

## EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health and Aged Care

*Private Health Insurance Act 2007*

*Private Health Insurance Legislation Amendment Rules (No. 6) 2024*

### Authority

Section 333-20(1) of the *Private Health Insurance Act 2007* (the Act) authorises the Minister to, by legislative instrument, make Private Health Insurance Rules providing for matters required or permitted by the corresponding Chapter, Part or section to be provided; or necessary or convenient to be provided in order to carry out or give effect to that Chapter, Part or section.

Subsection 33(3) of the *Acts Interpretation Act 1901*, provides that 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.

### Purpose

The *Private Health Insurance Legislation Amendment Rules (No. 6) 2024* (the Amendment Rules) amend the *Private Health Insurance (Benefit Requirements) Rules 2011* (the Benefit Requirements Rules) to update the benefits payable by a private health insurer per night for a private Nursing-Home Type Patient (NHTP) at a public hospital in the Northern Territory (NT), by amending Schedule 4.

### Background

The Amendment Rules were required because a typographical error in the *Private Health Insurance Legislation Amendment Rules (No. 5) 2024* misdescribed the amount to be omitted for the private NHTP benefit payable by private health insurers at public hospitals in the NT. This prevented substitution with the new benefit payable in NT public hospitals by private health insurers for NHTP accommodation and care as specified in the Benefit Requirements Rules *Schedule 4 – Nursing-home type patient accommodation: hospitals in all States/Territories*, Clause 6, Table 1.

Additional background to NHTP changes set out in the *Private Health Insurance Legislation Amendment Rules (No. 5) 2024* could, in 2024, be viewed at <https://www.legislation.gov.au>.

### **The Amendment Rules**

The Amendment Rules amend Schedule 4 of the Benefit Requirements Rules to update the NHTP benefit payable by private health insurers per night in hospitals in the NT.

The amendments in the Amendment Rules are administrative in nature and do not substantively alter existing arrangements established under the Act.

### Commencement

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

### Details

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

### Consultation

In August 2024, the Commonwealth consulted jurisdictions on the proposed private NHTP benefits payable by insurers in their public hospitals, from 20 September 2024.

The NT advised an increase in the benefit payable by private health insurers for NHTP accommodation by the amount detailed in the Attachment.

The changes detailed in the Amendment Rules reflect the response received.

### The Amendment Rules

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

## ATTACHMENT

### ***Details of the Private Health Insurance Legislation Amendment Rules (No. 6) 2024***

#### **Section 1 Name**

Section 1 provides that the name of the instrument is the *Private Health Insurance Legislation Amendment Rules (No. 6) 2024* (the Amendment Rules).

#### **Section 2 Commencement**

Section 2 provides that the whole of the instrument commences the day the instrument is registered.

#### **Section 3 Authority**

Section 3 provides that the Amendment Rules are made under section 333-20(1) of the *Private Health Insurance Act 2007*.

#### **Section 4 Schedules**

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

#### **Schedule 1—Amendments— Nursing-home type patient minimum accommodation benefit**

##### ***Private Health Insurance (Benefit Requirements) Rules 2011***

#### **Item 1 – Clause 6 of Schedule 4 (Table 1, table item dealing with Northern Territory)**

Item 1 amends clause 6 of Schedule 4 of the Benefit Requirements Rules to increase the minimum benefits payable by private health insurers for hospital treatment provided to nursing-home type patients in public hospitals in NT from \$147.19 to \$155.59.

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

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

### ***Private Health Insurance Legislation Amendment Rules (No. 6) 2024***

This disallowable 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 disallowable legislative instrument**

The purpose of the *Private Health Insurance Legislation Amendment Rules (No. 6) 2024* (the Amendment Rules) is to amend the following instrument:

- *Private Health Insurance (Benefit Requirements) Rules 2011* (the Benefit Requirements Rules).

These Amendment Rules amend the Benefit Requirements Rules to update benefits payable by insurers for NHTP hospital accommodation at public hospitals in the Northern Territory.

#### **Human rights implications**

The Amendment Rules engage the right to health by facilitating the payment of private health insurance benefits for health care services, encouraging access to, and choice in, health care services. Under Article 12 of the International Covenant on Economic, Social and Cultural Rights, specifically the right to health, the Amendment Rules assist with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Private health insurance regulation assists with the advancement of these human rights by improving the governing framework for private health insurance in the interests of consumers. Private health insurance regulation aims to encourage insurers and providers of private health goods and services to provide better value for money to consumers, and to improve information provided to consumers of private health services to allow consumers to make more informed choices when purchasing services. Private health insurance regulation also requires that insurers do not differentiate the premiums they charge according to individual health characteristics such as poor health.

#### *Analysis*

The amendments relating to the updated minimum benefits and patient contributions for private nursing-home type patients at private and public hospitals, in the Benefit Requirements Rules and Complying Product Rules respectively, reflect regular indexation practices for both Commonwealth, state and territory jurisdictions and therefore maintain the status quo arrangements.

## **Conclusion**

This disallowable legislative instrument only engages human rights to the extent that it maintains current arrangements with respect to the regulation of private health insurance. Therefore, this instrument is compatible with human rights because these changes continue to ensure that existing arrangements advancing the protection of human rights are maintained.

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