EXPLANATORY STATEMENT

Issued by the authority of the Minister for Health and Ageing

Private Health Insurance Act 2007

Private Health Insurance (Medical Devices and Human Tissue Products) Repeal Instrument 2025

Purpose

The purpose of the *Private Health Insurance (Medical Devices and Human Tissue Products) Repeal Instrument 2025* (the Repeal Instrument) is to repeal the *Private Health Insurance (Medical Devices and Human Tissue Products) Rules 2025* (the Previous Rules) on 1 November 2025. The Previous Rules will be replaced by the *Private Health Insurance (Medical Devices and Human Tissue Products) Rules (No. 2) 2025* (the New Rules) on 1 November 2025.

The New Rules update the list of medical devices and human tissue products for which a benefit must be paid, where the listed item is provided in the conditions and circumstances specified in the *Private Health Insurance Act 2007* (the Act). The New Rules set out the minimum benefit payable for each listed item.

Legislative authority

Item 4 of the Table in section 333-20 of the Act provides that the Minister may make the Medical Devices and Human Tissue Products Rules (the MDHTP Rules), providing for matters required or permitted by Part 3-3 of the Act, or necessary or convenient in order to carry out or give effect to Part 3-3 of the Act.

Reliance on subsection 33(3) of the *Acts Interpretation Act 1901*

In addition to the power to make this instrument under section 333-20 of the Act, subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Commencement

The Repeal Instrument commences on 1 November 2025.

Consultation

It was not necessary to undertake consultation on the Repeal Instrument as this instrument is necessary to ensure there is only a single set of MDHTP Rules. The Repeal Instrument repeals the Previous Rules so that the New Rules (which have previously been consulted on) can take effect on 1 November 2025 without there being another set of MDHTP Rules on the Federal Register of Legislation.

General

The Repeal Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Repeal Instrument is set out in **Attachment A.**

The Repeal Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment B**.

ATTACHMENT A

Details of the Private Health Insurance (Medical Devices and Human Tissue Products) Repeal Instrument 2025

Part 1 Preliminary

Section 1 Name

Section 1 provides that the name of the instrument is the *Private Health Insurance (Medical Devices and Human Tissue Products) Repeal Instrument 2025.*

Section 2 Commencement

Section 2 provides that the instrument commences on 1 November 2025. This commencement aligns with the commencement of the *Private Health Insurance (Medical Devices and Human Tissue Products) Rules (No. 2) 2025* (i.e. New Rules). This instrument is intended to ensure that there is, on 1 November 2025, a single set of Medical Devices and Human Tissue Products Rules on the Federal Register of Legislation.

Section 3 Authority

Section 3 provides that the instrument is made under item 4 of the Table in section 333-20 of the *Private Health Insurance Act 2007*.

Section 4 Schedules

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

Schedule 1 – Repeals

This schedule lists the *Private Health Insurance (Medical Devices and Human Tissue Products) Rules 2025* (i.e. the Previous Rules) as the sole legislative instrument to be repealed by this instrument**.**

ATTACHMENT B

Statement of Compatibility with Human Rights

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

Private Health Insurance (Medical Devices and Human Tissue Products) Repeal Instrument 2025

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 purpose of the *Private Health Insurance (Medical Devices and Human Tissue Products) Repeal Instrument 2025* (the Repeal Instrument) is to repeal the *Private Health Insurance (Medical Devices and Human Tissue Products) Rules 2025* (the Previous Rules) on 1 November 2025. The Previous Rules will be replaced by the *Private Health Insurance (Medical Devices and Human Tissue Products) Rules (No. 2) 2025* (the New Rules) from 1 November 2025.

Human rights implications

The Repeal Instrument repeals the Previous Rules and is made to ensure there is a single set of Medical Devices and Human Tissue Products Rules on the Federal Register of Legislation from 1 November 2025. The human rights implications of the 1 November 2025 changes to the Medical Devices and Human Tissue Products Rules and the compatibility of those changes with human rights is outlined in the Statement of Compatibility with Human Rights for the New Rules.

Conclusion

The Repeal Instrument is compatible with human rights.

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