain, comprehensive retroactive medical indemnity cover from an MDO or an insurer, provided that, before 1 July 2004, the arrangement for the cover is in the form of an insurance contract or contracts with one or more insurers.

---

**7A IBNR indemnity contribution exemption (persons indemnified by a Commonwealth, State or Territory agency in relation to all past incidents)**

- (1) For subsection 52 (4) of the Act, a person who is a participating member of a participating MDO (the *former medical indemnity provider*) is exempt from IBNR indemnity contribution generally if:
- (a) on 30 June 2003 the person was, and after that date the person will continue to be, indemnified by a Commonwealth, State or Territory agency in relation to claims against or by the person in relation to all past incidents; and
  - (b) before the payment day for the contribution year starting on 1 July 2003, the person gives to the HIC, in writing:
    - (i) a statement from the former medical indemnity provider to the effect that the former medical indemnity provider would not be able, in the ordinary course of its business, to indemnify the person in relation to any claims against or by the person in relation to past incidents; and
    - (ii) a statement from the Commonwealth, State or Territory agency to the effect that on 30 June 2003 the person was, and after that date the person will continue to be, indemnified by that agency in relation to claims against or by the person in relation to all past incidents.
- (2) In this regulation:  
*past incident* has the meaning given by subregulation 7 (4).

**[4] Paragraph 8 (b)**

*omit*

at least 15 days

**[5] Regulation 8B**

*omit*



---

**[6] Regulation 8D**

*omit*

1 June 2004

*insert*

1 September 2004

---

**Notes**

1. These Regulations amend Statutory Rules 2003 No. 208, as amended by 2003 Nos. 250 and 264.
2. Notified in the *Commonwealth of Australia Gazette* on / 2004.

*20 February*