

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health and Ageing

Private Health Insurance Act 2007

Private Health Insurance (Data Provision) Rules 2007

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Data Provision) Rules* (the Rules) providing for matters required or permitted by Part 4-5 of the Act, or necessary or convenient in order to carry out or give effect to Part 4-5 of the Act.

As part of reforms to private health insurance announced by the Australian Government on 26 April 2006, regulation of private health insurance was moved from the *National Health Act 1953* (NHA) (and regulations under the NHA), into the new *Private Health Insurance Act 2007* (PHI) (and Private Health Insurance Rules made under the PHI).

These Rules specify the kinds of information, relating to the treatment of insured persons of health benefits funds, that private health insurers are to give to the Secretary of the Department.

The kinds of information specified are those set out in the Hospital Casemix Protocol. The Hospital Casemix Protocol is defined as the protocol set out in Schedule 7 of the *National Health Regulations 1954* as in force immediately before the commencement of the Act, with some updating to reflect the terms used in the PHI.

Under subsection 73AB(1) of the NHA it was a condition of registration of a private health insurer that it must give to the Department information required under the Hospital Casemix Protocol. These Rules do not introduce new requirements.

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

Private health insurers were extensively consulted and provided with opportunities to comment upon the new Private Health Insurance legislative package. Draft Rules were published on the Departmental website for comment, and information sessions were held to provide industry stakeholders with the opportunity to be consulted on the making of the Rules.

Consultations were attended by representatives from individual private health insurers and peak industry bodies (the Australian Health Insurance Association and Health Insurance Restricted Membership Association members funds), private hospitals and their industry representatives (Australian Private Hospitals Association and Catholic Health Australia), the Australian Medical Association, the Private Health Insurance Administration Council, the Private Health Insurance Ombudsman, Consumers' Health Forum of Australia and central agencies. All of the industry representatives have expressed strong support for the proposed legislative framework including the Private Health Insurance Rules.

The Office of Best Practice Regulation has advised that no additional Regulation Impact Statement (RIS) is required. A RIS that was prepared for the Private Health Insurance Bill 2006 (PHI Bill) which analysed the options associated with the Australian Government's

recent initiatives to improve the attractiveness of and participation in private health insurance for consumers. The measures include those under the *Private Health Insurance Act 2007* and associated legislative instruments.

Details of the Rules are set out in the Attachment.

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

The Rules commence at the same time as the Act commences if they are registered before the Act commences; or, if the Rules are registered on or after the Act commences, the Rules commence on the day they are registered.

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

DETAILS OF THE *PRIVATE HEALTH INSURANCE (DATA PROVISION) RULES 2007***1. Name of Rules**

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Data Provision) Rules 2007*.

2. Commencement

Rule 2 provides for the Rules to commence at the same time as the Act commences if they are registered before the Act commences; or, if the Rules are registered on or after the Act commences, the Rules commence on the day they are registered.

3. Definitions

Rule 3 provides for the Definitions of these Rules. The terms used in these Rules have the same meaning as in the Act. *Hospital Casemix Protocol* means the protocol set out in Schedule 7 of the *National Health Regulation 1954* as in force immediately before the commencement of the Act, but as if certain changes were made, as set out in Rule 3.

4. Information to be provided

Subrule 4 (1) provides, for the purpose of section 172-10 of the Act, that the kinds of information, relating to the treatment of insured persons, that private health insurers are to give to the Secretary of the Department are the kinds of information specified in the Hospital Casemix Protocol.

Subrule 4 (2) provides that reference should be made to the explanatory notes in Part 1 of the Hospital Casemix Protocol for the interpretation of the kinds of information to be provided.