

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Private Health Insurance Act 2007

Private Health Insurance (Registration) Amendment Rules 2014 (No. 1)

Authority

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Registration) Rules* providing for matters required or permitted by Part 4-3 of the Act, or necessary or convenient in order to carry out or give effect to Part 4-3 of the Act.

The *Private Health Insurance (Registration) Amendment Rules 2014 (No. 1)* (the Amendment Rules) amend the *Private Health Insurance (Registration) Rules 2009 (No. 2)* (the Principal Rules), which commenced on 22 July 2009.

Purpose

The purpose of the Amendment Rules is to update the definitions of some restricted access groups in the Schedule.

Background

The Act enables private health insurers to be registered with the Private Health Insurance Administration Council as a ‘restricted access insurer’. A restricted access insurer may only offer complying health insurance policies to a particular group of people, for example members of a professional association (a ‘restricted access group’).

Paragraph 126-20(7)(e) of the Act provides that a restricted access group includes a group of people who all belong to a particular group, based on whether they are or were part of any group described in the *Private Health Insurance (Registration) Rules*.

New subsection 126-20(8) of the Act clarifies that the *Private Health Insurance (Registration) Rules* may describe a group as consisting of one or more classes of people, whether or not the class or classes are described by reference to the matters referred to in paragraphs 126-7(a) – (d) of the Act (for example, membership of a particular industry or union or employment by a particular employer).

The Amendment Rules make a number of amendments to the restricted access groups described in the Principal Rules to:

- (a) expand the restricted access groups to which the Reserve Bank Health Society Ltd, Railway and Transport Health Fund Ltd, Queensland Teachers’ Union Health Fund Limited, Phoenix Health Fund and CBHS Health Fund Limited (as appropriate) may offer insurance;
- (b) repeal the specification of a restricted access group for Health Care Insurance Limited, who has ceased to be a restricted access insurer.

Details

Details of the Amendment Rules are set out in the **Attachment**.

Consultation

The Office of Best Practice Regulation (OBPR) was consulted. OBPR advised that a Regulation Impact Statement was not required because the amendments are minor.

The Amendment Rules commence on the day after registration.

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

Authority: Section 333-20 of the *Private Health Insurance Act 2007*

ATTACHMENT

DETAILS OF THE *PRIVATE HEALTH INSURANCE (REGISTRATION) AMENDMENT RULES 2014 (No. 1)*

Section 1 Name of Rules

Section 1 provides that the title of the Amendment Rules is the *Private Health Insurance (Registration) Amendment Rules 2014 (No. 1)*.

Section 2 Commencement

Section 2 provides that the Amendment Rules are to commence on the day after registration.

Section 3 Authority

Section 3 provides that the Amendment Rules are made under the *Private Health Insurance Act 2007*.

Section 4 Schedule

Section 4 provides that the an instrument specified in a Schedule to the Amendment Rules is amended or repealed as set out in the applicable items and any other item in a Schedule takes effect according to its term.

Schedule – Amendments

The Schedule amends the *Private Health Insurance (Registration) Rules 2009 (No. 2)* (the Principal Rules).

Item 1 – Paragraph 6(d)

Paragraph 6(d) of the Principal Rules excluded former partners and adult children of current or former employees of the Reserve Bank or Note Printing Australia from being taken to belong to the same restricted access group as those employees. As a result of Reserve Bank Health Society Ltd expanding its cover, Item 1 of the Amendment Rules amends paragraph 6(d) of the Principal Rules to remove the exclusion.

Item 2 – Paragraph 6(h)

Paragraph 6(h) of the Principal Rules sets out that the restricted access groups to which an insurer does or will offer complying health insurance products “on and from the date of commencement” are the classes the restricted access groups specified for that insurer in the Schedule and the persons described in paragraphs 6(a) to (g).

Item 2 omits the reference to “on and from the date of commencement” to remove any possible confusion that changes to restricted access groups specified in the Principal Rules would be intended to take effect from the date of the commencement of those Rules in 2009.

Item 3 - Schedule – Restricted access groups for certain insurers – (table item 2, column 2, paragraph 2.2(d))

Item 2 of the table in the Schedule to the Principal Rules deals with the restricted access group for CBHS Health Fund Limited (the Commonwealth Bank employee health fund), which

included persons who are or were an employee of the Commonwealth Bank Group (CBG), which included employees of persons engaged in providing services to the CBG who are employed by EDS Australia or Trading Technology Australia.

