



Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007

No. 32, 2007

An Act to provide for transitional matters, and make consequential amendments, relating to the enactment of the *Private Health Insurance Act 2007*, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007

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Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007

No. 32, 2007

An Act to provide for transitional matters, and make consequential amendments, relating to the enactment of the *Private Health Insurance Act 2007*, and for related purposes

[Assented to 30 March 2007]

The Parliament of Australia enacts:

Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007

No. 32, 2007 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007*.

2 Commencement

- (1) Each provision of this Act 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
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	30 March 2007
2. Sections 4 to 56	At the same time as the <i>Private Health Insurance Act 2007</i> commences.	1 April 2007
3. Schedule 1, items 1 to 61	At the same time as the <i>Private Health Insurance Act 2007</i> commences.	1 April 2007
4. Schedule 1, item 62	1 July 2008.	1 July 2008
5. Schedule 2, item 1	At the same time as the <i>Private Health Insurance Act 2007</i> commences.	1 April 2007
6. Schedule 2, item 2	1 July 2008.	1 July 2008
7. Schedule 2, items 3 to 108	At the same time as the <i>Private Health Insurance Act 2007</i> commences.	1 April 2007
8. Schedule 3, items 1 to 9E	1 July 2007.	1 July 2007

2 *Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007* No. 32, 2007

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
12. Schedule 3, items 10 to 16	At the same time as the <i>Private Health Insurance Act 2007</i> commences.	1 April 2007
13. Schedule 3, items 17 and 18	1 July 2007.	1 July 2007

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

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

4 Definitions

In this Act:

ancillary health benefits means ancillary health benefits within the meaning of section 67 the *National Health Act 1953* as in force immediately before the commencement time.

applicable benefits arrangement means an applicable benefits arrangement within the meaning of the *National Health Act 1953* as in force immediately before the commencement time.

commencement time means the time when the *Private Health Insurance Act 2007* commences.

complying health insurance policy has the meaning given by the new Act.

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contributor means a contributor within the meaning of the *National Health Act 1953* as in force immediately before the commencement time.

Council has the meaning given by the new Act.

fund has the meaning given in section 82Q of the *National Health Act 1953* as in force immediately before the commencement time.

new Act means the *Private Health Insurance Act 2007*.

registered organization means an organization that was registered under Part VI of the *National Health Act 1953* as in force immediately before the commencement time.

Part 2—Transitional provisions relating to Chapter 2 of the new Act

Division 1—Premiums reduction and incentive payment schemes

5 Application of Part 2-2 of the new Act

Part 2-2 of the new Act applies in relation to financial years beginning on or after 1 July 2007.

Note: The *Private Health Insurance Incentives Act 1998* is amended by this Act so that it applies only to financial years ending on or before 30 June 2007. The Act will be repealed on 30 June 2008. (See Schedules 1 and 3.)

6 Application of the *Private Health Insurance Incentives Act 1998* from the commencement time to repeal

- (1) During the period beginning at the commencement time and ending at the time at which the *Private Health Insurance Incentives Act 1998* (the **1998 Act**) is repealed, a reference in the 1998 Act to a matter specified for an item in column 2 of the table is taken to be a reference to the matter specified for that item in column 3 of the table.

Operation of the 1998 Act between commencement time and repeal

Item	A reference in the 1998 Act to ...	is taken to be a reference to ...
1	ancillary cover	cover for general treatment within the meaning of the new Act.
2	appropriate private health insurance policy	(a) a complying health insurance policy; or (b) if the reference is in section 4-12 or 12-7 of the 1998 Act—a complying health insurance policy or an appropriate private health insurance policy within the meaning of the 1998 Act.

Part 2 Transitional provisions relating to Chapter 2 of the new Act

Division 1 Premiums reduction and incentive payment schemes

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Operation of the 1998 Act between commencement time and repeal

Item	A reference in the 1998 Act to ...	is taken to be a reference to ...
3	dependent child	(a) a dependent child within the meaning of the new Act; or (b) if the reference is in section 4-12 or 12-7 of the 1998 Act—a dependent child within the meaning of the 1998 Act or a dependent child within the meaning of the new Act.
4	health fund	a private health insurer.
5	hospital cover	hospital cover within the meaning of the new Act.

- (2) Subsection (1) also applies in relation to a provision of the 1998 Act that continues to operate after the repeal of that Act because of:
- (a) this Part; or
 - (b) section 8 of the *Acts Interpretation Act 1901*.

7 Continued application of section 11-50 of the *Private Health Insurance Incentives Act 1998*

- (1) Section 11-50 of the *Private Health Insurance Incentives Act 1998* continues to apply, after 30 June 2008, to a private health insurer to whom an application was made under section 11-50 of that Act, as if it had not been repealed.
- (2) The Medicare Australia CEO may continue to approve forms under section 11-50 for the purposes of subsection (1).

Division 2—Lifetime health cover

8 Application of Part 2-3 of the new Act

- (1) Part 2-3 of the new Act applies to an amount of premiums worked out on or after the commencement time.
- (2) Schedule 2 to the *National Health Act 1953* continues to apply in relation to any amount of premiums worked out before the commencement time.

9 Calculating 10 years' continuous cover under section 34-10 of the new Act

For the purposes of paragraph 34-10(1)(b) of the new Act:

- (a) the reference to permitted days without cover includes a reference to days before the commencement time that were permitted days without hospital cover within the meaning of Schedule 2 to the *National Health Act 1953* as in force before the commencement time; and
- (b) the reference to periods during which the adult was taken to have had hospital cover includes periods during which the adult was taken to have had hospital cover under subclause 4(2) of that Schedule.

Part 3—Transitional provisions relating to complying health insurance products

10 Status of existing applicable benefits arrangements and tables of ancillary benefits

Applicable benefits arrangements

- (1) If, immediately before the commencement time, contributors to a health benefits fund conducted by a registered organization were covered by an applicable benefits arrangement of the organization, then:
 - (a) at the commencement time, the arrangement is, to the extent to which it covered a particular contributor and his or her dependants (if any), taken to be a complying health insurance policy under which that contributor and those dependants (if any) are insured; and
 - (b) that part of the arrangement continues to be taken to be a complying health insurance policy until the earlier of:
 - (i) 1 July 2008; and
 - (ii) the day on which a relevant change (see subsection (3)) to that part of the arrangement takes effect.

Tables of ancillary benefits

- (2) If, immediately before the commencement time, contributors to a health benefits fund conducted by a registered organization were covered by a table of ancillary health benefits of the organization, then:
 - (a) at the commencement time, the table is, to the extent to which it covered a particular contributor and his or her dependants (if any), taken to be a complying health insurance policy under which that contributor and those dependants (if any) are insured; and
 - (b) that part of the table continues to be taken to be a complying health insurance policy until the earlier of:

- (i) 1 July 2008; and
- (ii) the day on which a relevant change (see subsection (3)) to that part of the table takes effect.

Relevant change

- (3) If, more than 15 days after the commencement time, a private health insurer makes a change to its rules, or to anything else, in a way that affects:
- (a) the amount of premiums payable under an arrangement or table that is taken to be a complying health insurance policy because of subsection (1) or (2); or
 - (b) the treatments covered by such a policy; or
 - (c) a benefit for treatment covered by such a policy;
- the change is a **relevant change** to each part of the arrangement or table.

11 Premium requirement

An insurance policy is taken to meet the premium requirement in section 66-5 of the new Act if:

- (a) the policy was taken to be a complying health insurance policy because of section 10; and
- (b) at the end of a day, the policy ceases to be taken to be a complying health insurance policy; and
- (c) at the start of the next day, the policy would be a complying health insurance policy except that it does not meet the premium requirement in section 66-5 of the new Act; and
- (d) the amount of premiums payable under the policy for the period starting on that day is the same as the amount that would have been payable under the policy for the same period if it had started on the previous day.

12 Benefit requirements: listing of no gap and gap permitted prostheses

- (1) If, immediately before the commencement of the new Act, a prosthesis was:
- (a) a no gap prosthesis; or

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- (b) a gap permitted prosthesis;
for the purposes of the *National Health Act 1953*, the Minister may list the prosthesis in Private Health Insurance (Prostheses) Rules made for the purposes of item 4 of the table in subsection 72-1(2) of the new Act, without an application being made in relation to the prosthesis under subsection 72-10(2) of the new Act.
- (2) If the Minister does so, the person who, immediately before the commencement of the new Act, was the sponsor of the prosthesis for the purposes of the *National Health Act 1953*, is taken to be the applicant in relation to the prosthesis for the purposes of paying the ongoing listing fee in relation to the prosthesis in accordance with section 72-15 of the new Act.

13 Waiting periods

A waiting period, or part of a waiting period, that a private health insurer purports to impose on a person under a complying health insurance policy has no effect if:

- (a) the policy was, before the commencement time, part of an applicable benefits arrangement or table of ancillary health benefits that covered the person; and
- (b) the person had already served the waiting period, or that part of the waiting period, under the arrangement or table (including under the arrangement or table as in force after the commencement time).

14 Quality assurance requirements

The quality assurance requirements in Division 81 of the new Act do not apply in relation to an insurance policy until 1 July 2008.

