

EXPLANATORY STATEMENT

Select Legislative Instrument No. 226, 2015

Issued by authority of the Assistant Treasurer

Australian Prudential Regulation Authority Act 1998

Financial Sector (Collection of Data) Act 2001

Life Insurance Act 1995

Privacy Act 1988

Treasury and Other Laws Amendment (Private Health Insurance Prudential Supervision) Regulation 2015

Section 60 of the *Australian Prudential Regulation Authority Act 1998* (APRA Act) provides that the Governor-General may make regulations required or permitted by or necessary or convenient for giving effect to the APRA Act. Paragraph 56(5)(a) of the APRA Act allows for an agency to be prescribed in the regulations so that it is not an offence for the Australian Prudential Regulation Authority (APRA) to disclose certain information to the agency to fulfil its functions or duties.

Section 30 of the *Financial Sector (Collection of Data) Act 2001* provides that the Governor-General may make regulations required or permitted by or necessary or convenient for giving effect to the *Financial Sector (Collection of Data) Act 2001*. Paragraph 3(1)(c) of the *Financial Sector (Collection of Data) Act 2001* provides that one of the objects of the Act is to allow APRA to collect information for the purposes of assisting another ‘financial sector agency’ to perform its functions and exercise its powers. Section 31 allows financial sector agencies to be prescribed by regulations.

Section 253 of the *Life Insurance Act 1995* provides that the Governor-General may make regulations required or permitted by or necessary or convenient for giving effect to the *Life Insurance Act 1995*.

Section 100 of the *Privacy Act 1988* provides that the Governor-General may make regulations required or permitted by or necessary or convenient for giving effect to the *Privacy Act 1988*.

The purpose of this regulation is to make consequential amendments following the creation of the *Private Health Insurance (Prudential Supervision) Act 2015* and the transfer of the prudential regulation functions of the Private Health Insurance Administration Council (PHIAC) to APRA on 1 July 2015.

These amendments will allow APRA to collect and share information with the Department of Health and the Private Health Insurance Ombudsman. The amendments also remove obsolete references to PHIAC in the *Privacy Regulation 2013*.

The regulation also removes references to jointly regulated friendly societies in the *Life Insurance Regulations 1995*. Jointly regulated friendly societies were friendly societies that had health benefits funds regulated by PHIAC. There are no longer any such friendly societies and as there can be no new jointly regulated friendly societies established, the provisions relating to jointly regulated friendly societies are no longer required.

Details of the proposed Regulation are set out in the Attachment.

The Acts specify that no conditions need to be satisfied before the power to make the Regulation is exercised.

Given the minor and machinery nature of these amendments, and the fact that consultation was undertaken on the principal legislation, no further consultation has been undertaken on this regulation.

The instrument, and all the provisions in the instrument, commence the day after registration.

ATTACHMENT

Details of the Treasury and Other Laws Amendment (Private Health Insurance Prudential Supervision) Regulation 2015

Schedule 1

Item 1 – Australian Prudential Regulation Authority Regulations 1998

Item 1 repeals the paragraph prescribing PHIAC (which has been abolished) as an agency to which APRA can disclose protected information and documents under the exception in paragraph 56(5)(a) of the APRA Act.

The item also prescribes the Private Health Insurance Ombudsman as an agency for the purposes of paragraph 56(5)(a) of the APRA Act, as it will receive information from APRA in order to administer the private health insurance comparison website.

The item also updates the name of the Department of Health, from the Department of Health and Ageing to the Department administered by the Minister administering the *Private Health Insurance Act 2007*. This is to ensure the regulation will not require updating if there is a change in the name of the Department.

Item 2 - Financial Sector (Collection of Data) Regulations 2008

Item 2 adds the Department of Health as a financial sector agency so that APRA can collect information on behalf of the Department of Health.

The Department of Health is described as the Department administered by the Minister administering the *Private Health Insurance Act 2007*.

Item 3 - Life Insurance Regulations 1995

Part 2A.01 of the *Life Insurance Regulations 1995* contains provisions in Schedule 5 which modify the *Life Insurance Act 1995* in its application to friendly societies (including jointly regulated friendly societies).

As there are no longer any jointly regulated friendly societies, this item removes references to jointly regulated friendly societies.

Item 4 - Life Insurance Regulations 1995

Item 4 amends the heading of Regulation 9.01 to remove the references to PHIAC and the Minister for Health and Aged Care.

Item 5 - Life Insurance Regulations 1995

Item 5 removes the references to PHIAC and the Minister for Health and Aged Care.

Item 6 - *Life Insurance Regulations 1995*

Item 6 removes a sentence in a note which only applies to jointly regulated friendly societies.

Item 7 - *Life Insurance Regulations 1995*

Item 7 repeals item 33 of Schedule 5, which modified the *Life Insurance Act 1995* to insert a definition of a health benefits fund for the purpose of jointly regulated friendly societies, as there are no longer any jointly regulated friendly societies.

Item 8 - *Life Insurance Regulations 1995*

Item 8 repeals item 34 of Schedule 5 which modified the *Life Insurance Act 1995* to insert a definition of a management fund in relation to jointly regulated friendly societies as there are no longer any jointly regulated friendly societies

Item 9 – *Life Insurance Regulations 1995*

Part 2A.01 of the *Life Insurance Regulations 1995* also contains provisions in Schedule 6 which modify the *Life Insurance Act 1995* in its application to jointly regulated friendly societies.

As there are no longer any jointly regulated friendly societies this item repeals Schedule 6.

Item 10 - *Privacy Regulation 2013*

Item 10 removes the reference to PHIAC.

Statement of Compatibility with Human Rights

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

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 instrument removes obsolete references to the Private Health Insurance Administration Council (PHIAC) and obsolete regulations relating to jointly regulated friendly societies. As such it is merely technical in nature.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.