

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health and Ageing

Private Health Insurance Act 2007

Private Health Insurance (Data Provision) Rules 2008

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.

These Rules specify the kinds of information relating to the treatment of insured persons that private health insurers are to give to the Secretary of the Department under section 172-10 of the Act.

The kinds of information specified are those set out in the HCP1 Data from Insurers to the Department and HCP2 Data from Insurers to the Department documents that were signed on 29 May 2008 by the Assistant Secretary of the Private Health Insurance Branch of the Department of Health and Ageing. These documents replace the document that was referred to in the *Private Health Insurance (Data Provision) Rules 2007* (the previous Rules) and can be found on the Department of Health and Ageing website at:

<http://www.health.gov.au/internet/main/publishing.nsf/Content/health-casemix-data-collections-about-HCP>

The document that was referred to in the previous Rules was the Hospital Casemix Protocol which was 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 modifications in the previous Rules to reflect the terms used in the Act. In these Rules, the Hospital Casemix Protocol was updated with the consultation of industry and divided into two documents which were renamed as HCP1 Data from Insurers to the Department and HCP2 Data from Insurers to the Department. Because the documents were updated, it was unnecessary to retain the modifications that were in the previous Rules.

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 regarding changes to the Hospital Casemix Protocol. Draft changes to the HCP were published on the Departmental website for comment on 27 November 2007 and 31 January 2008. Consultation forums were held to provide industry stakeholders with the opportunity to be consulted on the changes to the Hospital Casemix Protocol. A final paper was published on the Departmental website on 3 March 2008.

Consultations were attended by representatives from individual private health insurers and peak industry bodies (the Australian Health Insurance Association and the Australian Health Service Alliance), private hospitals and their industry representatives (Australian Private Hospitals Association), the Private Health Insurance Administration Council, State and Territory Health Authorities and other industry stakeholders. All of the industry representatives have played a key role in the developments of the changes to the HCP.

A preliminary RIS was prepared for the Office of Best Practice Regulation to assess the need for a RIS. The Office of Best Practice Regulation has advised that no additional Regulation Impact Statement (RIS) is required.

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*.

These Rules commence on 1 July 2008 or if the Rules are registered after 1 July 2008, on the day after they are registered.

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

ATTACHMENT**DETAILS OF THE *PRIVATE HEALTH INSURANCE (DATA PROVISION) RULES 2008*****1. Name of Rules**

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Data Provision) Rules 2008*.

2. Commencement and revocation

Subrule 2(1) provides for the Rules to commence on 1 July 2008 or if the Rules are registered after 1 July 2008, on the day after they are registered.

Subrule 2(2) provides for the Rules to revoke the *Private Health Insurance (Data Provision) Rules 2007*.

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. Rule 3 of the Rules now defines HCP1 Data from Insurers to the Department and HCP2 Data from Insurers to the Department, and no longer contains a definition of Hospital Casemix Protocol which was referred to in Schedule 7 of the *National Health Regulations 1954* as in force immediately before the commencement of the Act, with modifications.

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 HCP1 Data from Insurers to the Department and HCP2 Data from Insurers to the Department.

Subrule 4 (2) provides that for the purposes of interpreting the kinds of information to be provided with respect to “Data Specifications (HCP1)”, reference must be made to “Explanatory Notes (HCP1)”. This subrule differs from the previous Rules by removing the references to Part 1 of the Hospital Casemix Protocol and inserting new references to the new parts of HCP1 Data from Insurers to the Department.

Subrule 4 (3) is a new subrule and provides that for the purposes of interpreting the kinds of information to be provided with respect to “Data Specifications (HCP2)”, reference must be made to “Explanatory Notes (HCP2)”