Part 4—Transitional provisions relating to Chapter 4 of the new Act

Division 1—Carrying on health insurance business

15 Hospitals

- (1) The following are taken to be hospitals for the purposes of the new Act:
 - (a) a facility that was a recognized hospital, within the meaning of the *Health Insurance Act 1973*, immediately before the commencement time;
 - (b) premises in relation to which a declaration by the Minister under section 23EA of that Act was in force immediately before the commencement time;
 - (c) a facility in relation to which a declaration by the Minister under the definition of *hospital* in subsection 3(1) of that Act was in force immediately before the commencement time;
 - (d) premises that were a day hospital facility, within the meaning of the *National Health Act 1953*, immediately before the commencement time.
- (2) A facility to which paragraph (1)(a) or (c) applies is taken, for all purposes, to be the subject of a statement under subsection 121-5(8) of the new Act that it is a public hospital.
- (3) Premises to which paragraph (1)(b) or (d) applies are taken, for all purposes, to be the subject of a statement under subsection 121-5(8) of the new Act that they are a private hospital.
- (4) However, this section ceases to apply to a particular facility or premises:
 - (a) if the Minister makes a declaration under paragraph 121-5(6)(a) of the new Act in relation to the facility or premises; or
 - (b) the Minister revokes under subsection (5), (6), (7) or (8) of this section a declaration relating to the facility or premises

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that was in force immediately before the commencement time; or

(c) on 1 July 2008;

whichever happens first.

- (5) Despite the repeal of paragraphs (b) and (c) of the definition of **recognized hospital** in subsection 3(1) of the *Health Insurance Act 1973* by this Act, the Minister may, by legislative instrument, revoke a declaration under either of those paragraphs that was in force immediately before the commencement time.
- (6) Despite the repeal of section 23EA of the *Health Insurance Act 1973* by this Act, the Minister may, by legislative instrument, revoke a declaration under that section that was in force immediately before the commencement time.
- (7) Despite the repeal and substitution of the definition of **hospital** in subsection 3(1) of the *Health Insurance Act 1973* by this Act, the Minister may, by legislative instrument, revoke a declaration under that definition that was in force immediately before the commencement time.
- (8) Despite the repeal of section 5B of the *National Health Act 1953* by this Act, the Minister may, by legislative instrument, revoke a declaration under that section that was in force immediately before the commencement time.

16 Hospital treatment—outreach services

- (1) The provision of a service is taken to be hospital treatment for the purposes of the new Act if, immediately before the commencement time, the service was an outreach service within the meaning of the *National Health Act 1953*.
 - (2) However, this section ceases to apply to a particular service:
 - (a) if the Minister revokes under subsection (3) of this section the determination under section 5D of the *National Health Act 1953* by virtue of which the service was, immediately before the commencement time, an outreach service within the meaning of the *National Health Act 1953*; or
 - (b) on 1 July 2008;
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whichever happens first.

- (3) Despite the repeal of section 5D of the *National Health Act 1953* by this Act, the Minister may, by legislative instrument, revoke a determination of the kind referred to in paragraph (2)(a) of this section.

17 Employee health benefits schemes

- (1) An arrangement is not an employee health benefits scheme for the purposes of the new Act if:
- (a) a declaration by the Minister under the definition of *employee health benefits scheme* in subsection 67(4) of the *National Health Act 1953* was in force immediately before the commencement time; and
 - (b) the declaration has not been revoked under subsection (2) of this section.
- (2) Despite the repeal of section 67 of the *National Health Act 1953* by this Act, the Minister may, by legislative instrument, revoke a declaration of the kind referred to in paragraph (1)(a) of this section.

Division 2—Registration

18 Registered organizations taken to be private health insurers

- (1) An organisation that was a registered organization immediately before the commencement time is taken, for the purposes of the new Act, to be a private health insurer.
- (2) However, subsection (1) ceases to apply to the organisation:
 - (a) if the organisation is registered under Part 4-3 of the new Act; or
 - (b) on 1 July 2008;whichever happens first.
- (3) To avoid doubt, section 126-45 of the new Act applies to the organisation in the same way as it applies to a body that is registered under Part 4-3 of the new Act.

19 Registered organizations established for profit

- (1) An organisation that:
 - (a) was a registered organization immediately before the commencement time; and
 - (b) was at that time conducted for profit;is taken, for the purposes of the new Act, on the commencement time to be registered as a for profit insurer.
- (2) Subsection (1) does not prevent the organisation from ceasing to be registered as a for profit insurer after the commencement time.

20 Restricted membership organizations

- (1) An organisation that, immediately before the commencement time:
 - (a) was a registered organization; and
 - (b) was a restricted membership organization within the meaning of the *National Health Act 1953*;is taken, for the purposes of the new Act, on the commencement time to be registered as a restricted access insurer.

- (2) Subsection (1) does not prevent the organisation from ceasing to be registered as a restricted access insurer after the commencement time.

Division 3—Health benefits funds

21 Existing health benefits funds

To avoid doubt, a fund that was conducted by a registered organization immediately before the commencement time is taken after the commencement time to be a health benefits fund within the meaning of the new Act.

22 Applications for approval of mergers

If:

- (a) before the commencement time, an application was made to the Council under section 82ZP of the *National Health Act 1953* for approval of the transfer of the business of one or more funds; and
- (b) as at the commencement time, the Council had not decided the application;

the application is taken, after the commencement time, to be an application to the Council under section 146-5 of the new Act for approval of the transfer.

Part 5—Transitional provisions relating to Chapter 5 of the new Act

Division 1—General enforcement methods

23 Continued application of Division 5 of Part VI of the *National Health Act 1953*

- (1) Despite the repeal of Division 5 of Part VI of the *National Health Act 1953* (the *old enforcement provisions*) by this Act, the old enforcement provisions continue to apply after the commencement time, to the exclusion of Part 5-2 of the new Act, in relation to:
 - (a) a breach of the Act, within the meaning of the old enforcement provisions, that occurred before the commencement time; and
 - (b) any other matter in respect of which the Minister had begun to take action under the old enforcement provisions before the commencement time.
- (2) If a direction given, or an enforceable undertaking accepted, under the old enforcement provisions was in force at the time the new Act commenced:
 - (a) the direction or undertaking continues in force after the commencement time as if the old enforcement provisions had not been repealed; and
 - (b) the old enforcement provisions continue to apply in relation to any breach of that direction or undertaking.

Division 2—Enforcement of health benefits fund requirements

24 Investigations into affairs of registered organizations

- (1) If:
- (a) before the commencement time, a person was appointed as an inspector under section 82R of the *National Health Act 1953* to investigate the affairs of a registered organization; and
 - (b) either:
 - (i) the Minister appointed the person; or
 - (ii) the Council appointed the person because it suspected the matter referred to in paragraph 82R(1)(c) of that Act; and
 - (c) at the commencement time, the investigation (including the performance of functions and exercise of powers by that person or by the Minister or Council in relation to the investigation) has not concluded;

then, despite the repeal of Part VIA of that Act by this Act, that Part continues to apply after the repeal in relation to the investigation, and the performance of functions and exercise of powers by that person or by the Minister or Council in relation to the investigation, as if the repeal had not occurred.

- (2) If:
- (a) before the commencement time, the Council appointed a person as an inspector under section 82R of the *National Health Act 1953* to investigate the affairs of a registered organization; and
 - (b) the Council did not appoint the person because it suspected the matter referred to in paragraph 82R(1)(c) of that Act; and
 - (c) at the commencement time, the investigation (including the performance of functions and exercise of powers by that person or by the Council in relation to the investigation) has not concluded;

then Division 214 of the new Act applies in relation to the investigation, and the performance of functions and exercise of powers by that person or by the Council in relation to the investigation, as if the person had been appointed under section 214-1 of the new Act.

25 Administration of funds and registered organizations

If:

- (a) before the commencement time, a person was appointed under section 82XD of the *National Health Act 1953* as the administrator of a fund or of a registered organization; and
- (b) at the commencement time, the administration of the fund or organization (including the performance of functions and exercise of powers by that person or by the Council in relation to the administration) has not concluded;

then, despite the repeal of Part VIA of that Act by this Act, that Part continues to apply after the repeal in relation to the administration, and the performance of functions and exercise of powers by that person or by the Council in relation to the administration, as if the repeal had not occurred.

26 Winding up of funds and registered organizations

If:

- (a) before the commencement time:
 - (i) the Federal Court of Australia made an order for the winding up of a fund on an application made under section 82YO or 82YP of the *National Health Act 1953*; or
 - (ii) under paragraph 82YH(1)(c) of that Act, the Council approved the winding up of a fund; or
 - (iii) the Federal Court of Australia made an order for the winding up of a registered organization on an application made under section 82YT or 82YU of the *National Health Act 1953*; or
 - (iv) under paragraph 82YL(1)(c) of that Act, the Council approved a special resolution of the members of a

Part 5 Transitional provisions relating to Chapter 5 of the new Act

Division 2 Enforcement of health benefits fund requirements

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registered organization that it should be voluntarily wound up; and

- (b) at the commencement time, the winding up of the fund or organization (including the performance of functions and exercise of powers by the liquidator or by the Council in relation to the winding up) has not concluded;

then, despite the repeal of Part VIA of that Act by this Act, that Part continues to apply after the repeal in relation to the winding up, and the performance of functions and exercise of powers by that person or by the Council in relation to the winding up, as if the repeal had not occurred.

Part 6—Transitional provisions relating to Chapter 6 of the new Act

Division 1—Private Health Insurance Ombudsman

Subdivision A—Preliminary

27 Definitions

(1) In this Division:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

amend includes repeal and remake.

asset means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

assets official, in relation to an asset other than land, means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

financial liability means a liability to pay a person an amount, where the amount, or the method for working out the amount, has been determined.

instrument:

- (a) includes:
 - (i) a contract, deed, undertaking or agreement; and
 - (ii) a notice, authority, order or instruction; and
 - (iii) an instrument made under an Act or regulations; and
 - (iv) regulations; but

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(b) does not include an Act.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

land means any legal or equitable estate or interest in real property, whether actual, contingent or prospective.

land registration official, in relation to land, means the Registrar of Titles or other proper officer of the State or Territory in which the land is situated.

liability means any liability, duty or obligation, whether actual, contingent or prospective.

new Ombudsman means the Statutory Agency of the Private Health Insurance Ombudsman established by the new Act.

old Ombudsman means the corporation known as the Private Health Insurance Ombudsman established by the *National Health Act 1953*.

