



# **Medical Indemnity (Prudential Supervision and Product Standards) (Notice of Provision of Run-off Cover) Determination 2020**

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I, Greg Hunt, Minister for Health, make the following determination.

Dated 6 April 2020

Greg Hunt  
Minister for Health

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# Contents

1	Name.....	1
2	Commencement .....	1
3	Authority.....	1
4	Schedules .....	1
5	Definitions .....	1
6	Matters to be stated in notice .....	2
<b>Schedule 1—Repeals</b>		<b>6</b>
	<i>Medical Indemnity (Prudential Supervision and Product Standards - Notice of Provision of Run-off Cover) Determination 2007</i>	6



## 1 Name

This instrument is the *Medical Indemnity (Prudential Supervision and Product Standards) (Notice of Provision of Run-off Cover) Determination 2020*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2020.	1 July 2020

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under subparagraph 26D(2)(b)(iii) of the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## 5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) MDO;
- (b) medical indemnity insurer;
- (c) provide medical indemnity cover.

- (1) In this instrument:

*Act* means the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*.

*associated MDO*, in relation to a medical indemnity insurer and a person, means an MDO that had an arrangement with the insurer under which the insurer was

## Section 6

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obliged to provide medical indemnity cover for the person that meets all of the requirements of subsection 26A(4) of the Act.

**GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

**paid by** includes paid on behalf of.

**private medical practice** has the same meaning as in the *Medical Indemnity Act 2002*.

**run-off cover** means medical indemnity cover that meets all the requirements of subsection 26A(4) of the Act.

**standard medical indemnity cover** for a person means medical indemnity cover provided by an insurer to the person on the same terms and conditions as the cover usually offered by the insurer to other medical practitioners in the same category or class as the person.

- (2) A reference in any of paragraphs 6(3)(b), (c), (d), (e) and (g) to an amount does not include an amount attributable to GST or stamp duty.
- (3) To avoid doubt, a reference in any of subsections 6(3), (4) and (5) to the most recent period during which the practitioner was provided with medical indemnity cover does not include any period during which the practitioner was provided with medical indemnity cover under subsection 26A(1) or 26C(1) of the Act.

### 6 Matters to be stated in notice

- (1) For the purposes of subparagraph 26D(2)(b)(iii) of the Act, this section sets out matters to be stated in a notice to be given by the insurer that, under subsection 26A(1) or 26C(1) of the Act, provides medical indemnity cover for the practitioner mentioned in that subsection.

Note 1: Under subparagraphs 26D(2)(b)(i) and (ii) of the Act some other matters must also be stated in the notice.

Note 2: The practitioner mentioned in that subsection may have ceased to be a medical practitioner by the time the notice is given.

#### *General*

- (2) The notice must state the following matters relating to the practitioner:
  - (a) the practitioner's gender;
  - (b) the practitioner's date of birth;
  - (c) the year in which the practitioner was first registered or licensed as a medical practitioner under a State or Territory law that provides for the registration or licensing of medical practitioners;
  - (d) the practitioner's most recent provider number as provided by the practitioner to the insurer;
  - (e) the State, Territory or foreign country containing the practitioner's principal place of practice identified in the most recent contract between the insurer and the practitioner for the insurer to provide medical indemnity cover for the practitioner;

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- (f) the unique identifier assigned to the practitioner by the insurer;
  - (g) the day (known as the first cover start date) on which the practitioner was first provided with medical indemnity cover by:
    - (i) the insurer; or
    - (ii) another insurer that has been taken over by the insurer (within the meaning of subsection 26A(3) of the Act); or
    - (iii) an associated MDO;
  - (h) the day (known as the last full cover end date) on which occurred the end of the most recent period (if any) during which the practitioner was provided with medical indemnity cover by the insurer or an associated MDO under a full-premium-paying arrangement relating to:
    - (i) medical services provided for payment in the course of private medical practice; or
    - (ii) medical services provided by the practitioner for which the practitioner was remunerated; or
    - (iii) medical services provided by the practitioner in the course of medical practice other than private medical practice;
  - (i) the status of the practitioner in relation to run-off cover in terms of whether the practitioner is:
    - (i) continuing to pay premiums to the insurer (a status known as contributing); or
    - (ii) eligible for run-off cover (a status known as eligible); or
    - (iii) both continuing to pay premiums to the insurer and eligible for run-off cover (a status known as eligible and contributing); or
    - (iv) inactive;
  - (j) which of the following best describes the practitioner's current situation:
    - (i) a run-off cover contract has been made with the practitioner;
    - (ii) a run-off cover claim has been lodged;
    - (iii) the practitioner's status as an eligible practitioner (within the meaning of section 26A of the Act) has been identified on the basis of MDO data;
    - (iv) the practitioner is eligible but no run-off cover contract has been made;
  - (k) which of the following subparagraphs (based on the classes of persons to whom subsection 34ZB(2) of the *Medical Indemnity Act 2002* applies) describes the practitioner's situation:
    - (i) retired permanently from all medical practice;
    - (ii) retired permanently from private medical practice (but not from all medical practice);
    - (iii) not engaged in any medical practice for more than 3 years;
    - (iv) not engaged in private medical practice for more than 3 years (but not covered by subparagraph (iii));
    - (v) ceased (temporarily or permanently) practice as a medical practitioner because of maternity;
    - (vi) ceased practice as a medical practitioner because of permanent disability;

