

## **EXPLANATORY STATEMENT**

### *Health Insurance Act 1973*

#### *Health Insurance (Bonded Medical Program) Amendment (2025 Measures No. 1) Rule 2025*

#### **Purpose**

The *Health Insurance (Bonded Medical Program) Amendment (2025 Measures No.1) Rule 2025* (the **instrument**) amends the *Health Insurance (Bonded Medical Program) Rule 2020* (the **Principal Rule**) to clarify the circumstances in which ‘eligible work’ completed by a ‘bonded participant’ can be counted towards their ‘return of service obligation’ (**RoSO**) under the Bonded Medical Program (the **Program**).

#### **Authority**

Subsection 124ZT(1) of the *Health Insurance Act 1973* (the **Act**) provides that the Minister may, by legislative instrument, make rules (the Bonded Medical Program rules) about matters that are required or permitted by Part VD of the Act to be prescribed by the rules, or that are necessary or convenient to be prescribed for carrying out or giving effect to Part VD of the Act. Subsection 124ZT(3)(d) confirms that the rules may provide, among other things, for the circumstances in which work will qualify for completing a RoSO.

#### **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.

#### **Background**

Part VD of the Act establishes the Program, which is an Australian Government initiative designed to address the doctor shortage across regional, rural and remote areas. Participants receive a Commonwealth Supported Place in a medical course at an Australian university in return for completion of a period of work in regional, rural and remote areas and areas of workforce shortage (referred to as the RoSO). Existing participants in the Medical Rural Bonded Scholarship Scheme or the Bonded Medical Places Scheme may also voluntarily opt-in to the Bonded Medical Program and, if the Secretary agrees to their participation, they also become bonded participants.

The Principal Rule is made under subsection 124ZT(1) of the Act and provides the necessary details to support the operation of the Bonded Medical Program by prescribing certain matters, including the requirements for completing the RoSO.

The instrument amends section 8 of the Principal Rule to enable ‘eligible work’ to be counted towards a bonded participant’s RoSO even if it is not reported via the Department’s web portal in the timeframes required by section 16.

The intention is that ‘eligible work’ (being professional services rendered to patients in eligible locations) should not be prevented from being counted towards a RoSO solely because the bonded participant has not met the reporting requirements under other provisions of the Principal Rule.

This addresses the unintended consequences for bonded participants under the current provisions. For example, under the current section 8, a bonded participant may risk having long periods of ‘eligible work’ disqualified if they miss a reporting deadline by a single day. These consequences are not considered appropriate as there are other ways to manage non-compliance with reporting requirements in particular cases, including requesting information or documents from a bonded participant under paragraph 124ZG(1)(e) of the Act. A bonded participant may be exposed to an administrative penalty if they do not comply with such a request (paragraph 124ZK(1)(b)).

### **Commencement**

The Rule commences on the day after the instrument is registered on the Federal Register of Legislation.

### **Consultation**

Implementation of the administrative arrangements for the Program was informed by consultation with the *Bonded Medical Program - Implementation Working Group* (IWG), which comprised representatives of the Australian Medical Association, the Australian Medical Students’ Association and the National Rural Health Student Network.

The Department meets regularly with key stakeholders to ensure that they are informed and consulted about issues relevant to the administration of the Program and related matters.

The Department did not undertake consultation on this specific amendment because it responds to a known issue that has been reported to the Department by bonded participants. The amendment is beneficial to bonded participants as it widens the circumstances in which work in eligible locations can count towards a bonded participant’s RoSO.

### **Attachment**

A provision by provision description of the Rule is set out in the Attachment.

**Details of the *Health Insurance (Bonded Medical Program) Amendment (2025 Measures No. 1) Rule 2025***

**Section 1 Name**

Section 1 provides that the name of the instrument is the *Health Insurance (Bonded Medical Program) Amendment (2025 Measures No. 1) Rule 2025*.

**Section 2 Commencement**

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

**Section 3 Authority**

Section 3 provides that the instrument is made under subsection 124ZT(1) of the *Health Insurance Act 1973*.

**Section 4 Schedule**

Section 4 provides that the instrument amends the Principal Rule in the manner set out in the Schedule.

**SCHEDULE 1 - AMENDMENTS**

**Item 1– Subsection 8(1)**

Subsection 8(1) of the Principal Rule currently provides that work will qualify for completing a RoSO where it is (a) eligible work; and (b) details of the work have been registered in a RoSO plan and confirmed as being completed in accordance with section 16 (which sets out reporting requirements).

Item 1 repeals the current text of subsection 8(1) and substitutes it with replacement text. The replacement text removes the criterion that the work must be registered and reported in accordance with section 16. The effect of this amendment is that, for the purposes of counting work towards a RoSO, it will be sufficient that the work is ‘eligible work’ as defined by subsection 8(3) of the Principal Rule.

**Item 2 – Subsection 8(2)**

Item 2 repeals subsection 8(2) of the Principal Rule. The current subsection 8(2) provides that work completed by a bonded participant that does not comply with subsection (1) must not be counted towards the RoSO in relation to a bonded participant. This provision is no longer considered necessary because subsection 8(1) (when read with paragraph 124ZF(2)(b) of the Act) makes it clear that work must be ‘eligible work’ to count towards a bonded participant’s RoSO.

## Statement of Compatibility with Human Rights

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

### HEALTH INSURANCE (BONDED MEDICAL PROGRAM) AMENDMENT (2025 MEASURES NO. 1) RULE 2025

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

This legislative instrument, the *Health Insurance (Bonded Medical Program) Amendment Rule (No. 1) 2025*, is made under subsection 124ZT(1) of the *Health Insurance Act 1973* (the **Act**). The legislative instrument amends the *Health Insurance (Bonded Medical Program) Rule 2020* (the **Principal Rule**).

The Principal Rule prescribes certain requirements for the Bonded Medical Program (**Program**) under Part VD of the Act. The Program provides for participants to receive a Commonwealth Supported Place in a medical course at an Australian university in return for completion of a period of work in regional, rural and remote areas and areas of workforce shortage. This period of work is known as a Return of Service Obligation (**RoSO**).

Under the current Principal Rule, otherwise eligible work is disqualified from being counted towards a RoSO if the participant does not meet the associated reporting requirements. This criterion has the potential to apply unfairly to participants in some circumstances. The legislative instrument amends the Principal Rule to clarify that a failure to meet the reporting requirements will not disqualify eligible work from being counted towards the participant's RoSO.

#### Human rights implications

The legislative instrument does not engage any of the applicable human rights or freedoms. The effect of the legislative instrument is limited to the administration of the Program and simplifies the requirements for participants. It does not have any broader implications for human rights and freedoms.

#### Conclusion

The legislative instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Mark Butler MP, Minister for Health and Aged Care**