Ombudsman conversion time means 1 July 2007 or, if a later day is specified in Private Health Insurance (Transitional) Rules for the purposes of this definition, that later day.

Private Health Insurance Ombudsman means the statutory office holder appointed, or taken to be appointed, under the new Act.

- (2) Subject to subsection (1), an expression used in this Division that is also used in the new Act has the same meaning in this Division as it has in the new Act.

Subdivision AA—Conversion of Ombudsman from CAC to FMA body

27A Conversion of Ombudsman from CAC to FMA body

- (1) Section 238-1 and Division 253 of the new Act do not apply until the Ombudsman conversion time.

- (2) Despite item 53 of Schedule 1 to this Act, during the period starting at the commencement time and ending immediately before the Ombudsman conversion time:
- (a) the Private Health Insurance Ombudsman established by section 82ZR of the *National Health Act 1953* is continued in existence; and
 - (b) staff employed or made available under section 82ZUG of the *National Health Act 1953* immediately before the commencement time continue to be employed or made available under that section on the same terms as had effect immediately before the commencement time; and
 - (c) the following provisions of the *National Health Act 1953* continue to apply in relation to that Ombudsman and those staff:
 - (i) section 82ZR;
 - (ii) section 82ZRAA;
 - (iii) section 82ZRA;
 - (iv) section 82ZRB;
 - (v) Division 5 of Part VIC;
 - (vi) section 82ZVD;
 - (vii) section 82ZVE (with the reference to section 135A being taken to be a reference to Division 323 of the new Act).
- (3) During the period starting at the commencement time and ending immediately before the Ombudsman conversion time:
- (a) a reference in the new Act to the Private Health Insurance Ombudsman (other than a reference in a provision mentioned in subsection (1)) is taken to be a reference to the Private Health Insurance Ombudsman established by section 82ZR of the *National Health Act 1953*; and
 - (b) a reference in the new Act to an APS employee in, or a person holding or performing the duties of an office in, the Statutory Agency of the Private Health Insurance Ombudsman is taken to be a reference to a member of the staff employed or made available under section 82ZUG of the *National Health Act 1953* as continued in force by paragraph (2)(c).

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Subdivision B—Assets, liabilities and legal proceedings

28 Vesting of assets of old Ombudsman

- (1) This section applies to the assets of the old Ombudsman immediately before the Ombudsman conversion time.
- (2) At the Ombudsman conversion time, the assets to which this section applies cease to be assets of the old Ombudsman and become assets of the Commonwealth without any conveyance, transfer or assignment. The Commonwealth becomes the successor in law in relation to these assets.

29 Vesting of liabilities of old Ombudsman

- (1) This section applies to the liabilities of the old Ombudsman immediately before the Ombudsman conversion time.
- (2) At the Ombudsman conversion time, the liabilities to which this section applies cease to be liabilities of the old Ombudsman and become liabilities of the Commonwealth without any conveyance, transfer or assignment. The Commonwealth becomes the successor in law in relation to these liabilities.

30 Certificates relating to vesting of land

- (1) This section applies if:
 - (a) any land vests in the Commonwealth under this Division; and
 - (b) there is lodged with a land registration official a certificate that:
 - (i) is signed by the Minister; and
 - (ii) identifies the land, whether by reference to a map or otherwise; and
 - (iii) states that the land has become vested in the Commonwealth under this Division.

Note: Certificates under paragraph (1)(b) are presumed to be authentic: see section 42.

- (2) The land registration official may:
-

- (a) register the matter in a way that is the same as, or similar to, the way in which dealings in land of that kind are registered; and
- (b) deal with, and give effect to, the certificate.

31 Certificates relating to vesting of assets other than land

- (1) This section applies if:
 - (a) any asset other than land vests in the Commonwealth under this Division; and
 - (b) there is lodged with an assets official a certificate that:
 - (i) is signed by the Minister; and
 - (ii) identifies the asset; and
 - (iii) states that the asset has become vested in the Commonwealth under this Division.

Note: Certificates under paragraph (1)(b) are presumed to be authentic: see section 42.

- (2) The assets official may:
 - (a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and
 - (b) make such entries in the register as are necessary, having regard to the effect of this Schedule.

32 Substitution of Commonwealth as a party to pending proceedings

If any proceedings to which the old Ombudsman was a party were pending in any court or tribunal immediately before the Ombudsman conversion time, the Commonwealth is substituted for the old Ombudsman, from the Ombudsman conversion time, as a party to the proceedings.

33 Transfer of custody of old Ombudsman records

- (1) This section applies to any records or documents that, immediately before the Ombudsman conversion time, were in the custody of the old Ombudsman.

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- (2) The records and documents are to be transferred into the custody of the Private Health Insurance Ombudsman at or after the Ombudsman conversion time.
- (3) If, immediately before the Ombudsman conversion time, subsection 20(2) of the *Commonwealth Authorities and Companies Act 1997* applied in relation to any of those transferred records, that subsection continues to apply in relation to those records as if the Private Health Insurance Ombudsman were subject to that Act.

Subdivision C—Reference to, and things done by or in relation to, old Ombudsman

34 References in instruments

References to old Ombudsman taken to be references to Private Health Insurance Ombudsman or Commonwealth

- (1) If:
 - (a) an instrument is in force immediately before the Ombudsman conversion time; and
 - (b) the instrument contains a reference to the old Ombudsman; the instrument has effect from the Ombudsman conversion time as if the reference were a reference to the Private Health Insurance Ombudsman.
- (2) However, if:
 - (a) an instrument is in force immediately before the Ombudsman conversion time; and
 - (b) the instrument relates to assets or liabilities covered by section 28 or 29; and
 - (c) the instrument refers to the old Ombudsman; the reference is to be read as a reference to the Commonwealth as necessary to give effect to section 28 or 29, as the case requires.

References to staff of old Ombudsman taken to be references to staff of new Ombudsman

- (3) If:
-

- (a) an instrument is in force immediately before the Ombudsman conversion time; and
- (b) the instrument contains a reference to a member of the staff of the old Ombudsman;

the instrument has effect from the Ombudsman conversion time as if the reference to the member of the staff of the old Ombudsman were a reference to a member of the staff of the new Ombudsman referred to in section 253-45 of the new Act.

Minister and Rules may provide otherwise

- (4) The Minister may, by writing, determine that subsection (1), (2) or (3):
 - (a) does not apply in relation to a specified reference; or
 - (b) applies as if:
 - (i) in the case of subsection (1)—the reference in that subsection to the Private Health Insurance Ombudsman were a reference to the Commonwealth; or
 - (ii) in the case of subsection (2)—the reference in that subsection to the Commonwealth were a reference to the Private Health Insurance Ombudsman; or
 - (iii) in the case of subsection (3)—the reference in that subsection to a member of the staff of the old Ombudsman were a reference to the Private Health Insurance Ombudsman.

A determination under this subsection has effect accordingly.

- (5) A determination under subsection (4) is not a legislative instrument.
- (6) The Private Health Insurance (Transition) Rules may provide that an instrument containing a reference specified in a determination under paragraph (4)(a) has effect from the Ombudsman conversion time as if:
 - (a) in the case of an instrument covered by subsection (1)—the reference were a reference to a specified person or body other than the Commonwealth or the Private Health Insurance Ombudsman; or

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- (b) in the case of an instrument covered by subsection (2)—the reference were a reference to a specified person or body other than the Commonwealth or the Private Health Insurance Ombudsman; or
- (c) in the case of an instrument covered by subsection (3)—the reference were a reference to a specified person or body other than the Private Health Insurance Ombudsman or a member of the staff of the new Ombudsman.

35 Operation of laws

Things done by old Ombudsman taken to be done by Private Health Insurance Ombudsman

- (1) If, before the Ombudsman conversion time, a thing was done by, or in relation to, the old Ombudsman, then, for the purposes of the operation of any law of the Commonwealth after the commencement time, the thing is taken to have been done by, or in relation to, the Private Health Insurance Ombudsman.
- (2) A thing done before the commencement time under a provision of Part VIC of the *National Health Act 1953* has effect from the commencement time as if it had been done under the corresponding provision of the new Act:
 - (a) during the period starting at the commencement time and ending immediately before the Ombudsman conversion time—by the old Ombudsman; and
 - (b) at or after the Ombudsman conversion time—by the Private Health Insurance Ombudsman.However, this is not taken to change the time at which the thing was actually done.
- (3) A complaint that the old Ombudsman had begun to handle before the commencement time may be handled:
 - (a) during the period starting at the commencement time and ending immediately before the Ombudsman conversion time—by the old Ombudsman; and
 - (b) at or after the Ombudsman conversion time—by the Private Health Insurance Ombudsman;

under the new Act as if the complaint had been made under the new Act, even if the ground for making the complaint does not exist under the new Act.

- (4) Despite the repeal of the *Private Health Insurance Incentives Act 1998*, the Private Health Insurance Ombudsman may, under Part 6-2 of the new Act, deal with a complaint about a matter that arose under that Act as if the complaint were about a matter that arose under Chapter 2 of the new Act.

Minister and rules may provide otherwise

- (5) The Minister may, by writing, determine that subsection (1):
- (a) does not apply in relation to a specified thing done by, or in relation to, the old Ombudsman; or
 - (b) applies as if the reference in that subsection to the Private Health Insurance Ombudsman were a reference to the Commonwealth.

A determination under this subsection has effect accordingly.

- (6) A determination made under subsection (5) is not a legislative instrument.
- (7) The Private Health Insurance (Transition) Rules may provide for a thing specified in a determination under paragraph (5)(a) to be taken to have been done by, or in relation to, a specified person or body other than the Commonwealth or the Private Health Insurance Ombudsman.