- (vii) deceased person who had been a medical practitioner;
- (viii) the practitioner engaged in medical practice in Australia as the holder of a temporary visa (within the meaning of the *Migration Act 1958*) that permitted the holder to work in Australia and that did not prohibit the holder from engaging in medical practice in Australia, and the practitioner has permanently ceased medical practice in Australia and no longer resides in Australia;
- (l) the level of medical indemnity cover provided to the practitioner under subsection 26A(1) or 26C(1) of the Act, in terms of:
  - (i) ROCS Level of Cover 1: Private fee-charging practice—fully indemnified; or
  - (ii) ROCS Level of Cover 2: Public sector cover—fully indemnified; or
  - (iii) ROCS Level of Cover 3: Other medical practice MI cover—one or more of the following: Medico-legal; gratuitous services; Good Samaritan; and other partial cover;
- (m) if the insurer ceased to provide medical indemnity cover for payment for the practitioner in relation to incidents occurring during a period mentioned in paragraph (b) or (c) of the definition of *medical practice period* in subsection 26A(9) of the Act—the day the practitioner ceased to be covered under that medical indemnity cover.

*Medical indemnity cover for last period before run-off cover provided*

- (3) The notice must state the following matters for the most recent 12-month period, prior to the insurer providing run-off cover, during which medical indemnity cover was provided by the insurer for the practitioner:
  - (a) the total amount paid by the practitioner in relation to the period to an insurer or an MDO in relation to medical indemnity cover (including a subsidy paid to an insurer or an MDO on behalf of the practitioner under the *Premium Support Scheme 2004* or Part 6 of the *Medical Indemnity Regulations 2020*);
  - (b) the amount of premium paid by the practitioner in relation to the period to an insurer for standard medical indemnity cover for the practitioner;
  - (c) the amount of premium paid by the practitioner in relation to the period to an insurer for medical indemnity cover provided by that insurer for the practitioner in addition to that insurer's standard medical indemnity cover;
  - (d) the amount paid by the practitioner in relation to the period to an insurer or an MDO by way of membership fees;
  - (e) the sum of the amounts of administration fees, separately identified in an invoice issued by an insurer, that were paid by the practitioner in relation to the period;
  - (f) the amount of discount given by an insurer to the practitioner in relation to a premium paid in relation to the period for medical indemnity cover;
  - (g) the amount of loading in relation to a premium paid by the practitioner in relation to the period to an insurer for medical indemnity cover, being an additional amount paid by the practitioner to take account of the risk being assumed by the insurer;
  - (h) the sum of:



- (i) all amounts paid by the practitioner in relation to the period that are attributable to GST on any supply made by an insurer for which an amount paid for medical indemnity cover was consideration; and
- (ii) all amounts of stamp duty paid by the practitioner in relation to the period, under a law of a State or Territory, in connection with medical indemnity cover provided under an arrangement;
- (i) whether an arrangement under which an insurer provided medical indemnity cover for the practitioner during the period required the practitioner to pay an excess to the insurer in relation to a claim that may be made against the practitioner under the arrangement;
- (j) the year when the period ended;
- (k) the specialty in the medical profession in which the practitioner practised during the period.

*Medical indemnity cover for second-last period before run-off cover provided*

- (4) The notice must also state the matters mentioned in subsection (3) for the second most recent 12-month period, prior to the insurer providing run-off cover, during which medical indemnity cover was provided by the insurer for the practitioner.

*Medical indemnity cover for third-last period before run-off cover provided*

- (5) The notice must also state the following matters for the third most recent 12-month period, prior to the insurer providing run-off cover, during which medical indemnity cover was provided by the insurer for the practitioner:
  - (a) the year when the period ended;
  - (b) the specialty in the medical profession in which the practitioner practised during the period.

## **Schedule 1—Repeals**

### ***Medical Indemnity (Prudential Supervision and Product Standards - Notice of Provision of Run-off Cover) Determination 2007***

#### **1 The whole of the instrument**

Repeal the instrument.