

EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 11

Issued by the Authority of the Minister for Health and Ageing

National Health Act 1953

National Health Amendment Regulations 2007 (No. 1)

Subsection 140(1) of the *National Health Act 1953* (the Act) provides, in part, that the Governor-General may make regulations not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 67(4) of the Act defines ‘health insurance business’ as the business of undertaking liability by way of insurance with respect to hospital treatment, relevant health service or ancillary health benefit. However, paragraph (e) of that definition allows for regulations to be made prescribing activities which are *not* included in the definition of ‘health insurance business’.

Subregulation 48(2B) of the *National Health Regulations 1954* (the Principal Regulations) differentiates health insurance business from overseas student health cover, which is not considered health insurance business. It provides that where registered health benefits organisations provide health cover to overseas students under an overseas student health insurance contract with the Commonwealth, the liability is not health insurance business.

The purpose of the Regulations is to create a new subregulation that will mirror subregulation 48(2B) of the Principal Regulations, but will specify that providing health cover for Trade Skills Training (TST) (visa subclass 471) visa holders is not ‘health insurance business’. The health cover will be known as Overseas Apprentice Health Cover.

The Regulations will enable registered health benefit organisations to set up health cover for TST visa holders and their dependents, which is comparable to that provided under the current Overseas Student Health Cover Deed of Agreement.

Details of the Regulations are set out in the Attachment.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Consultation: Representatives of providers of overseas student health cover, the Department of Immigration and Multicultural Affairs and the Department of Education, Science and Training have been consulted in relation to these amendments.

Authority: Subsection 140(1) of the
National Health Act 1953

Details of the *National Health Amendment Regulations 2007 (No. 1)***Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *National Health Amendment Regulations 2007 (No. 1)*.

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on the day after they are registered.

Regulation 3 – Amendment of the *National Health Regulations 1954*

This regulation provides that the *National Health Regulations 1954* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 – Amendments**Item [1]**

Subsection 67(1) of the *National Health Act 1953* (the Act) provides that a person (other than a registered organisation) shall not carry on health insurance business because special conditions apply to the operations of the registered organisations.

This item inserts a new subregulation 48(2C) which establishes that the business of undertaking liability, under an overseas apprentice health insurance contract, is not health insurance business as defined in subsection 67(4) of the Act. This enables private health insurance funds to provide cover for out-of-hospital medical services which, otherwise, section 126 of the *Health Insurance Act 1973*, would prevent the funds from offering.

Item [2]

This item will amend subregulation 48(3) to include definitions of *overseas apprentice* and *overseas apprentice health insurance contract*.

The definitions are necessary to establish eligibility for overseas apprentice health insurance and the nature of the health services which will be included in overseas apprentice health insurance.

The definition of *overseas apprentice* will establish that eligibility for overseas apprentice health insurance is restricted to the holder of a particular visa subclass (471 Trade Skills Training) and dependents of the holder, or to a person who entered Australia on a 471 visa and dependents of that person, who subsequently has been issued with a bridging visa, pending a possible change of entry status.

The definition of *overseas apprentice health insurance contract* will establish the benefits which are to be provided, for treatment in Australia, to an overseas apprentice and dependents of the apprentice, through an overseas apprentice health insurance contract. These will be comparable to those services for which benefits are paid, for treatment in Australia, to overseas students and their dependents under the current Overseas Student Health Cover Deeds negotiated between the Department of Health and Ageing and participating private health funds.

The health services include out-of-hospital medical services, in-hospital medical services, public hospital accommodation, prostheses, pharmaceuticals and ambulance services.