

EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 67

Subject: Consequential amendment, and repeal of regulations, associated with the commencement of the *Private Health Insurance Act 2007*, the *Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007*, and associated private health insurance levies legislation.

National Health Act 1953

- *National Health Amendment Regulations 2007 (No. 2)*
- *National Health (Lifetime Health Cover) Repeal Regulations 2007 (No. 1)*
- *National Health (Registered Health Benefits Organizations) Repeal Regulations 2007 (No. 1)*
- *National Health (Private Health Insurance Levies) Repeal Regulations 2007 (No. 1)*

Health Insurance Act 1973

- *Health Insurance Amendment Regulations 2007 (No. 2)*
- *Health Insurance (General Medical Services Table) Amendment Regulations 2007 (No. 3)*
- *Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2007 (No. 1)*
- *Health Insurance (Pathology Services Table) Amendment Regulations 2007 (No. 1)*

Private Health Insurance Incentives Act 1998

- *Private Health Insurance Incentives Repeal Regulations 2007 (No. 1)*

Private Health Insurance Complaints Levy Act 1995

- *Private Health Insurance Complaints Levy Repeal Regulations 2007 (No. 1)*

Private Health Insurance (Council Administration Levy) Act 2003

- *Private Health Insurance (Council Administration Levy) Repeal Regulations 2007 (No. 1)*

Private Health Insurance (Reinsurance Trust Fund Levy) Act 2003

- *Private Health Insurance (Reinsurance Trust Fund Levy) Repeal Regulations 2007 (No 1)*

Section 140 of the *National Health Act 1953* (the NHA), section 133 of the *Health Insurance Act 1973* (the HIA), section 19-40 of the *Private Health Insurance Incentives Act 1998* (the PHIA), section 9 of the *Private Health Insurance Complaints Levy Act 1995* (the Complaints Levy Act), section 10 of the *Private Health Insurance (Council Administration Levy) Act 2003* (the Council Administration Levy Act), and section 11 of the *Private Health Insurance (Reinsurance Trust Fund Levy) Act 2003* (the Reinsurance Trust Fund Levy Act), provide

that the Governor-General may make regulations prescribing matters required or permitted by those Acts to be prescribed.

As part of the reforms to private health insurance announced by the Australian Government on 26 April 2006, regulation of private health insurance is to be moved from the *National Health Act 1953* (NHA) to a new *Private Health Insurance Act 2007* (PHI Act) and Private Health Insurance Rules (PHI Rules) made under the PHI Act. A Bill for the PHI Act was introduced into the House of Representatives on 7 December 2006; the commencement date of the PHI Act, and of the PHI Rules, is 1 April 2007.

In addition, the following Acts contain amendments transitional or consequential on the PHI Act, or associated taxing legislation:

- *Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007*;
- *Private Health Insurance (Council Administration Levy) Amendment Act 2007* (Council Administration Levy Amendment Act);
- *Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Act 2007* (Reinsurance Trust Fund Levy Amendment Act); and
- *Private Health Insurance Complaints Levy Amendment Act 2007* (Complaints Levy Amendment Act).

As a consequence, amendments to regulations made under the NHA, the *Health Insurance Act 1973*, the *Private Health Insurance Incentives Act 1998*, and to regulations made under the above private health insurance levies acts are necessary. These amendments repeal obsolete regulations, and remove obsolete terminology in the regulations.

As part of the changes to private health insurance, regulation 13 of the *Health Insurance Regulations 1975* is amended to update terminology regarding the particulars to be recorded by practitioners for professional services rendered as part of an episode of hospital treatment, and to provide for particulars to be recorded by practitioners for professional services rendered as part of an episode of hospital-substitute treatment, where the patient chooses to receive a benefit from a private health insurer.

Private health insurers were extensively consulted and provided with opportunities to comment upon the new Private Health Insurance legislative package. Consultations were attended by representatives from individual private health insurers and peak industry bodies (the Australian Health Insurance Association and Health Insurance Restricted Membership Association members funds), private hospitals and their industry representatives (Australian Private Hospitals Association and Catholic Health Australia), the Australian Medical Association, the Private Health Insurance Administration Council, the Private Health Insurance Ombudsman, Consumer Health Forum and central agencies. All of the industry representatives expressed strong support for the new legislative framework.

Details of the Regulations are set out in the [Attachment](#).

