**EXPLANATORY STATEMENT**

**Issued by the authority of the Minister for Aged Care**

### National Health Act 1953

***National Health (Continence Aids Payment Scheme) Amendment (Indexation of CAPS Payment) Instrument 2018***

**Authority**

This Instrument is made under section 12 of the *National Health Act 1953* (the Act).

**Background**

The Act relates to the provision of pharmaceutical, sickness and hospital benefits, and of medical and dental services.

Section 12 of the Act prescribes that the Minister may, by legislative instrument, formulate a Continence Aids Payment Scheme, under which the Commonwealth makes payments as a contribution towards the cost of buying products that help manage incontinence.

Paragraph 12(3)(c) of the Act specifies that a legislative instrument may provide for the amount of the contribution that is payable in each financial year in relation to a person who is participating in the scheme.

**Purpose**

The *Continence Aids Payment Scheme 2010* (CAPS) makes a monetary payment to an eligible person which is intended to contribute towards the cost of purchasing their continence aids.

The purpose of the *National Health (Continence Aids Payment Scheme) Amendment (Indexation of CAPS Payment) Instrument 2018* (the Instrument) is to increase that contribution in line with the Consumer Price Index.

**Consultation**

Indexation of the CAPS payment uses a formula based on the indexation figures supplied by the Department of Finance. As this is in accordance with policy upon which consultation was undertaken in 2018, no specific consultation was undertaken with respect to this Instrument.

**Commencement**

This Instrument commences on 1 July 2018.

This Instrument is a legislative instrument for the purposes of the *Legislation Act 2003.*

**Reliance on subsection 33(3) of the *Acts Interpretation Act 1901***

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

**ATTACHMENT**

***Details of the National Health (Continence Aids Payment Scheme) Amendment (Indexation of CAPS Payment) Instrument 2018***

**Section 1** states that the name of the instrument is the *National Health (Continence Aids Payment Scheme) Amendment (Indexation of CAPS Payment) Instrument 2018*.

**Section 2** sets out the commencement date of the instrument.

**Section 3** provides that the authority for the making of theinstrument is section 12 of the *National Health Act 1953*.

**Section 4** provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

**Schedule 1 – Amendments**

***Continence Aids Payments Scheme 2010***

**Item 1 – Subsection 9(1)**

This item provides for the indexation of the amount of CAPS payment for a financial year.

**Statement of Compatibility with Human Rights**

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

National Health (Continence Aids Payment Scheme) Amendment (Indexation of CAPS Payment) Instrument 2018

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 Legislative Instrument**

The *Continence Aids Payment Scheme 2010* (CAPS) provides for a monetary payment to an eligible person which is intended to contribute towards the cost of purchasing their continence aids.

The purpose of the Legislative Instrument is to increase the contribution in line with agreed indexation arrangements for this payment.

**Human rights implications**

This Legislative Instrument is compatible with the human rights to an adequate standard of living and to the enjoyment of the highest attainable standard of physical and mental health contained in articles 11 and 12 of the International Covenant on Economic Social and Cultural Rights.

This Legislative Instrument increases the monetary payment paid to participants under CAPS. The increase is in accordance with movements in the Consumer Price Index. The increased amount helps to ensure that the level of payment made to participating persons is maintained.

**Conclusion**

This Legislative Instrument is compatible with human rights because it enhances the protection of human rights.

**The Hon Ken Wyatt**

**Minister for Aged Care**