

Private Health Insurance (Registration) Rules 2017

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Private Health Insurance (Prudential Supervision) Act, 2015 subsection 174(1)

Under subsection 174(1) of the *Private Health Insurance (Prudential Supervision) Act 2015* (the Act), APRA has the power to make APRA rules, in writing, prescribing matters required or permitted by the Act to be prescribed by APRA rules, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

On 22 March 2017, APRA made the *Private Health Insurance (Registration) Rules 2017* (the Registration Rules) which:

- revoke the *Private Health Insurance (Registration) Rules 2015* (the previous Registration Rules); and
- make the new Registration Rules.

The Registration Rules will commence on the day after they are registered on the Federal Register of Legislation.

1. Background

The Registration Rules perform two roles, namely they set out:

- the criteria for applications for registration as a private health insurer under the Act; and
- a number of matters relating to restricted access private health insurers¹, primarily to accommodate the existing restricted access groups of a number of private health insurers when the *Private Health Insurance Act 2007* came into effect².

The previous Registration Rules included a definition of the restricted access group of each restricted access private health insurer in a Schedule, which therefore required amendment each time a group was validly varied. APRA identified an opportunity to streamline the process for private health insurers to vary restricted access groups by avoiding the need for continual updating, and has also clarified the operation of a number of provisions.

2. Purpose of the instrument

The purpose of the instrument is to revoke the previous Registration Rules and make the new Registration Rules and thereby to improve the clarity of the registration criteria and

¹ Insurers who make their products available only to a defined group of people.

² For example, many restricted access insurers permitted their own employees and contractors to be insured and many restricted access insurers had developed a practice of permitting various "extended family" members (other than partners and dependent children) to take up policies. These extensions would not otherwise be permissible under the Act.

streamline the process for varying and recording restricted access private health insurer groups.

In particular, the instrument differs from the previous Registration Rules as:

- Rule 4 clarifies the application of the Registration Rules

A new rule 4 has been added to clarify the Registration Rules apply to both restricted access private health insurers and companies seeking registration as a private health insurer.

- Previous Rule 5(h)(i) and (ii) referring to Schedule deleted

The Schedule of definitions of the restricted access group of each restricted access private health insurer attached to the previous Registration Rules has been deleted.

- Rule 6(a) confirms PHI obligations continue to apply

Rule 6(a) clarifies that applicants seeking registration as a private health insurer must be able to comply with the obligations arising under the *Private Health Insurance Act 2007*.

- Rule 7 describes the permissible restricted access groups

Rule 7 provides that applicants and private health insurers have the option to extend coverage to any or all of the additional groups permitted by the Rules without seeking an exemption.

- Rule 7 (a) gives private health insurers the option to extend coverage

Rule 7 (a) clarifies that private health insurers have the option to cover a group of people from more than one of the categories referred to in section 15(4) of the Act and/or one or more of the groups set out in Rule 7(b) to Rule 7(i) of the revised Registration Rules.

- Rule 7 (b) gives private health insurers the option to extend coverage

Rule 7(b) provides that any changes made to restricted access groups before the commencement of the revised Registration Rules are permitted;

- Rule 7(d) adds employees of a contractor

Rule 7(d) extends the permissible restricted access groups for employers referred to in section 15(4) of the Act to employees of a contractor providing goods or services to the employer.

- Rule 7(e) adds employees of a franchisee of a subsidiary company

Rule 7(e) extends the permissible restricted access groups for employers referred to in section 15(4) of the Act to employees of a franchisee of a subsidiary company to the employer.

- Rule 7(i) extends the familial group

Rule 7(i) extends the permissible familial group to include spouses and dependent children of the grandchildren of the principal insured.

- Rule 8(a) group may be contained in the insurer's constitution or in the fund rules

Rule 8(a) clarifies that the restricted access group may be described in either the insurer's constitution or in its fund rules.

3. Consultation

In early 2016, APRA commenced an informal consultation with the restricted access insurers and the industry group Hirmaa, including a presentation to industry.

APRA conducted an eight week formal consultation period with all insurers and industry groups from 10 August 2016.

APRA also consulted with the Department of Health.

Submissions were supportive of the proposed changes, subject to a few minor mechanical changes which have been incorporated into the final Registration Rules.

4. Regulation Impact Statement

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for this legislative instrument.

5. Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

A Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is provided at Attachment A to this Explanatory Statement.

ATTACHMENT A

Statement of Compatibility with Human Rights

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

Private Health Insurance (Registration) 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 (HRPS Act)*.

Overview of the Legislative Instrument

The *Private Health Insurance (Registration) Rules 2017* prescribe matters applicable to private health insurers.

The instrument sets rules in relation to the criteria for registration of private health insurers and extends beyond the Act the groups of people who can be offered insurance by restricted access insurers.

Human rights implications

APRA has assessed this Legislative Instrument and is of the view that it does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the HRPS Act. Accordingly, in APRA's assessment, the instrument is compatible with human rights.

Conclusion

The *Private Health Insurance (Registration) Rules 2017* are compatible with human rights because they do not raise any human rights issues.