

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 27

Health Insurance Act 1973

Health Insurance Amendment Regulations 2011 (No. 1)

Subsection 133(1) of the *Health Insurance Act 1973* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all 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.

Part II of the Act provides for the payment of medicare benefit for professional services rendered to eligible persons. Part II, section 9 provides that this benefit be calculated with reference to fees set out in tables in the *Health Insurance (General Medical Services Table) Regulations* (the GMST Regulations). Part II, paragraph 10(2)(aa) provides that a professional service may attract a benefit equal to 100 per cent of its applicable fee. Regulation 6EF of the *Health Insurance Regulations 1975* provides that professional services attracting a 100 per cent benefit shall be listed in Schedule 6 to these Regulations.

On 1 January 2010, professional service item number 2702 (preparation of a ‘General Practice Mental Health Treatment Plan’) was added to the tables in the GMST Regulations. However, in an oversight, it was not simultaneously listed in Schedule 6 to the *Health Insurance Regulations 1975*.

The Regulations rectify this omission by adding item 2702 to Schedule 6, with retrospective effect to 1 January 2010. Since this retrospectivity does not disadvantage or impose liabilities on any person other than the Commonwealth, subsection 12(2) of the *Legislative Instruments Act 1973* does not operate to prevent the Regulations from taking effect.

The Act specifies no conditions which 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*.

As the amendments rectify a drafting oversight and have no practical effect on the payment of medicare benefit, no consultation was undertaken.