Meaning of doing

- (8) To avoid doubt, for the purposes of this section, **doing** a thing includes making an instrument.

36 Financial statements and other reporting requirements

Reporting requirements

- (1) If:

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- (a) immediately before the Ombudsman conversion time, a law required the old Ombudsman to provide a report (whether financial statements or otherwise) for a period; and
 - (b) the period ends after the Ombudsman conversion time;
- the Private Health Insurance Ombudsman must provide the report, as required, for so much of the period as occurs before the Ombudsman conversion time.
- (2) If:
- (a) under subsection (1), the Private Health Insurance Ombudsman is required to provide a report for a part of a period; and
 - (b) the Private Health Insurance Ombudsman is also required to provide a similar report for the remainder of the period;
- the Private Health Insurance Ombudsman may meet the requirements in a single report for the period.
- (3) If the Private Health Insurance Ombudsman does not provide the report mentioned in subsection (1) in the way mentioned in subsection (2), the Private Health Insurance Ombudsman must provide the report no more than 4 months after the Ombudsman conversion time.

Outstanding reporting requirements

- (4) If:
- (a) a law required the old Ombudsman to provide a report (whether financial statements or otherwise) for a period that ended before the Ombudsman conversion time; and
 - (b) the report has not been provided by the Ombudsman conversion time;
- the Private Health Insurance Ombudsman must provide the report as required.

Subdivision D—Private Health Insurance Ombudsman and staff

37 Private Health Insurance Ombudsman

- (1) The person holding office as the Private Health Insurance Ombudsman under section 82ZR of the *National Health Act 1953* immediately before the Ombudsman conversion time is taken to have been duly appointed as the Private Health Insurance Ombudsman by the Minister under section 253-1 of the new Act:
 - (a) for the balance of the person's term of appointment that remained immediately before the Ombudsman conversion time; and
 - (b) on the same terms and conditions as applied to the person immediately before the Ombudsman conversion time.
- (2) If there is no person holding office as the Private Health Insurance Ombudsman under section 82ZR of the *National Health Act 1953* immediately before the Ombudsman conversion time, then the person who is, immediately before that time, acting as the Private Health Insurance Ombudsman under section 82ZUA of the *National Health Act 1953* is taken, from the Ombudsman conversion time, to have been appointed to act as the Private Health Insurance Ombudsman under section 253-10 of the new Act:
 - (a) during the vacancy or during the period or periods for which the person was appointed to act under the *National Health Act 1953*; and
 - (b) on the same terms and conditions as applied to the person immediately before the Ombudsman conversion time.

38 Transfer of staff

Long service leave

- (1) If:
 - (a) a member of the staff of the old Ombudsman transfers, or is transferred, to the new Ombudsman; and

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- (b) previous employment of the staff member could have been taken into account for the purposes of calculating the staff member's entitlement to long service leave as a member of the staff of the old Ombudsman;

the previous employment must be taken into account in a similar manner for the purposes of calculating the staff member's entitlement to long service leave as an employee of the new Ombudsman.

Other staffing matters

- (2) The regulations may prescribe other matters of a transitional nature in relation to the transfer of staff from the old Ombudsman to the new Ombudsman.
- (3) Without limiting subsection (2), regulations under that subsection may provide for:
 - (a) some or all of the entitlements and obligations of the staff of the old Ombudsman to be preserved; or
 - (b) staffing procedures of the old Ombudsman to apply, or to continue to apply, in relation to:
 - (i) processes begun before, but not completed by, the Ombudsman conversion time; or
 - (ii) things done by, for or in relation to the old Ombudsman or a staff member of the old Ombudsman before the Ombudsman conversion time; or
 - (c) staffing procedures of the new Ombudsman to apply in relation to:
 - (i) processes begun before, but not completed by, the Ombudsman conversion time; or
 - (ii) things done by, for or in relation to the old Ombudsman or a staff member of the old Ombudsman before the Ombudsman conversion time.
- (4) Regulations made under this section have effect despite the *Public Service Act 1999*.
- (5) In this section:

staffing procedures includes procedures and policies related to recruitment, promotion, performance management, inefficiency, misconduct, forfeiture of position, fitness for duty, loss of essential qualifications, disciplinary action, reviews of or appeals against staffing decisions, transfers, redundancy, resignations, termination of employment, grievance processes and leave.

Subdivision E—Miscellaneous

39 Appropriation of money

- (1) For the purposes of the operation of an Appropriation Act after the Ombudsman conversion time, references to the old Ombudsman are to be read as references to the new Ombudsman.
- (2) If an amount of money (the *original amount*) becomes an asset of the Commonwealth under section 28, an amount equal to the original amount is appropriated out of the Consolidated Revenue Fund for the purpose of the performance of the functions of the new Ombudsman.
- (3) In this section:

Appropriation Act means an Act appropriating money for expenditure out of the Consolidated Revenue Fund.

40 Exemption from stamp duty and other State or Territory taxes

No stamp duty or other tax is payable under a law of a State or Territory in respect of, or in respect of anything connected with:

- (a) the transfer of an asset or liability under this Division; or
- (b) the operation of this Division in any other respect.

41 Constitutional safety net—acquisition of property

- (1) If the operation of this Division would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.

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- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

42 Certificates taken to be authentic

A document that appears to be a certificate made or issued under a particular provision of this Division:

- (a) is taken to be such a certificate; and
(b) is taken to have been properly given;
unless the contrary is established.

43 Delegation by Minister

- (1) The Minister may, by writing, delegate all or any of his or her powers and functions under this Division to the Private Health Insurance Ombudsman.
- (2) In exercising or performing powers or functions under a delegation, the Private Health Insurance Ombudsman must comply with any directions of the Minister.

Division 2—Private Health Insurance Administration Council

44 Members of the Council

A person holding an office to which he or she was appointed under section 82D of the *National Health Act 1953* immediately before the commencement time is taken to have been duly appointed to the corresponding office under section 267-5 of the new Act:

- (a) for the balance of the person's term of appointment that remained immediately before the commencement time; and
- (b) on the same terms and conditions as applied to the person immediately before the commencement time.

45 Chief Executive Officer

The person holding an office to which he or she was appointed under section 82PH of the *National Health Act 1953* immediately before the commencement time is taken to have been duly appointed to the corresponding office under section 273-1 of the new Act:

- (a) for the balance of the person's term of appointment that remained immediately before the commencement time; and
- (b) on the same terms and conditions as applied to the person immediately before the commencement time.

46 Staff and consultants

A person who, immediately before the commencement time:

- (a) was employed as a member of the staff of the Council; or
- (b) was engaged as a consultant to the Council;

is taken after that commencement to have been employed, or engaged, under section 273-15 of the new Act on the same terms and conditions as applied to his or her employment or engagement immediately before that commencement.

Division 3—Administration of premiums reduction and incentive payment scheme

47 Application of Part 6-4 of the new Act

Part 6-4 of the new Act applies on and after 1 July 2007.

48 Transition to participating insurer under the new Act

- (1) A private health insurer may apply under the new Act to become a participating insurer for the purposes of that Act on or after 1 July 2007.

Note: Before 1 July 2007, applications may still be made under the *Private Health Insurance Incentives Act 1998*.

- (2) If, immediately before 1 July 2007, a private health insurer was a participating fund for the purposes of the *Private Health Insurance Incentives Act 1998*, that insurer is taken to be a participating insurer for the purposes of Part 2-2 and Part 6-4 of the new Act.
- (3) Subsection (2) does not prevent the Minister revoking the insurer's status as a participating insurer under section 206-1 of the new Act.

49 Applications to become a participating insurer before 1 July 2007

- (1) For the purposes of an application made under section 14-10 of the *Private Health Insurance Incentives Act 1998* on or after the commencement time, paragraph 14-10(1)(c) is taken to refer to the chief executive officer of the applicant private health insurer.
- (2) If:
 - (a) before 1 July 2007, a private health insurer had applied to become a participating fund for the purposes of the *Private Health Insurance Incentives Act 1998*; and
 - (b) immediately before 1 July 2007, the Minister had neither approved nor rejected the application;the Minister may treat the application as if it were an application made under section 279-5 of the new Act.

50 Continued application of Division 16

Despite the repeal of the *Private Health Insurance Incentives Act 1998*, the Medicare Australia CEO may exercise powers under Division 16 of that Act in relation to the matters mentioned in that Division, as if it had not been repealed.

51 Continued application of Division 18

Despite the repeal of the *Private Health Insurance Incentives Act 1998*, the Commonwealth and the Medicare Australia CEO may exercise powers under Division 18 of that Act (other than powers under section 18-15) in relation to the matters mentioned in that Division, as if it had not been repealed.

Division 4—Private health insurance levies

52 Continued application of Part VID of the *National Health Act 1953* in relation to matters arising before commencement of new Act

- (1) Despite the repeal of Part VID of the *National Health Act 1953* by this Act, the Part continues to apply after the commencement time, to the exclusion of Part 6-6 of the new Act, in relation to an amount of levy or an amount of late payment penalty to which Part VID applied immediately before the commencement time.
- (2) If, immediately before the commencement time, a process had begun under Division 4 of Part VID of the *National Health Act 1953*, the process may continue after the commencement time as if Part VID had not been repealed.

53 Continued application of section 83I of the *National Health Act 1953*

If, immediately before the commencement time, section 83I of the *National Health Act 1953* required a registered health benefits organization to retain particular records for a period of 7 years (or a shorter period prescribed by regulations made under that Act), the requirement to retain those records for that period continues in force as if section 83I had not been repealed.

Division 5—Disclosure of information

54 Transitional provision relating to secrecy obligations

Despite subsection 135A(1) of the *National Health Act 1953*, a person who has duties, functions or powers under the new Act may disclose information to which that section applies if the disclosure is:

- (a) in the course of performing a duty or function, or exercising a power, under the new Act; or
- (b) one that the person would have been able to make under Division 323 of the new Act, had the information been obtained in the course of performing a duty or function, or exercising a power, under the new Act.