The NHA, the HIA, the PHIA, and the Complaints Levy Act do not specify any conditions that need to be met before the power to make regulations may be exercised. However, the Council Administration Levy Act and the Reinsurance Trust Fund Levy Act both provide that before the Governor-General makes regulations under those Acts, the Minister must take into consideration any relevant recommendation made to the Minister by the Private Health Insurance Administration Council.

The Regulations are legislative instruments for the purpose of the *Legislative Instruments Act 2003*.

The Regulations do not have retrospective operation. The Regulations (except for the *Private Health Insurance Incentives Repeal Regulations 2007 (No. 1)* and the regulations under the Complaints Levy Act, Council Administration Levy Act and Reinsurance Trust Fund Levy Act) commence if they are registered before the proposed PHI Act commences - on the commencement of the PHI Act, or if they are registered after the PHI Act commences - on the day after they are registered.

The regulations under the Complaints Levy Act, Council Administration Levy Act, and Reinsurance Trust Fund Levy Act, commence if they are registered before Schedule 1 to each of the Complaints Levy Amendment Act, Council Administration Levy Amendment Act, or Reinsurance Trust Fund Levy Amendment Act, respectively - on the commencement of Schedule 1 of the relevant amending Act, or if they are registered after the commencement of Schedule 1 of the relevant amending Act - on the day after they are registered.

The *Private Health Insurance Incentives Repeal Regulations 2007 (No. 1)* will commence on 30 September 2007. It is necessary to retain the Incentives Regulations until at least 1 September 2007, so that they will apply to the annual statement made by private health insurers on or before 15 July 2007, and to allow ample transition time in relation to this last annual statement required by the *Private Health Insurance Incentives Regulations 1998*.

A Regulation Impact Statement (RIS) was prepared for the Private Health Insurance Bill 2006 which analysed the options associated with the Australian Government's initiatives to improve the attractiveness of and participation in private health insurance for consumers. The measures include those under the PHI Act and associated private health insurance legislation and legislative instruments. The Office of Best Practice Regulation has advised that no additional RIS is required.

DETAILS OF THE NATIONAL HEALTH AMENDMENT REGULATIONS 2007 (No. 2)

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *National Health Amendment Regulations 2007 (No. 2)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before the *Private Health Insurance Act 2007* (PHI Act) – on the commencement of the PHI Act; or if they are registered after the PHI Act commences – on the day after they are registered.

3. Amendment of *National Health Regulations 1954*

Regulation 3 provides that the *National Health Regulations 1954* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 - Amendments

Item [1] Omissions

Item 1 omits the following provisions from the Principal Regulations:

- **Regulation 3: Prescribed matters – restricted membership organizations**

Regulation 3 prescribes certain matters for the purpose of the definition of ‘restricted membership organization’ in subsection 4(1) of the *National Health Act 1953* (NHA). The definition of ‘restricted membership organization’ in subsection 4(1) of the NHA will be repealed at the same time as the *Private Health Insurance Act 2007* (PHI) commences: item 47, Schedule 1 to the *Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007* (T&C). Regulation 3 will be redundant.

An organization that was a ‘restricted membership organization’ within the meaning of the NHA immediately before the commencement of the PHI is taken, for the purposes of the PHI, to be registered as a ‘restricted access insurer’ under the PHI: item 20, T&C. The PHI and, if considered necessary and appropriate in addition to the PHI, the Private Health Insurance (Registration) Rules made under the PHI, will regulate the requirements which must be met to be a ‘restricted access insurer’.

- **Regulation 4: Day hospital facility**

Regulation 4 prescribes certain facilities as a ‘day hospital facility’ for the purpose of paragraph (b) of the definition of ‘day hospital facility’ in subsection 4(1) of the NHA. The definition of ‘day hospital facility’ in subsection 4(1) of the NHA will be repealed at the same time as the *Private Health Insurance Act 2007* commences: item 20, Schedule 1 to the T&C. Regulation 4 will be redundant.

Premises that were a ‘day hospital facility’ within the meaning of the NHA immediately before the commencement of the PHI will fall within the definition of a ‘private hospital’: paragraph 15(1)(d) and subsection 15(3) T&C.

