

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Private Health Insurance Act 2007

Private Health Insurance (Health Insurance Business) Amendment Rules 2013 (No. 1)

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Health Insurance Business) Rules* providing for matters required or permitted by Part 4-2 of the Act, or necessary or convenient in order to carry out or give effect to Part 4-2 of the Act.

Section 121-5 of the Act specifies that one of the matters the Minister must take into account in making or revoking a declaration that a facility is a hospital for the purposes of the Act is whether the facility has entered into or complied with undertakings about providing information specified in the *Private Health Insurance (Health Insurance Business) Rules* to private health insurers. Section 121-7 of the Act allows for the *Private Health Insurance (Health Insurance Business) Rules* to specify conditions to which declarations that a facility is a hospital for the purposes of the Act are subject. One of these conditions is that private hospitals must provide certain data to the Department of Health and Ageing.

The *Private Health Insurance (Health Insurance Business) Amendment Rules 2013 (No. 1)* (the Amendment Rules) amend Rules 4 and 7 of the *Private Health Insurance (Health Insurance Business) Rules 2010* (the Principal Rules), which specify the statistical information to be provided by hospitals to insurers, and by private hospitals to the Department, respectively.

The purpose of the Amendment Rules is to incorporate in Rules 4 and 7, respectively, the revised **HCP Data from Hospitals to Insurers** and the **PHDB Data from Private Hospitals to the Department** documents, which were approved on 9 May 2013 by the Assistant Secretary of the Financing and Analysis Branch of the Department of Health and Ageing. These documents replace the prior versions of these documents that were referred to in the Principal Rules. The revised documents 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>.

These amendments are necessary due to the introduction, on 1 July 2013, of new versions of the ICD-10-AM (v8) and AR-DRG (v7.0) classification systems used to describe and group admitted patient care episodes, and to improve clarity and data handling.

Consultation

In early 2013, the Department consulted with the private health insurance and private hospital industry through existing working group arrangements regarding minor amendments required to the HCP, HCP1 and PHDB specifications. The working groups are comprised of Department and industry stakeholder representatives. Private health insurance and private hospital stakeholder representatives interested in developing the amendments participated in

the process. Industry is of the view that it is appropriate for minor amendments to be managed through the working group arrangements. Previous minor amendments to the data specifications have been managed in this way. The amended data specifications are distributed to industry via a Private Health Insurance Circular.

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

The Amendment Rules commence on 1 July 2013.

Statement of Compatibility with Human Rights

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

Private Health Insurance (Health Insurance Business) Amendment Rules 2013 (No. 1)

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

Section 121-5 of the *Private Health Insurance Act 2007* (the Act) specifies that one of the matters the Minister must take into account in making or revoking a declaration that a facility is a hospital for the purposes of the Act is whether it has entered into or complied with undertakings about providing information specified in the *Private Health Insurance (Health Insurance Business) Rules* to private health insurers. Section 121-7 of the Act allows for the *Private Health Insurance (Health Insurance Business) Rules* to specify conditions to which declarations that a facility is a hospital for the purposes of the Act are subject. One of these conditions is that private hospitals must provide certain data to the Department of Health and Ageing.

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The amendments incorporate in Rules 4 and 7, respectively, the revised **HCP Data from Hospitals to Insurers** and the **PHDB Data from Private Hospitals to the Department** documents, which were approved on 9 May 2013 by the Assistant Secretary of the Financing and Analysis Branch of the Department of Health and Ageing. These documents replace the documents of the same name that were previously referred to in the Principal Rules. The revised documents 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>.

Human rights implications

This Legislative Instrument will engage the human right of privacy but will not result in any limitation of that right.

Supply of the **HCP Data from Hospitals to Insurers** involves the disclosure of sensitive personal information, including health information, from hospitals to private health insurers. However the information supplied is provided by hospitals with the patient's consent as part

of the patient's contractual relationship with their hospital and private health insurer. There are protections for the information provided to insurers under the *Private Health Insurance Act 2007*, the *Privacy Act 1988* and relevant State or Territory laws.

Supply of the **PHDB Data from Private Hospitals to the Department** involves the disclosure of de-identified personal information, including health information, from private hospitals to the Department of Health and Ageing. However, the information supplied could not reasonably be used by the Department to identify a patient.

The amendments are essentially mechanical in nature, and do not substantively alter any legislative requirements.

Conclusion

The Legislative Instrument is compatible with human rights as, although it engages the right of privacy in relation to personal information, it will not result in any limitation of that right.

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