Part 7—Miscellaneous

55 Private Health Insurance (Transition) Rules

- (1) The Minister may, by legislative instrument, make Private Health Insurance (Transition) Rules, providing for matters:
 - (a) required or permitted by this Act to be provided; or
 - (b) necessary or convenient to be provided for carrying out or giving effect to this Act.
- (2) In particular, Rules made under subsection (1) may be made providing for matters of a transitional nature (including providing any saving or application provisions) relating to the amendments or repeals made by this Act or to the transition from the provisions of the *National Health Act 1953* repealed by this Act to the *Private Health Insurance Act 2007*.

56 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act or to the transition from the provisions of the *National Health Act 1953* repealed by this Act to the *Private Health Insurance Act 2007*.

Schedule 1—Repeals

Part 1—Repeal of provisions

Health Insurance Act 1973

1 Subsection 3(1) (definition of *agreement*)

Repeal the definition.

2 Subsection 3(1) (paragraph (a) of the definition of *patient contribution*)

Repeal the paragraph.

3 Sections 3A and 3B

Repeal the sections.

4 Part III

Repeal the Part.

5 Schedule 2A

Repeal the Schedule.

National Health Act 1953

6 Subsection 4(1) (definition of *ACAC*)

Repeal the definition.

7 Subsection 4(1) (definition of *ACAC review levy*)

Repeal the definition.

8 Subsection 4(1) (definition of *ACAC Review Levy Act*)

Repeal the definition.

9 Subsection 4(1) (definition of *adult beneficiary*)

Repeal the definition.

10 Subsection 4(1) (definition of *applicable benefits arrangement*)

Repeal the definition.

11 Subsection 4(1) (definition of *base rate*)

Repeal the definition.

12 Subsection 4(1) (definition of *collapsed organization levy*)

Repeal the definition.

13 Subsection 4(1) (definition of *Collapsed Organization Levy Act*)

Repeal the definition.

14 Subsection 4(1) (definition of *collapsed organization levy amount*)

Repeal the definition.

15 Subsection 4(1) (definition of *contributor*)

Repeal the definition.

16 Subsection 4(1) (definition of *Council*)

Repeal the definition.

17 Subsection 4(1) (definition of *Council administration levy*)

Repeal the definition.

18 Subsection 4(1) (definition of *Council Administration Levy Act*)

Repeal the definition.

19 Subsection 4(1) (definition of *Council's rules*)

Repeal the definition.

20 Subsection 4(1) (definition of *day hospital facility*)

Repeal the definition.

21 Subsection 4(1) (definition of *dependant*)

Repeal the definition.

22 Subsection 4(1) (definition of *gap cover scheme*)

Repeal the definition.

23 Subsection 4(1) (definition of *gap permitted prosthesis*)

Repeal the definition.

24 Subsection 4(1) (definition of *Health Benefits Reinsurance Trust Fund*)

Repeal the definition.

25 Subsection 4(1) (definition of *Hospital Casemix Protocol*)

Repeal the definition.

26 Subsection 4(1) (definition of *hospital cover*)

Repeal the definition.

27 Subsection 4(1) (definition of *hospital purchaser-provider agreement*)

Repeal the definition.

28 Subsection 4(1) (definition of *joint hospital cover*)

Repeal the definition.

29 Subsection 4(1) (definition of *known gap policy*)

Repeal the definition.

30 Subsection 4(1) (definition of *late payment penalty*)

Repeal the definition.

31 Subsection 4(1) (definition of *Levy Act*)

Repeal the definition.

32 Subsection 4(1) (definition of *medical purchaser-provider agreement*)

Repeal the definition.

33 Subsection 4(1) (definition of *new prudential standards day*)

Repeal the definition.

34 Subsection 4(1) (definition of *no gap policy*)

Repeal the definition.

35 Subsection 4(1) (definition of *no gap prosthesis*)

Repeal the definition.

36 Subsection 4(1) (definition of *organization*)

Repeal the definition.

37 Subsection 4(1) (definition of *outreach service*)

Repeal the definition.

38 Subsection 4(1) (definition of *patient*)

Repeal the definition.

39 Subsection 4(1) (definition of *permitted days without hospital cover*)

Repeal the definition.

40 Subsection 4(1) (definition of *practitioner agreement*)

Repeal the definition.

41 Subsection 4(1) (definition of *private health insurance levy*)

Repeal the definition.

42 Subsection 4(1) (definition of *records*)

Repeal the definition.

43 Subsection 4(1) (definition of *registered health benefits organization*)

Repeal the definition.

44 Subsection 4(1) (definition of *registered organization*)

Repeal the definition.

45 Subsection 4(1) (definition of *Reinsurance Trust Fund levy*)

Repeal the definition.

46 Subsection 4(1) (definition of *Reinsurance Trust Fund Levy Act*)

Repeal the definition.

47 Subsection 4(1) (definition of *restricted membership organization*)

Repeal the definition.

48 Subsection 4(1) (definition of *Schedule 2 application day*)

Repeal the definition.

49 Subsection 4(1) (definition of *waiting period*)

Repeal the definition.

50 Subsection 4(1AA)

Repeal the subsection.

51 Sections 5A to 5G

Repeal the sections.

52 Paragraph 6(1)(aa)

Repeal the paragraph.

52A Section 7

Repeal the section.

53 Parts VI to VID

Repeal the Parts.

54 Subsections 105AB(1A) to (6AE)

Repeal the subsections.

55 Section 134D

Repeal the section.

56 Subsections 135A(4A), (5D) and (12A)

Schedule 1 Repeals

Part 1 Repeal of provisions

Repeal the subsections.

57 Paragraphs 139A(1)(aa) to (c)

Repeal the paragraphs.

58 Subsections 140(2) and (3)

Repeal the subsections.

59 Schedules 1 and 2

Repeal the Schedules.

Remuneration Tribunal Act 1973

60 Paragraph 7(9)(ae)

Repeal the paragraph.

Part 2—Repeal of Acts

Private Health Insurance (ACAC Review Levy) Act 2003

61 The whole of the Act

Repeal the Act.

Private Health Insurance Incentives Act 1998

62 The whole of the Act

Repeal the Act.

Schedule 2—Amendments

Age Discrimination Act 2004

1 Schedule 2 (after table item 9)

Insert:

- 9A *Private Health Insurance Act 2007* sections 23-1,
23-10, 26-1 and
26-5 and Part 2-3

2 Schedule 2 (table item 10)

Repeal the item.

A New Tax System (Goods and Services Tax) Act 1999

2A Section 195-1 (at the end of the definition of *hospital treatment*)

Add “(as in force immediately before the commencement of the *Private Health Insurance Act 2007*)”.

3 Section 195-1 (definition of *private health insurance*)

Repeal the definition, substitute:

private health insurance means insurance provided under a contract of insurance that was entered into by a private health insurer (within the meaning of the *Private Health Insurance Act 2007*) in the course of carrying on health insurance business (within the meaning of Division 121 of that Act).

A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999

4 Subsections 4(1) to (3)

Repeal the subsections, substitute:

- (1) For the purposes of this Act, a person is covered by an insurance policy that provides private patient hospital cover if:

-
- (a) the policy is a complying health insurance policy (within the meaning of the *Private Health Insurance Act 2007*) that covers hospital treatment (within the meaning of that Act); and
 - (b) any excess payable in respect of benefits under the policy is no more than:
 - (i) \$500 in any 12 month period, in relation to a policy under which only one person is insured; and
 - (ii) \$1,000 in any 12 month period, in relation to any other policy.
- (2) Paragraph (1)(b) does not apply in relation to an insurance policy under which a person has been insured continuously since the end of 24 May 2000, as long as the amount of any excess payable under the policy has not increased since that time.

5 Paragraph 4(4)(a)

Omit “applies”, substitute “applied immediately before the commencement of the *Private Health Insurance Act 2007*”.

6 Paragraph 4(4)(b)

Repeal the paragraph, substitute:

- (b) in a case where the person referred to in paragraph (a) had been, immediately before that commencement, a registered organization within the meaning of the *National Health Act 1953*—the policy would have been, immediately before that commencement, an applicable benefits arrangement, within the meaning of section 5A of that Act, to which paragraph 5A(1)(a) of that Act would apply.

7 Paragraph 4(5)(b)

Repeal the paragraph, substitute:

- (b) any excess payable in respect of benefits under the policy is more than:
 - (i) \$500 in any 12 month period, in relation to a policy under which only one person is insured; and
 - (ii) \$1,000 in any 12 month period, in relation to any other policy.

8 Subsection 4(6)

Repeal the subsection (including the example).

Australian Securities and Investments Commission Act 2001

8A Paragraphs 12BAA(7)(d) and (8)(b)

Omit “subsection 67(4) of the *National Health Act 1953*”, substitute “Division 121 of the *Private Health Insurance Act 2007*”.

Corporations Act 2001

8B Paragraph 765A(1)(c)

Omit “subsection 67(4) of the *National Health Act 1953*”, substitute “Division 121 of the *Private Health Insurance Act 2007*”.

Education Services for Overseas Students Act 2000

9 Paragraph 7(2)(b)

Omit “registered health benefits organization (within the meaning of the *National Health Act 1953*)”, substitute “private health insurer (within the meaning of the *Private Health Insurance Act 2007*)”.