- **Regulation 4B and Schedule 3 : Domiciliary care – modification of the Act**

Regulation 4B provides that subsections 5A(1) and (3) of the NHA are modified in their application to certain registered organizations, as set out in Schedule 3 to the Principal Regulations. Regulation 4B and Schedule 3 ceased to have effect on 30 June 2001.

- **Part 5A: Gap cover schemes**

Part 5A of the Principal Regulations prescribes certain matters relating to ‘gap cover schemes’ for the purpose of Division 4A, Part VI of the NHA. Part 5A will be redundant.

On the commencement of the PHI the definitions of ‘gap cover scheme’, ‘known gap policy’, and ‘no gap policy’ in subsection 4(1) of the NHA will be repealed, together with Division 4A, Part VI of the NHA: items 22, 29, 34, 53, Schedule 1, T&C. Part 5A will be redundant.

- **Part 5B: Performance indicators**

Part 5B sets out performance indicators for the purpose of subsection 73BEA(1) of the NHA, which is located in Part VI of the NHA. On the commencement of the PHI, Part VI of the NHA will be repealed: item 53, Schedule 1, T&C. Part 5B will be redundant.

The *Private Health Insurance (Complying Product) Rules 2007*, made for the purpose of the PHI, will set out performance indicators to be used by the Minister for monitoring private health insurers’ compliance with the principle of community rating.

- **Regulation 47: Prescribed business – definition of *accident and sickness insurance business* in subsection 67(4) of the Act.**

Regulation 47 prescribes kinds of business for the purposes of paragraph (b) of the definition of ‘accident and sickness insurance business’ in subsection 67(4) of the NHA. Section 67 of the NHA is located in Part VI of the NHA. On the commencement of the PHI, Part VI of the NHA will be repealed: item 53, T&C. Regulation 47 will be redundant.

The *Private Health Insurance (Health Insurance Business) Rules 2007*, made for the purpose of the PHI, will replace old regulation 47 in dealing with the inter-relationship between accident and sickness insurance and health insurance business.

- **Regulation 48: Prescribed business – definition of *health insurance business* in subsection 67(4) of the Act**

Regulation 48 excludes certain kinds of business from ‘health insurance business’ for the purposes of paragraph (e) of the definition of ‘health insurance business’ in subsection 67(4) of the NHA. Section 67 of the NHA is located in Part VI of the NHA. On the commencement of the PHI, Part VI of the NHA will be repealed: item 53, T&C. Regulation 48 will be redundant.

The *Private Health Insurance (Health Insurance Business) Rules 2007*, made for the purpose of the PHI, will replace old regulation 48 in excluding certain kinds of business from ‘health insurance business’.

- **Regulation 49A: Hospital Casemix Protocol and Schedule 7**

Regulation 49A provides that for the purpose of paragraph 73BD(2)(c) of the NHA, a Hospital Casemix Protocol is set out in Schedule 7. Schedule 7 provides that the object of the Hospital Casemix Protocol is to specify the financial, clinical and demographic data that registered organizations must give to the Department of Health and Ageing in respect of every episode of hospital treatment for which an amount is charged to the registered organization.

Section 73BD of the NHA is located in Part VI of the NHA. On the commencement of the PHI, Part VI of the NHA will be repealed: item 53, Schedule 1, T&C. Regulation 49A will be redundant.

The *Private Health Insurance (Data Provision) Rules 2007*, made for the purpose of the PHI, will deal with Hospital Casemix Protocol.

- **Regulation 49B: List of Australian National Diagnosis Related Groups**

Regulation 49B prescribes, for the purpose of subparagraph 73BD(4)(a)(i) of the NHA the List of Australian National Diagnosis Related Groups. Section 73BD is located in Part VI of the NHA. On the commencement of the PHI, Part VI of the NHA will be repealed: item 53, Schedule 1, T&C.

The *Private Health Insurance (Data Provision) Rules 2007* and the *Private Health Insurance (Health Insurance Business) Rules 2007*, made for the purpose of the PHI, will deal with the List of Australian National Diagnosis Related Groups.

- **Regulation 49C: Direction by Minister to registered organizations**

Regulation 49C deals with directions by the Minister in relation to discounted rates of contribution to a registered organization for the purpose of paragraph 73BE(1)(e) of the NHA. Section 73BE was repealed by the *Health Legislation Amendment (Private Health Insurance Reform) Act 2004*.

