

Private Health Insurance (Registration) Rules 2017 (No 2)

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 14 June 2017, APRA made the *Private Health Insurance (Registration) Rules 2017 (No 2)* (the revised Registration Rules) which:

- revoke the *Private Health Insurance (Registration) Rules 2017* (the previous Registration Rules); and
- make the revised Registration Rules.

1. Background

The previous Registration Rules sought to streamline the process for private health insurers to vary their restricted access group/s, in particular, by avoiding the need for continual updating of those Rules.

Following the commencement of the previous Registration Rules, however, it came to APRA's attention that those Rules did not fully preserve the status of restricted access groups created under the previous statutory framework. In particular, some restricted access insurers have restricted access groups which comprise more than one group specified in paragraphs (a), (b), (c) and (d) of subsection 15(4) of the Act, and some also define their restricted access groups (in part) by reference to particular groupings which do not strictly fall within any of paragraphs (a), (b), (c) or (d) of subsection 15(4) of the Act. APRA's policy intent was that existing restricted access groups would continue to be permitted under the Rules.

2. Purpose of the instrument

The purpose of the instrument is to revoke the previous Registration Rules, and to make the revised Registration Rules better reflect APRA's policy intent of streamlining the process for a restricted access insurer to change its restricted access group without the need for further changes to be made to the revised Registration Rules.

The revised Registration Rules broaden the scope of permissible restricted access groups to ensure that existing restricted access insurers and prospective applicants are not excluded by a narrower scope.

In form, the Revised Registration Rules only differ from the previous Registration Rules by deleting the words 'set out in rule 7(b) to Rule 7(i) below' from rule 7(a), by replacing the expression 'and/or one or more groups' with 'and/or one or more other groups' and including a reference to the previous Registration Rules in the Transition Arrangements in rule 9.

The effect of the deletion of the words ‘set out in rule 7(b) to Rule 7(i) below and to replace the expression ‘and/or one or more groups’ with ‘and/or one or more other groups’ is to expand the permitted groups to any other group.

Consultation

APRA conducted an eight week formal consultation period with all insurers and industry prior to making the previous Registration Rules.

APRA conducted a limited consultation with the industry group Hirmaa in relation to the revised Registration Rules.

APRA also consulted with the Department of Health and it did not raise any issues of concern.

3. Regulation Impact Statement

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

4. 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

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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 (No 2)* 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 (No 2)* are compatible with human rights because they do not raise any human rights issues.