Financial Sector (Collection of Data) Act 2001

10 Paragraph 7(2)(d)

Repeal the paragraph, substitute:

- (d) the corporation is a private health insurer within the meaning of the *Private Health Insurance Act 2007*; or

Financial Transaction Reports Act 1988

11 Subsection 3(1) (paragraph (a) of the definition of *insurance business*)

Repeal the paragraph, substitute:

- (a) health insurance business within the meaning of Division 121 of the *Private Health Insurance Act 2007* carried on by a private health insurer within the meaning of that Act; or

Freedom of Information Act 1982

12 Schedule 3

Insert in its appropriate alphabetical position, determined on a letter-by-letter basis:

Private Health Insurance Act 2007, sections 323-1 and 323-40

Health Insurance Act 1973

13 Subsection 3(1)

Insert:

complying health insurance policy has the meaning given by section 63-10 of the *Private Health Insurance Act 2007*.

14 Subsection 3(1) (definition of *hospital*)

Repeal the definition, substitute:

hospital has the meaning given by subsection 121-5(5) of the *Private Health Insurance Act 2007*.

15 Subsection 3(1)

Insert:

hospital service means a health service of a kind provided in a hospital and includes:

- (a) accommodation in a hospital for the purposes of receiving treatment; and
- (b) nursing care and treatment; and
- (c) medical care and treatment including diagnostic services; and
- (d) outpatient, accident and emergency services.

16 Subsection 3(1)

Insert:

hospital-substitute treatment has the same meaning as in the *Private Health Insurance Act 2007*.

17 Subsection 3(1) (definition of *hospital treatment*)

Repeal the definition, substitute:

hospital treatment has the meaning given by section 121-5 of the *Private Health Insurance Act 2007*.

18 Subsection 3(1) (definition of *nursing-home type patient*)

Repeal the definition, substitute:

nursing-home type patient, in relation to a hospital, means a patient in the hospital who has been provided with accommodation and nursing care, as an end in itself, for a continuous period exceeding 35 days.

19 Savings provision relating to nursing-home type patients

Despite any amendment made by this Schedule, a person who was, immediately before the commencement of this item, a nursing-home type patient within the meaning of the *Health Insurance Act 1973* is taken, after that commencement, to continue to be a nursing-home type patient within the meaning of that Act.

20 Subsection 3(1) (paragraph (b) of the definition of *patient contribution*)

Omit “(other than a State referred to in paragraph (a))”.

21 Subsection 3(1)

Insert:

private health insurer has the same meaning as in the *Private Health Insurance Act 2007*.

22 Subsection 3(1) (definition of *private hospital*)

Repeal the definition, substitute:

private hospital means a hospital in respect of which there is in force a statement under subsection 121-5(8) of the *Private Health Insurance Act 2007* that the hospital is a private hospital.

23 Subsection 3(1)

Insert:

public hospital service means a hospital service provided in:
(a) a recognised hospital; or

- (b) a hospital in respect of which the Commonwealth, or a State, provides funding for the provision of hospital services to public patients.

24 Subsection 3(1) (definition of *recognized hospital*)

Repeal the definition, substitute:

recognised hospital means a hospital in respect of which there is in force a statement under subsection 121-5(8) of the *Private Health Insurance Act 2007* that the hospital is a public hospital.

25 Subsection 3(1A) (note)

Repeal the note.

26 Subsections 3(1B), (11) and (12)

Repeal the subsections.

27 Paragraph 10(2)(a)

Repeal the paragraph, substitute:

- (a) in the case of a service provided:
- (i) as part of an episode of hospital treatment; or
 - (ii) as part of an episode of hospital-substitute treatment in respect of which the person to whom the treatment is provided chooses to receive a benefit from a private health insurer;
- an amount equal to 75% of the Schedule fee; or

28 Subsection 10AC(1) (definition of *relevant service*)

Omit “a service of the kind referred to in subparagraph (a)(ii) and paragraph (b) of the definition of *applicable benefits arrangement* in subsection 5A(1) of the *National Health Act 1953*”, substitute “a service rendered to a person while hospital treatment, or hospital-substitute treatment in respect of which the person chooses to receive a benefit from a private health insurer, is provided to the person”.

29 Subsection 10ACA(1) (definition of *relevant service*)

Omit “a service of the kind referred to in subparagraph (a)(ii) and paragraph (b) of the definition of *applicable benefits arrangement* in subsection 5A(1) of the *National Health Act 1953*”, substitute “a service rendered to a person while hospital treatment, or hospital-substitute treatment in respect of which the person chooses to receive a benefit from a private health insurer, is provided to the person”.

30 Paragraph 14(2)(a)

Omit “a medical purchaser-provider agreement”, substitute “an agreement between a private health insurer and another person”.

31 Subparagraphs 16A(5AA)(d)(iv) and (e)(i)

Omit “, or a day hospital facility,”.

32 Subsections 20A(2A) to (2D)

Repeal the subsections, substitute:

(2A) If:

- (a) a medicare benefit would, apart from this section, be payable to an eligible person in respect of a professional service rendered to the eligible person or another person while hospital treatment or hospital-substitute treatment is provided to the eligible person or other person; and
- (b) the eligible person has entered into a complying health insurance policy with a private health insurer under which he or she is covered (wholly or partly) for liability to pay fees and charges in respect of that professional service;

the eligible person and the insurer, an approved billing agent or another person may enter into an agreement, in accordance with the approved form, under which the eligible person assigns his or her right to the payment of the medicare benefit to the insurer, approved billing agent or other person.

33 Paragraph 20B(2)(b)

Omit “6 months”, substitute “2 years”.

34 Subsection 20B(3A)

Omit “or the period of 6 months referred to in paragraph (2)(b), as the case may be”, substitute “or (2)(b)”.

35 Section 39 (definition of *eligible person*)

Omit “contributor to an applicable benefits arrangement”, substitute “holder (within the meaning of the *Private Health Insurance Act 2007*) of a complying health insurance policy that covers hospital treatment or hospital-substitute treatment”.

36 Subsection 124W(1) (subparagraph (a)(i) of the definition of *quality assurance activity*)

Omit “Part II, III or IV”, substitute “Part II or IV”.

37 Subsection 126(5A)

Repeal the subsection, substitute:

(5A) This section does not apply in relation to a contract of insurance entered into by a private health insurer in so far as the contract is a complying health insurance policy that covers hospital treatment or hospital-substitute treatment.

38 Subsection 126(7)

Insert:

cover has the meaning given by section 69-5 of the *Private Health Insurance Act 2007*.

39 Subsection 128C(1)

Omit “(1)”.

40 Subsection 128C(2)

Repeal the subsection (not including the penalty).

41 At the end of section 128C

Add:

Note: For *public hospital service* see subsection 3(1).

42 Subsection 129AA(1A)

Omit “registered organization”, substitute “private health insurer”.

43 Subsection 129AA(1B)

Omit “registered organization”, substitute “private health insurer”.

44 Subsection 129AA(5A)

Repeal the subsection, substitute:

- (5A) If a person is convicted of an offence against this section by virtue of subsection (1A) or (1B) in relation to the admission of a person as a patient in a hospital, the court may, in addition to imposing a penalty in respect of the offence, order the person to pay a private health insurer an amount equal to the sum of any benefits paid by the insurer in respect of that patient.

45 Paragraph 130(6)(f)

Omit “registered organization”, substitute “private health insurer”.

46 Paragraph 130(7)(d)

Omit “registered organization” (wherever occurring), substitute “private health insurer”.

47 Paragraph 130(7)(d)

Omit “registered organizations”, substitute “private health insurers”.

48 Paragraph 130(7)(h)

Omit “registered organization”, substitute “private health insurer”.

49 Paragraph 130(9)(d)

Omit “registered organization”, substitute “private health insurer”.

50 Paragraph 130(9)(d)

Omit “the organization”, substitute “the insurer”.

Hearing Services Administration Act 1997

51 Paragraph 5(2)(e)

Repeal the paragraph.

Income Tax Assessment Act 1997

52 Section 50-30 (cell at table item 6.3, column headed “Exempt entity”)

Repeal the cell, substitute:

private health insurer within the meaning of the *Private Health Insurance Act 2007*

Insurance Act 1973

53 Subsection 3(1) (paragraph (k) of the definition of *insurance business*)

Repeal the paragraph, substitute:

- (k) health insurance business within the meaning of Division 121 of the *Private Health Insurance Act 2007* carried on by a private health insurer within the meaning of that Act.

Insurance Contracts Act 1984

54 Paragraph 9(1)(b)

Repeal the paragraph, substitute:

- (b) of insurance entered into, or proposed to be entered into, by a private health insurer within the meaning of the *Private Health Insurance Act 2007* in respect of its health insurance business within the meaning of Division 121 of that Act; or

Life Insurance Act 1995

55 Subsection 16ZB(2) (note)

Omit “*National Health Act 1953*”, substitute “*Private Health Insurance Act 2007*”.

56 Schedule (definition of *health insurance business*)

Omit “section 67 of the *National Health Act 1953*”, substitute “Division 121 of the *Private Health Insurance Act 2007*”.

Medibank Private Sale Act 2006

57 Item 1 of Schedule 2 (definition of *contributor*)

Repeal the definition, substitute:

contributor, in relation to a health benefits fund:

- (a) has the same meaning as it had in the *National Health Act 1953* immediately before the commencement of the *Private Health Insurance Act 2007*; or
- (b) if the rules of the registered health benefits organization conducting the fund do not provide for who are the contributors to the fund—means a policy holder of the fund within the meaning of the *Private Health Insurance Act 2007*.

58 Item 1 of Schedule 2 (definition of *registered health benefits organization*)

Repeal the definition, substitute:

registered health benefits organization has the same meaning as it had in the *National Health Act 1953* immediately before the commencement of the *Private Health Insurance Act 2007*.

59 Item 1 of Schedule 2 (definition of *rules*)

Repeal the definition, substitute:

rules:

- (a) in relation to a registered health benefits organization, has the same meaning as it had in the *National Health Act 1953* immediately before the commencement of the *Private Health Insurance Act 2007*; and
- (b) if Medibank Private's rules have been modified as provided for in paragraph 5(6)(k), means, in relation to Medibank Private, those rules as so modified.