The PHI, together with the *Private Health Insurance (Health Benefits Fund Policy) Rules 2007* and *Private Health Insurance (Complying Product) Rules 2007*, made for the purpose of the PHI, will deal with the issue of discounted rate of contribution by a private health insurer.

- **Regulation 50: Form of warrant for inspector to enter premises and Schedule 2**

Regulation 50 provides that for the purpose of subsection 82V(3) of the NHA, the prescribed form of warrant is the form in Schedule 2. Section 82V is located in Part VIA of the NHA. On the commencement of the PHI, Part VI of the NHA will be repealed: item 53, Schedule 1, T&C. Regulation 50 will be redundant.

- **Regulation 52A: Prescribed authority – Private Health Insurance Administration Council**

Regulation 52A prescribes, for the purpose of subparagraph 135A(3)(b)(i) of the NHA, the Private Health Insurance Administration Council (PHIAC) as a prescribed authority.

Section 135A of the NHA is a secrecy provision for the purpose of NHA information. On commencement of the PHI, Part 6-8 of the PHI will be the relevant secrecy provision, together with transitional provision in the T&C. Regulation 52A will be redundant.

- **Regulation 52B: Provision of information to Private Health Insurance Administration Council**

Regulation 52B sets out, for the purpose of subparagraph 135A(3)(b)(ii) of the NHA, the kinds of information that may be provided to the PHIAC in accordance with the information pathway contained in paragraph 135A(3)(b).

Section 135A of the NHA is a secrecy provision for the purpose of NHA information. On commencement of the PHI, Part 6-8 of the PHI will be the relevant secrecy provision, together with transitional provision in the T&C. Regulation 58 will be redundant.

- **Regulation 53: Waiting period – applicable benefits arrangement**

Regulation 53 deals with waiting periods for the purposes of subparagraphs (1)(j)(iii) and (1)(j)(iv) of Schedule 1 to the NHA. On the commencement of the PHI, Schedule 1 to the NHA will be repealed: item 59, T&C. Regulation 53 will be redundant. Part 3-3, Division 75 of the PHI Act deals with waiting periods.

DETAILS OF THE NATIONAL HEALTH (LIFETIME HEALTH COVER) REPEAL REGULATIONS 2007 (No. 1)

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *National Health (Lifetime Health Cover) Repeal Regulations 2007 (No. 1)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before the *Private Health Insurance Act 2007* (PHI Act) – on the commencement of the PHI Act; or if they are registered after the PHI Act commences – on the day after they are registered.

3. Repeal of *National Health (Lifetime Health Cover) Regulations 2000*

Regulation 3 provides that the *National Health (Lifetime Health Cover) Regulations 2000* are repealed.

Lifetime Health Cover is currently dealt with in Schedule 2 to the *National Health Act 1953* (NHA). Schedule 2 to the NHA will be repealed on and from 1 April 2007 by item 59, Schedule 1 to the *Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007* (T&C).

On the commencement of the *Private Health Insurance Act 2007* (PHI), Lifetime Health Cover will be dealt with in Chapter 2, Part 2-3 of the PHI. Provision is made for transitional arrangements in the T&C. Certain matters will be dealt with in the *Private Health Insurance (Lifetime Health Cover) Rules 2007* made for the purpose of the PHI.

DETAILS OF THE NATIONAL HEALTH (REGISTERED HEALTH BENEFITS ORGANIZATIONS) REPEAL REGULATIONS 2007 (No. 1)

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *National Health (Registered Health Benefits Organizations) Repeal Regulations 2007 (No. 1)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before the *Private Health Insurance Act 2007* (PHI Act) – on the commencement of the PHI Act; or if they are registered after the PHI Act commences – on the day after they are registered.

3. Repeal of *National Health (Registered Health Benefits Organizations) Regulations 2000*

Regulation 3 provides that the *National Health (Registered Health Benefits Organizations) Regulations 2000* are repealed.

The *National Health (Registered Health Benefits Organizations) Regulations 2000* are made for the purpose of Part VIA and Part VI of the *National Health Act 1953*. Parts VIA and VI of the *National Health Act 1953* (NHA) will be repealed on commencement of the PHI by item 53, Schedule 1 of the *Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007* (T&C).

On and from commencement, the PHI will deal with matters currently covered by Part VIA and Division 2, Part VI, of the NHA. Part 4-3 of the PHI will deal with registration of private health insurers, Part 5-3 of the PHI will deal with enforcement of health benefits fund requirements, and Part 6-5 will deal with external managers and terminating managers.