Item 3 of the Amendment Rules amends the entry for CBHS Health Fund Limited to reflect that it has extended its cover to include persons who are, or were:

- (a) employees of the CBG (being the Commonwealth Bank of Australia, a subsidiary of the Commonwealth Bank of Australia or Gateway Credit Union);
- (b) employees of any contractor to the CBG who are or were involved in the supply of goods and services to the CBG; and,
- (c) employees of franchisees of a subsidiary company with the CBG.

Item 4 – Schedule – Restricted access groups for certain insurers – table item 4

Item 4 of the Amendment Rules omits the entirety of item 4 of the Principal Rules, as Health Care Insurance Ltd has ceased to be restricted access insurer.

Item 5 - Schedule – Restricted access groups for certain insurers – cell at table item 6, column 2

Item 5 of the Amendment Rules repeals the entry for Phoenix Health Fund Limited in the Schedule to the Principal Rules and substitutes “A person who is, or was, engaged as an employee or contractor in the steelmaking industry.”

Phoenix Health Fund Limited has changed its eligibility criteria from persons who are or were employees, contractors or officers of Tubemakers of Australia Limited or a subsidiary, associated entity or successor to the business of any of those entities to persons engaged in the steel industry to move from being an employer-based fund to an industry-based fund.

Item 6 - Schedule – Restricted access groups for certain insurers – cell at table item 8, column 2

Item 8 of the table in the Schedule to the Principal Rules deals with the restricted access group for Queensland Teachers’ Union Health (QTUH). QTUH’s coverage previously included the members and former members of specified unions. QTUH has extended its cover to members, past and present, of all unions.

Item 6 of the Amendment Rules repeals the entry for QTUH at item 8 of the table to the Schedule and substitutes a new item specifying that QTUH’s coverage includes any person who is, or was, a member of an employee organisation:

- (a) registered or recognised under the *Fair Work (Registered Organisations) Act 2009 (Cth)*, including under Schedules 1 or 2 of that Act; or
- (b) registered as an organisation, being an association of employees under Chapter 12 of the *Industrial Relations Act 1999 (Qld)*; or
- (c) registered in another state or territory under similar legislation.

The remaining categories of persons covered by QTUH in items 8.2, 8.3 and 8.4 of the table remain unchanged, aside from minor technical drafting changes consequential on new item 8.1 of the table.

Item 7 - Schedule – Restricted access groups for certain insurers – table item 9, column 2, paragraph 9.1(b)

Item 9 of the table in the Schedule to the Principal Rules deals with the restricted access group for Railway and Transport Health Fund Ltd. The reference in item 9 to Government or privately operated “electricity generation” has been amended in the Principal Rules ,to Government or privately operated “energy supply” to counter confusion around eligibility for employees involved in gas distribution or onward-supplied electricity generation.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Private Health Insurance (Registration) Amendment Rules 2014 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Private Health Insurance Act 2007* enables private health insurers to be registered with the Private Health Insurance Administration Council as a ‘restricted access insurer’. A restricted access insurer may only offer complying health insurance policies to a particular group of people, for example members of a professional association (a ‘restricted access group’).

Paragraph 126-20(7)(e) of the Act provides that a restricted access group includes a group of people who all belong to a particular group, based on whether they are or were part of any group described in the *Private Health Insurance (Registration) Rules*.

The *Private Health Insurance (Registration) Amendment Rules 2014 (No. 1)* amends Rule 6 and the Schedule to the *Private Health Insurance (Registration) Rules 2009 (No. 2)* to:

- (a) expand the restricted access groups to which the Reserve Bank Health Society Ltd, Railway and Transport Health Fund Ltd, Queensland Teachers’ Union Health Fund Limited, Phoenix Health Fund and CBHS Health Fund Limited (as appropriate) may offer insurance;
- (b) repeal the specification of a restricted access group for Health Care Insurance Limited, who has ceased to be a restricted access insurer.

Human rights implications

This legislative instrument engages Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Private health insurance regulation assists with the advancement of these human rights by improving the governing framework for private health insurance in the interests of consumers. Private health insurance regulation aims to encourage insurers and providers of private health goods and services to provide better value for money to consumers, improve information provided to consumers of private health services, and to allow consumers to make informed choices when purchasing services. Private health insurance regulation also restricts insurers from differentiating the premiums they charge according to individual health characteristics such as poor health.

Conclusion

This legislative instrument is compatible with human rights because it advances the protection of human rights.