60 After paragraph 9(7)(b) of Schedule 2

Insert:

- (ba) a provision of the *Private Health Insurance Act 2007*; or

61 Subitem 10(8) of Schedule 2

Omit "section 73AAC or 73AAD of the *National Health Act 1953*", substitute "section 137-10 of the *Private Health Insurance Act 2007*".

62 After paragraph 12(5)(b) of Schedule 2

Insert:

- (ba) a provision of the *Private Health Insurance Act 2007*; or

63 At the end of subitem 14(1) of Schedule 2

Add:

; or (d) a provision of the *Private Health Insurance Act 2007*.

64 At the end of subitem 14(2) of Schedule 2

Add:

; or (d) a provision of the *Private Health Insurance Act 2007*.

65 After paragraph 15(3)(b) of Schedule 2

Insert:

(ba) a provision of the *Private Health Insurance Act 2007*; or

66 Subitem 16(2) of Schedule 2

Omit “section 73AAC or 73AAD of the *National Health Act 1953*”, substitute “section 137-10 of the *Private Health Insurance Act 2007*”.

67 Subitem 20(10) of Schedule 2

Omit “section 78 of the *National Health Act 1953*”, substitute “section 169-10 of the *Private Health Insurance Act 2007*”.

68 After subparagraph 20(11)(c)(ii) of Schedule 2

Insert:

(iia) a provision of the *Private Health Insurance Act 2007*; or

69 Subitem 21(2) of Schedule 2

Omit “section 73AAC or 73AAD of the *National Health Act 1953*”, substitute “section 137-10 of the *Private Health Insurance Act 2007*”.

70 After paragraph 22(3)(b) of Schedule 2

Insert:

(ba) a provision of the *Private Health Insurance Act 2007*; or

71 Subitem 23(2) of Schedule 2

Omit “section 73AAC or 73AAD of the *National Health Act 1953*”, substitute “section 137-10 of the *Private Health Insurance Act 2007*”.

72 Subitem 57(1) and (3) of Schedule 2

Omit “section 73AAD of the *National Health Act 1953*”, substitute “section 137-10 of the *Private Health Insurance Act 2007*”.

73 Subitem 58(8) of Schedule 2

Omit “section 73AAC or 73AAD of the *National Health Act 1953*”, substitute “section 137-10 of the *Private Health Insurance Act 2007*”.

Medical Indemnity Act 2002

74 At the end of paragraph 77(2)(c)

Add:

; or (v) the *Private Health Insurance Act 2007*.

Medicare Levy Act 1986

75 Subsections 3(5) to (5B)

Repeal the subsections, substitute:

- (5) For the purposes of this Act, a person is covered by an insurance policy that provides private patient hospital cover if:
- (a) the policy is a complying health insurance policy (within the meaning of the *Private Health Insurance Act 2007*) that covers hospital treatment (within the meaning of that Act); and
 - (b) any excess payable in respect of benefits under the policy is no more than:
 - (i) \$500 in any 12 month period, in relation to a policy under which only one person is insured; and
 - (ii) \$1,000 in any 12 month period, in relation to any other policy.
- (5A) Paragraph (5)(b) does not apply in relation to an insurance policy under which a person has been insured continuously since the end of 24 May 2000, as long as the amount of any excess payable under the policy has not increased since that time.

76 Paragraph 3(6)(a)

Omit “applies”, substitute “applied immediately before the commencement of the *Private Health Insurance Act 2007*”.

77 Paragraph 3(6)(b)

Repeal the paragraph, substitute:

- (b) in a case where the person referred to in paragraph (a) had been, immediately before that commencement, a registered organization within the meaning of the *National Health Act 1953*—the policy would have been, immediately before that commencement, an applicable benefits arrangement, within the meaning of section 5A of that Act, to which paragraph 5A(1)(a) of that Act would apply.

78 Paragraph 3(7)(b)

Repeal the paragraph, substitute:

- (b) any excess payable in respect of benefits under the policy is more than:
 - (i) \$500 in any 12 month period, in relation to a policy under which only one person is insured; and
 - (ii) \$1,000 in any 12 month period, in relation to any other policy.

79 Subsection 3(8)

Repeal the subsection (including the example).

National Blood Authority Act 2003

80 Paragraph 10(3)(a)

Omit “section 23E of”.

National Health Act 1953

81 Subsection 4(1)

Insert:

complying health insurance policy has the meaning given by section 63-10 of the *Private Health Insurance Act 2007*.

82 Subsection 4(1)

Insert:

hospital has the meaning given by subsection 121-5(5) of the *Private Health Insurance Act 2007*.

83 Subsection 4(1)

Insert:

hospital-substitute treatment has the same meaning as in the *Private Health Insurance Act 2007*.

84 Subsection 4(1)

Insert:

hospital treatment has the meaning given by section 121-5 of the *Private Health Insurance Act 2007*.

85 Subsection 4(1)

Insert:

private health insurer has the same meaning as in the *Private Health Insurance Act 2007*.

86 Subsection 4(1)

Insert:

public hospital means a hospital in respect of which there is in force a statement under subsection 121-5(8) of the *Private Health Insurance Act 2007* that the hospital is a public hospital.

87 Subsection 4(1)

Insert:

public hospital authority means the governing body of a public hospital.

88 Subsection 4(1) (definition of *rules*)

Repeal the definition, substitute:

rules, in relation to a private health insurer, has the same meaning as in the *Private Health Insurance Act 2007*.

89 Subsection 50(1)

Omit “registered organization”, substitute “private health insurer”.

90 Subsection 50(4)

Omit “registered hospital benefits organization”, substitute “private health insurer”.

91 Subsection 84(1) (definition of *public hospital*)

Repeal the definition.

92 Subsection 84(1) (definition of *public hospital authority*)

Repeal the definition.

93 Paragraph 84AAA(1)(c)

Omit “(within the meaning of the *Health Insurance Act 1973*) or a day hospital facility”.

94 Subsection 84AAA(1) (note)

Omit “*day hospital facility*”, substitute “*hospital*”.

95 Subsection 92B(2)

Repeal the subsection, substitute:

- (2) This section does not prevent a private health insurer from entering into a complying health insurance policy under which the insurer covers the cost of pharmaceutical benefits dispensed to a person as part of an episode of hospital treatment or hospital-substitute treatment covered by the policy.

96 Subsection 135A(5)

Omit “or organization”, substitute “or private health insurer”.

97 Paragraph 135A(6)(j)

Omit “registered organization”, substitute “private health insurer”.

98 Paragraph 135A(7)(f)

Omit “registered organization” (wherever occurring), substitute “private health insurer”.

99 Paragraph 135A(7)(f)

Omit “registered organizations”, substitute “private health insurers”.

100 Paragraph 135A(7)(m)

Omit “registered organization”, substitute “private health insurer”.

101 Paragraph 135A(9)(d)

Omit “registered organization”, substitute “private health insurer”.

102 Paragraph 135A(9)(d)

Omit “the organization”, substitute “the insurer”.

103 Subsection 140(1)

Omit “(1)”.

Veterans’ Entitlements Act 1986

104 Subsection 93A(1)

Repeal the subsection, substitute:

(1) In this section:

contributor, in relation to a private health insurer, means a person who is a holder (within the meaning of the *Private Health Insurance Act 2007*) of a complying health insurance policy (within the meaning of section 63-10 of that Act) entered into with the insurer.

private health insurer has the same meaning as in the *Private Health Insurance Act 2007*.

105 Paragraph 93A(2)(b)

Omit “registered organisation”, substitute “private health insurer”.

106 Paragraph 93A(3)(b)

Omit “registered organisation”, substitute “private health insurer”.

107 Subsection 93A(3)

Omit “the registered organisation” (wherever occurring), substitute “the insurer”.

108 Subsection 93A(4)

Omit “registered organisation”, substitute “private health insurer”.

Schedule 3—Amendments relating to transition from Private Health Insurance Incentives Act 1998

Income Tax Assessment Act 1936

1 Paragraph 16(4)(fb)

Repeal the paragraph, substitute:

(fb) the Chief Executive Officer of Medicare Australia for the purpose of the administration of the *Private Health Insurance Incentives Act 1998* or Part 2-2 or 6-4 of the *Private Health Insurance Act 2007*;

2 Subsection 159J(6) (paragraph (aac) of the definition of separate net income)

Omit “*Private Health Insurance Incentives Act 1998*”, substitute “*Division 26 of the Private Health Insurance Act 2007*”.

3 Subsection 170(10AA) (table item 25)

Repeal the table item, substitute:

25	Subdivision 61-G	Private health insurance offset complementary to Part 2-2 of the <i>Private Health Insurance Act 2007</i>
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4 Subsection 264BB(1)

Omit “health fund”, substitute “private health insurer”.

Note: The heading to section 264BB is altered by omitting “**health funds**” and substituting “**private health insurers**”.

5 Subsection 264BB(1)

Omit “an appropriate private health insurance policy issued by the fund”, substitute “a complying health insurance policy issued by the insurer”.

6 Subsection 264BB(2)

Repeal the subsection, substitute:

- (2) The information that the Commissioner may require the private health insurer to provide includes the following:
- (a) the name, address and date of birth of each person mentioned in subsection (1);
 - (b) the membership number of the policy;
 - (c) the name, address and date of birth of any spouse of a person covered by the policy (other than a spouse permanently living separately and apart from the person);
 - (d) whether the policy covers hospital treatment, general treatment or both;
 - (e) the date on which the policy was issued;
 - (f) whether the policy has terminated or been suspended, and, if it has, the date on which it terminated or was suspended;
 - (g) the amount of the premium payable under the policy;
 - (h) the period to which the premium relates;
 - (i) any increase or decrease in the premium;
 - (j) whether a payment in respect of a premium that was due within a period specified by the Commissioner was not paid.