In addition, certain matters in relation to Part 4-3 of the PHI will be specified in the *Private Health Insurance (Registration) Rules 2007*, and, in relation to Part 5-3 in the *Private Health Insurance (Health Benefits Fund Enforcement) Rules 2007*. In relation to Part 6-5, Private Health Insurance (Management) Rules may be made after commencement of the PHI.

**DETAILS OF THE NATIONAL HEALTH (PRIVATE HEALTH INSURANCE LEVIES)
REPEAL REGULATIONS 2007 (No. 1)**

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *National Health (Private Health Insurance Levies) Repeal Regulations 2007 (No. 1)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before the *Private Health Insurance Act 2007 (PHI Act)* – on the commencement of the PHI Act; or if they are registered after the PHI Act commences – on the day after they are registered.

3. Repeal of *National Health (Private Health Insurance Levies) Regulations 2004*

Regulation 3 provides that the *National Health (Private Health Insurance Levies) Regulations 2004* are repealed.

The *National Health (Private Health Insurance Levies) Regulations 2004* are made for the purpose of items 1, 4, and 6 of the table in subsection 83B(1); and paragraph 83C(2)(a); and subsection 83G(2); and paragraphs 140(3)(b) and (c) of the *National Health Act 1953 (NHA)*. Each of these provisions except section 140 are contained in Part VID of the NHA. Part VID and subsection 140(3) of the NHA will be repealed on commencement of the PHI: items 53 and 58, Schedule 1, T&C.

On and from commencement of the PHI, Part 6-6 of the PHI will deal with collection of levies and other matters relating to their administration. Certain matters will be specified in the *Private Health Insurance (Levy Administration) Rules 2007* made for the purpose of the PHI.

DETAILS OF THE *HEALTH INSURANCE AMENDMENT REGULATIONS 2007 (No. 2)*

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *Health Insurance Amendment Regulations 2007 (No. 2)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before the *Private Health Insurance Act 2007 (PHI Act)* – on the commencement of the PHI Act; or if they are registered after the PHI Act commences – on the day after they are registered.

3. Amendment of *Health Insurance Regulations 1975*

Regulation 3 provides that the *Health Insurance Regulations 1975* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 - Amendments

Item [1] Regulation 2, at the foot

Item 1 inserts a Note at the foot of regulation 2 indicating that a number of expressions used in these Regulations are defined in the Act. These expressions include ‘hospital treatment’ ‘hospital-substitute treatment’ and ‘private health insurer’.

Item [2] Subregulation 13(2)

Regulation 13 is made for the purpose of subsection 19(6) of the HIA which provides that medicare benefit is not payable in respect of a professional service unless prescribed particulars are recorded on the account or receipt, or on the form of the assignment or agreement (where relevant), in relation to the professional service.

Item 2 amends subregulation 13(2), which relates to professional services rendered to a patient while hospital treatment is provided to the patient in a hospital or day hospital facility, to update terminology to reflect the definition of ‘hospital treatment’ in the PHI. The reference to ‘professional services of the kind referred to in paragraph (ea) of Schedule 1 to the *National Health Act 1953*’ is replaced with a reference to ‘professional services rendered as part of an episode of hospital treatment’. The particulars to be recorded by practitioners have not changed.

On commencement of the PHI, paragraph (ea) of Schedule 1 to the NHA will be repealed: item 59, Schedule 1 T&C. ‘Hospital treatment’ will be defined in subsection 3(1) of the HIA. The definition in subsection 3(1) of the HIA will provide that ‘hospital treatment’ has the same meaning as in section 121-5 of the PHI.

The amendment to subregulation 13(2) reflects paragraph 10(2)(a) (setting the rate of medicare benefit at 75% of the Schedule fee), and subsections 10AC(1) and 10ACA(1) (Medicare safety net and extended safety net) of the HIA. Paragraph 10(2)(a), and subsections 10AC(1) and 10ACA(1) will be amended by the T&C. The amendment to

subregulation 13(2) ensures that, as is currently the case, where a professional service is rendered as part of an episode of hospital treatment, the Medicare benefit is 75% of the Schedule fee, and the Medicare safety nets do not apply.

