

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health and Ageing

Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007

Private Health Insurance (Transition) Amendment Rules 2008

Section 55 of the *Private Health Insurance Act (Transitional Provisions and Consequential Amendments) Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Transition) Rules* providing for matters required or permitted by the Act, or necessary or convenient to be provided for carrying out or giving effect to the Act. The *Private Health Insurance (Transition) Rules 2007* (the Rules) commenced 1 April 2007.

With the commencement of the *Private Health Insurance Act 2007* (PHI Act) on 1 April 2007, regulation of private health insurance was moved from the *National Health Act 1953* (the NHA) (and regulations under the NHA), into the new PHI Act (and Private Health Insurance Rules made under the PHI Act). The purpose of the Rules was to deal with transitional matters not otherwise provided for in the Act. The *Private Health Insurance (Transition) Amendment Rules 2008* (the Amendment Rules) amend the Rules.

The Amendment Rules commence on the day following registration on the Federal Register of Legislative Instruments.

The Rules amend the *Private Health Insurance (Transition) Rules 2007* and will extend particular existing transitional arrangements to 31 December 2008 to allow restricted access insurers additional time to comply with the requirements of subsection 126-20(6) of the *Private Health Insurance Act 2007* (PHI Act). The extension will allow restricted access insurers to apply for and be granted re-registration and retain their restricted access status before complying with the requirements of subsection 126-20(6).

Subsection 126-20(6) of the PHI Act provides that the constitution of a restricted access insurer must describe the restricted access groups to whom the insurer's products will be available, prohibit the insurer from insuring anybody else, and prohibit the insurer from ceasing to insure someone because they have ceased to belong to the restricted access group.

Consultation

The Department conducted consultation with the Health Insurance Restricted Membership Association of Australia (HIRMAA) (the industry association for restricted access insurers) and the Private Health Insurance Administrative Council (PHIAC).

The Act does not specify any condition which needs to be met before the power to make the Rules (or Amendment Rules) may be exercised.

Details of the Amendment Rules are set out in the Attachment. The Rules (as amended by the Amendment Rules) are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

PRIVATE HEALTH INSURANCE BRANCH
DEPARTMENT OF HEALTH AND AGEING
FEBRUARY 2008

DETAILS OF THE *PRIVATE HEALTH INSURANCE (TRANSITION) AMENDMENT RULES 2008*

PART 1 - Preliminary

1. Name of Rules

Rule 1 provides that the title of the Amendment Rules is the *Private Health Insurance (Transition) Amendment Rules 2008*.

2. Commencement

Rule 2 provides that the Amendment Rules are to commence on the day following registration on the Federal Register of Legislative Instruments.

3. Amendment

Rule 3 provides that the Schedule to the Amendment Rules amend the *Private Health Insurance (Transition) Rules 2007*.

Schedule Amendments

10. Transition for restricted access insurers

Rule 10 provides that subsection 126-20(6) of the PHI Act does not apply until 31 December 2008 to an insurer who applies for registration as a restricted access insurer under Part 4-3 of the PHI Act where the insurer is a restricted access insurer under subsections 18(1) and 20(1) of the Act, and the insurer's constitution does not comply with subsection 126-20(6) of the PHI Act.