7 Subsection 264BB(4)

Repeal the subsection, substitute:

- (4) In this section, the following terms have the same meanings as in the *Private Health Insurance Act 2007*:

complying health insurance policy

general treatment

hospital treatment

private health insurer

Income Tax Assessment Act 1997

7A Section 13-1 (table item headed “private health insurance”)

Omit “61-H”, substitute “61-G”.

8 Section 52-125

Omit “Chapter 2 of the *Private Health Insurance Incentives Act 1998*”, substitute “Division 26 of the *Private Health Insurance Act 2007*”.

9 Subdivision 61-H of Division 61

Repeal the Subdivision, substitute:

Subdivision 61-G—Private health insurance offset complementary to Part 2-2 of the Private Health Insurance Act 2007

Guide to Subdivision 61-G

61-200 What this Subdivision is about

You can choose to claim a tax offset for a premium, or an amount in respect of a premium, paid under a private health insurance policy instead of having the premium reduced under Division 23 of the *Private Health Insurance Act 2007* or receiving a payment under Division 26 of that Act.

Table of sections

Operative provisions

61-205	Entitlement to the private health insurance tax offset
61-210	Amount of the private health insurance tax offset
61-215	Tax offset after a person 65 years or over ceases to be covered by policy
61-220	How to work out the incentive amount

Operative provisions

61-205 Entitlement to the private health insurance tax offset

- (1) If you are an individual (other than an individual in the capacity of an employer), you are entitled to a *tax offset for the 2007-08 income year or a later income year if:
 - (a) a premium, or an amount in respect of a premium, was paid by you, or by your employer as a *fringe benefit for you, under a complying private health insurance policy (within the

meaning of the *Private Health Insurance Act 2007*), on or after 1 July 2007; and

- (b) the premium, or amount in respect of a premium, was paid during the income year; and
 - (c) each person insured under the complying health insurance policy during the period covered by the premium or amount is, for the whole of the time that he or she is insured under the policy during that period, an eligible person within the meaning of section 3 of the *Health Insurance Act 1973*, or treated as such because of section 6, 6A or 7 of that Act.
- (2) You are also entitled to the *tax offset if:
- (a) you are a trustee who is liable to be assessed under section 98 of the *Income Tax Assessment Act 1936* in respect of a share of the net income of a trust estate; and
 - (b) the beneficiary who is presently entitled to the share of the income of the trust estate would be entitled to the tax offset because of subsection (1).
- (3) However, you are not entitled to the *tax offset in respect of the payment of any premium, or any amount in respect of a premium, if:
- (a) you have received an amount under Division 26 of the *Private Health Insurance Act 2007* in relation to the payment; or
 - (b) the premium, or the amount in respect of a premium, was less than it would otherwise have been because of the operation of Division 23 of that Act.

Note: In certain circumstances you can get a refund of the tax offset under Division 67.

61-210 Amount of the private health insurance tax offset

- (1) The amount of the *tax offset for an income year is the sum of:
- (a) 30% of the amount of the premium, or of the amount in respect of a premium, paid by you, or by your employer as a *fringe benefit for you, under the policy in respect of days in the income year on which no person covered by the policy was aged 65 years or over; and
 - (b) 35% of the amount of the premium, or of the amount in respect of a premium, paid by you, or by your employer as a
-

fringe benefit for you, under the policy in respect of days in the income year on which:

- (i) at least one person covered by the policy was aged 65 years or over; and
 - (ii) no person covered by the policy was aged 70 years or over; and
- (c) 40% of the amount of the premium, or of the amount in respect of a premium, paid by you, or by your employer as a fringe benefit for you, under the policy in respect of days in the income year on which at least one person covered by the policy was aged 70 years or over.
- (2) However, if, before 1 January 1999, a person was registered, or eligible to be registered, under the *Private Health Insurance Incentives Act 1997* in respect of the policy for the income year, the amount of the *tax offset for the income year is the greater of:
- (a) the amount worked out under subsection (1); and
 - (b) the *incentive amount for the policy for the income year.
- (3) If, because of the operation of Division 23 of the *Private Health Insurance Act 2007*, an amount paid by you, or by your employer as a *fringe benefit for you, under a policy was less than the amount that would otherwise have been payable, the *tax offset in respect of the amount paid is reduced by the amount of the difference.

61-215 Tax offset after a person 65 years or over ceases to be covered by policy

- (1) If:
- (a) at any time, the amount of a *tax offset in respect of premiums payable under an insurance policy (the ***original policy***) was 35% or 40% of the premiums payable under the policy because a person aged 65 years or over (the ***entitling person***) was insured under the original policy; and
 - (b) at that time, another person (other than a dependent child) was insured under the original policy; and
 - (c) the entitling person subsequently ceases to be insured under the policy;
- subsections 61-210(1) and (2) apply in relation to a complying health insurance policy (whether or not the original policy) under

which the other person is insured (other than for the purposes of working out the *incentive amount) as if:

- (d) the entitling person were also insured under that policy; and
 - (e) the entitling person were the same age as the age at which he or she ceased to be insured under the original policy.
- (2) Subsection (1) ceases to apply if a person (other than a dependent child) who was not insured under the original policy at the time the entitling person ceased to be insured under it becomes insured under the complying health insurance policy.
- (3) Subsection (1) does not apply if its application would result in the amount of the *tax offset under subsection 61-210(1) or (2) being less than it would otherwise have been.
- (4) Paragraph (1)(a) applies in relation to an amount of a *tax offset that is 35% or 40% of the premiums payable under an insurance policy whether the tax offset was available under this Subdivision or Subdivision 61-H as in force before 1 July 2007.
- (5) In this section:

complying health insurance policy has the same meaning as in the *Private Health Insurance Act 2007*.

dependent child:

- (a) has the meaning given in the *Private Health Insurance Act 2007*; and
- (b) in paragraph (1)(b), in relation to a time before 1 July 2007, includes a dependent child within the meaning of the *Private Health Insurance Incentives Act 1998*.

61-220 How to work out the incentive amount

- (1) The ***incentive amount*** for a complying private health insurance policy (within the meaning of the *Private Health Insurance Act 2007*) for an income year is the amount worked out under this table:

Incentive amount				
Item	Number and kinds of people covered by the policy	Policy covers *hospital treatment but not *general treatment	Policy covers *general treatment but not *hospital treatment	Policy covers *hospital treatment and *general treatment
1	3 or more people	\$350	\$100	\$450
2	One dependent child and one other person	\$350	\$100	\$450
3	2 people neither of whom is a dependent child	\$200	\$50	\$250
4	One person	\$100	\$25	\$125

- (2) If the amount of the premium, or the amount in respect of a premium, paid by you, or by your employer as a *fringe benefit for you, under the policy is for part only of the income year, the ***incentive amount*** is worked out using this formula:

$$\text{Amount worked out under subsection (1)} \times \frac{\text{Number of days in that part of the income year}}{365}$$

9A Application of item 9

The repeal of Subdivision 61-H of the *Income Tax Assessment Act 1997* and the substitution of Subdivision 61-G by this Schedule apply in relation to the 2007-2008 income year and later income years.

9B Subsection 67-25(2)

Repeal the subsection (including the note), substitute:

Private health insurance

- (2) Private health insurance tax offsets under Subdivision 61-G, except those arising under subsection 61-205(2), are subject to the refundable tax offset rules.

Note: Subsection 61-205(2) deals with tax offsets for trustees who are assessed and liable to pay tax under section 98 of the *Income Tax Assessment Act 1936*.

9C Subsection 995-1(1) (definition of *incentive amount*)

Omit “section 61-345”, substitute “section 61-220”.

Private Health Insurance Act 2007

9D Section 20-1 (note)

Omit “Subdivision 61-H”, substitute “Subdivision 61-G”.

9E Subsection 26-1(4)

Omit “Subdivision 61-H”, substitute “Subdivision 61-G”.

Private Health Insurance Incentives Act 1998

10 Paragraph 4-5(1)(a)

Omit “1 July 1998 or a later financial year”, substitute “or after 1 July 1998 and before 1 July 2007”.

11 Section 11-10

Before “You”, insert “(1)”.

12 At the end of section 11-10

Add:

(2) However, no-one is eligible to apply for registration under this Division after 30 June 2007.

13 At the end of section 12-5

Add:

(7) A reduction is not allowable under this section in respect of a premium if the premium is in respect of a financial year, or part of a financial year, beginning on or after 1 July 2007.

14 Subsection 12-10(2)

Omit “1 July 1999 or a later financial year”, substitute “or after 1 July 1999 and before 1 July 2007”.

15 At the end of section 15-5

Add:

- (3) A *health fund may claim reimbursement under this Division only in respect of an amount of premiums that was reduced because of the operation of this Chapter.

16 Subsection 15-23(2)

Repeal the subsection, substitute:

- (2) The application must be made:
 - (a) if the application relates to only one month—before the earlier of:
 - (i) the day that is 3 years after the last day of the month; and
 - (ii) 1 July 2008; and
 - (b) if the application relates to more than one month—before the earlier of:
 - (i) the day that is 3 years after the last day of the first of those months; and
 - (ii) 1 July 2008.

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17 Section 45-340 of Schedule 1 (method statement, step 1, paragraph (a))

Omit “Subdivision 61-H”, substitute “Subdivision 61-G”.

18 Section 45-375 of Schedule 1 (method statement, step 1, paragraph (a))

Omit “Subdivision 61-H”, substitute “Subdivision 61-G”.

*[Minister's second reading speech made in—
House of Representatives on 7 December 2006
Senate on 26 February 2007]*

(201/06)

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