

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Private Health Insurance Act 2007

Private Health Insurance (Lifetime Health Cover) Rules 2017

Authority

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Lifetime Health Cover) Rules* (the Rules) providing for matters required or permitted by Part 2-3 of the Act, or necessary or convenient in order to carry out or give effect to Part 2-3 of the Act.

Purpose

Part 2-3 of the Act relates to Lifetime Health Cover. Under Lifetime Health Cover, private health insurers are able to set different premiums depending on the age when an insured person first takes out hospital cover with a private health insurer. People are encouraged to take out hospital cover by the 1 July following their 31st birthday. The Act sets out the rate for increases in premiums for people who do not take out private health cover before that time. These Rules do not introduce new requirements.

The Rules set out administrative matters relating to lifetime health cover, such as the categories of people who are taken to have hospital cover and the provision for suspension of hospital cover. The Rules set out the notification of information requirements for adult insured persons, adults who apply for hospital cover, and information given by one private health insurer to another. The Rules also provide for the kinds of conclusive evidence of hospital cover or age.

The creation of the *Private Health Insurance (Lifetime Health Cover) Rules 2017* repeals and remakes the *Private Health Insurance (Lifetime Health Cover) Rules 2007* which is due to sunset on 1 April 2017.

The Act does not specify any conditions that need to be met before the power to make the Rules may be exercised.

Details

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

Consultation

These Rules are made as a result of the sunset of the previous Rules on 1 April 2017. The assessment that the regulation is operating effectively and efficiently was been informed by a consultation process which involved subject matter experts in the Private Health Insurance Branch, Department of Health over the period of 2 March 2017 to 15 March 2017. The assessment supported the remaking of the previous Rules in the same form.

The Office of Best Practice Regulation has advised that no Regulation Impact Statement is required.

These Rules replace the *Private Health Insurance (Lifetime Health Cover) Rules 2007*.

These Rules commence on 1 April 2017.

These Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Private Health Insurance (Lifetime Health Cover) Rules 2017*

Section 1 – Name of Rules

Section 1 of the Rules provides that it is the *Private Health Insurance (Lifetime Health Cover) Rules 2017*.

Section 2 - Commencement

Section 2 of the Rules provides that it commences on 1 April 2017.

Section 3 - Authority

Section 3 of the Rules provides that it is made under item 2 of the table in section 333-20 of the *Private Health Insurance Act 2007*.

Section 4 - Schedule

Section 4 of the Rules provides that any instrument specified in a Schedule to the Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule has effect according to its terms.

Section 5 - Definitions

Section 5 of the Rules notes that the terms used such as *lifetime health cover base day* have the same meaning as in the Act. *Act* means the *Private Health Insurance Act 2007*.

Section 6 - Adults taken to have hospital cover

Section 6 provides for categories of persons taken to have hospital cover for the purposes of lifetime health cover. These are adults whose health services are provided by or through:

- the Australian Antarctic Division of the Department of the Environment and Energy; or
- the Australian Defence Force (for members on continuous full-time service or their adult dependants).

Section 7 - Permitted days-suspended hospital cover

Section 7 provides that a private health insurer must recognise the suspension of membership of a person who transfers to a new private health insurer during a period of suspension from another private health insurer. Subsection 7 (2) provides that the private health insurer must recognise the period of the persons suspension as permitted days without hospital cover and must not apply any additional loadings to the persons premium.

Subsection 7 (3) provides that private health insurers are only required to recognise a maximum of two years suspended membership for a person wishing to transfer while on suspension from another insurer.

Section 8 - Providing information to policy holders

Subsection 8 (1) (a) provides that a policy holder requesting information from his or her private health insurer about increases under Part 2-3 in the amounts of premiums payable for hospital cover must be given the information within 14 days of the insurer receiving the request. The information must include the information specified in subsection 8 (1) (b).

Subsection 8 (1) (b) provides that for each policy holder affected by a lifetime health cover increase in premium, the private health insurer must provide each year a written statement detailing the amount the policy holder's premiums payable for hospital cover are increased, and providing the private health insurer's record of the number of days the policy holder has not had hospital cover since his or her lifetime health cover base day.

Subsection 8 (2) provides that this information may be provided in the form of a record based on an age notionally attributed to the policy holder, as the age from which the policy holder is treated as having continuous hospital cover.

Subsection 8 (3) provides that in the case of joint hospital holders the information must set out the details of the hospital cover as it applies to each adult covered under the policy, and must be provided to each joint policy holder. If the adults share an address the information may be sent in a single notice to the adults at that address.

Section 9 - Providing information to adults inquiring about cover

Section 9 provides that a private health insurer must inform a person who applies to become, or inquires about taking out hospital cover, about the effect on premiums of any adult covered by a policy being late in taking out hospital cover, or any adult ceasing for a period to have hospital cover after his or her lifetime health cover base day.

Subsection 9 (2) provides that the term *late in taking out hospital cover* means where an adult did not have hospital cover by the 1 July following their 31st birthday. This is referred to as the person's lifetime health cover base day.

Section 10 - Information being provided by one private health insurer to another

Section 10 provides that a private health insurer can only give information to another private health insurer about increases to premiums for a person under Part 2-3 with the permission of the person.

Subsection 10 (2) provides that the information may be provided in the form of a record based on an age notionally attributed to the policy holder, as the age from which the policy holder will be treated as having had continuous hospital cover.

Section 11 - Evidence of having hospital cover, or of a person's age

Subsection 11 (1) sets out the kinds of evidence that can be accepted as conclusive evidence of a person having hospital cover at a particular time or during a particular period.

These are:

- the annual statement issued to, or on behalf of, a person by his or her insurer providing cover at the particular period in accordance with subsection 12(1)(a);
- a determination that a person is to be treated as having had hospital cover on 1 July 2000 and/or 30 June 1999 under section 37-10 of the Act;

- a written statement issued by the Australian Antarctic Division of the Department of Environment and Energy, that the person had health services provided by or through the Australian Antarctic Division at the particular time or during the particular period; or
- a written statement issued by the Australian Defence Force that the person had health services provided by or through the Australian Defence Force at the particular time or during the particular period.

Subsection 11 (2) set out the kinds of evidence that a private health insurer must accept as conclusive evidence of a person's age for the purposes of Part 2-3 of the Act.

These are: the person's original birth certificate; the person's current driver's license; or the person's current passport.

Subsection 11 (3) provides that a private health insurer may accept other evidence if a document of a kind mentioned in subsection 11 (1) or (2) is not available to be given as evidence.

Schedule 1 – Repeals

Schedule 1 repeals the previous instrument.

Statement of Compatibility with Human Rights

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

Private Health Insurance (Lifetime Health Cover) Rules 2017

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 Rules set out administrative matters relating to lifetime health cover, such as the categories of people who are taken to have hospital cover and the provision for suspension of hospital cover. The Rules set out the notification of information requirements for adult insured persons, adults who apply for hospital cover, and information given by one private health insurer to another. The Rules also provide for the kinds of conclusive evidence of hospital cover or age.

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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, to improve information provided to consumers of private health services to allow consumers to make more informed choices when purchasing services and requires insurers not to differentiate 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.

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