

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Health

*Private Health Insurance Act 2007*

*Private Health Insurance (Complying Product) Amendment Rules (No. 1) 2019*

### **Authority**

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make Private Health Insurance (Complying Product) Rules providing for matters required or permitted by Chapter 3 of the Act, or necessary or convenient to be provided in order to carry out or give effect to Chapter 3 of the Act.

### **Purpose**

The purpose of the *Private Health Insurance (Complying Product) Amendment Rules (No. 1) 2019* (the Amendment Rules) is to amend subrule 18(c) of the Principal Rules to extend the length of time for which pilot projects may be conducted from a maximum of two years to a maximum of four years.

Details of the Amendment Rules are set out in the **Attachment**.

### **Background**

Subsection 55-15(2) of the Act provides that the Private Health Insurance (Complying Product) Rules may permit pilot projects of a kind specified in the Rules to be conducted by private health insurers in accordance with requirements specified in the Rules. Pilot projects which comply with these requirements are not a breach of the principle of community rating. Pilot projects are relatively short lived projects allowing an insurer to discriminate on the basis of where a person lives in controlled circumstances.

Rule 18 of the *Private Health Insurance (Complying Product) Rules 2015* (the Principal Rules) set out the requirements which apply to pilot projects for the purposes of subsection 55-15(2) of the Act. Relevantly, subrule 18(c) regulates the maximum length of time over which pilot project may be conducted.

### **Consultation**

This amendment resulted from a consultative process, culminating in the recommendation from the Private Health Ministerial Advisory Committee. The Private Health Ministerial Advisory Committee, at its 4 December 2018 meeting recommended to the Minister for Health, that the time allowed for pilot projects be extended from 2 years. The Committee felt that 2 years was insufficient time for some pilot projects to determine the effectiveness of some innovative models of care, given the time it may take to establish the trial, hire staff, recruit patients and evaluate outcomes. It was generally accepted that extending the time for pilot projects may allow the private health sector to innovate more, improving patient outcomes and product value.

The Amendment Rules commence on the day after the instrument is registered.

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

## ATTACHMENT

### DETAILS OF THE *PRIVATE HEALTH INSURANCE (COMPLYING PRODUCT) AMENDMENT RULES (NO. 1) 2019*

#### **Section 1 Name**

Section 1 provides that the title of the instrument is the *Private Health Insurance (Complying Product) Amendment Rules (No. 1) 2019* (the Amendment Rules).

#### **Section 2 Commencement**

Section 2 provides that the Amendment Rules commence on the day after registration.

#### **Section 3 Authority**

Section 3 provides that the Amendment Rules are made under item 3 of the table in section 333-20 of the *Private Health Insurance Act 2007*.

#### **Section 4 Schedules**

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

#### **Schedule 1 – Amendments**

Item 1 of Schedule 1 provides that subrule 18(c) of the *Private Health Insurance (Complying Product) Rules 2015* is amended by substituting “two years” with “four years”.

## **Statement of Compatibility with Human Rights**

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

### **Private Health Insurance (Complying Product) Amendment (No. 1) Rules 2019**

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**

Rule 18 of the *Private Health Insurance (Complying Product) Rules 2015* (the Principal Rules) set out the requirements which apply to pilot projects for the purposes of subsection 55-15(2) of the Act. Relevantly, subrule 18(c) regulates the maximum length of time over which pilot project may be conducted.

The *Private Health Insurance (Complying Product) Amendment Rules 2019* amends subrule 18(c) of the Principal Rules to extend the maximum allowable time for a pilot project from two years to four years.

#### **Human rights implications**

This Legislative Instrument does not raise any of the applicable rights or freedoms. Pilot projects are relatively short lived projects allowing an insurer to discriminate on the basis of where a person lives in controlled circumstances. The overall effect is that it allows the private health sector to innovate, allowing better patient care and improved value to consumers.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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