Item 2 also inserts new subregulation 13(2A) which relates to professional services provided as part of an episode of hospital-substitute treatment where the person who receives the treatment chooses to receive a benefit from a private health insurer.

In this circumstance, new subregulation 13(2A) will require practitioners to record a description of the professional service (with either a description sufficient to identify the Medicare item or the Medicare item number), and, the phrase “hospital-substitute treatment”.

‘Hospital-substitute treatment’ will be defined in subsection 3(1) of the HIA. The definition in subsection 3(1) of the HIA will provide that ‘hospital-substitute treatment’ has the same meaning as in the PHI.

New subregulation 13(2A) also reflects paragraph 10(2)(a) (setting the rate of medicare benefit at 75% of the Schedule fee), and subsections 10AC(1) and 10ACA(1) (Medicare safety net and extended safety net) of the HIA. This ensures that where a professional service is rendered as part of an episode of hospital-substitute treatment, and the person who receives the treatment chooses to receive a benefit from a private health insurer, the Medicare benefit is 75% of the Schedule fee, and the Medicare safety nets do not apply.

Item [3] Paragraph 13(10)(c)

Item [4] Paragraph 13(10)(d)

Items 3 and 4 remove paragraph 13(10)(c) of the Principal Regulations and also omit the reference to paragraph (c) in paragraph 13(10)(d).

Paragraph 13(10)(c) deals with identification numbers in respect of the collection of a specimen from outreach services. The definition of ‘outreach service’ in subsection 4(1) of the *National Health Act 1953* will be repealed on the commencement of the PHI by section 37, Schedule 1, T&C.

Currently approved outreach services will be taken to be hospital treatment until 1 July 2008 pursuant to paragraph 16(2)(b) of the T&C (although there is a power to revoke an outreach determination if needed). After that, such services may still fall within the definition of hospital treatment, although they will no longer be ‘taken to be’ or deemed to fall within the definition of hospital treatment.

On and from commencement of the PHI it will no longer be considered necessary to have a separate identification number for outreach services.

Item [5] Regulation 13A

Item 5 removes regulation 13A from the Principal Regulations.

Regulation 13A provides, for the purpose of paragraph 20A(2C)(c) of the *Health Insurance Act 1973* (HIA), that a request for the assignment of medicare benefits to approved billing agents must be in the form approved by the Medicare Australia CEO.

Subsection 20A(2C) will be repealed by item 32, Schedule 2 to the T&C, and a new subsection 20A(2A) will be inserted into the HIA. Subsection 20A(2A) will enable assignment of medicare benefits to approved billing agents in accordance with an approved form.

Item [6] Subregulation 19(1A) definition of *hospital-related service*, paragraphs (a) and (b)

Item 6 removes the reference to ‘day hospital facility’ from the definition of ‘hospital-related service’ in subregulation 19(1A).

On the commencement of the PHI ‘day hospital facilities’ will become private hospitals pursuant to paragraph 15(1)(d) and subsection 15(3), T&C. The definition of ‘day hospital facility’ will be repealed by section 20, Schedule 1, T&C.

The reference to ‘hospital’ in amended paragraphs 19(1A)(a) and (b) will be sufficient to also cover premises which were ‘day hospital facilities’ immediately prior to the commencement of the PHI.

Subsection 3(1) of the HIA will contain definitions of ‘hospital’ and ‘private hospital’ which cross-refer to the definitions of ‘hospital’ and ‘private hospital’ in the PHI.

DETAILS OF THE *HEALTH INSURANCE (GENERAL MEDICAL SERVICES TABLE) AMENDMENT REGULATIONS 2007 (No. 3)*

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *Health Insurance (General Medical Services Table) Amendment Regulations 2007 (No. 3)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before the *Private Health Insurance Act 2007 (PHI Act)* – on the commencement of the PHI Act; or if they are registered after the PHI Act commences – on the day after they are registered.

3. Amendment of *Health Insurance (General Medical Services Table) Regulations 2006*

Regulation 3 provides that the *Health Insurance (General Medical Services Table) Regulations 2006* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 - Amendments

Item [1] Schedule 1, Part 2, subrule 3(1), definition of *approved day hospital facility*

On the commencement of the *Private Health Insurance Act 2007 (PHI)* ‘day hospital facilities’ will become private hospitals pursuant to paragraph 15(1)(d) and subsection 15(3), T&C. The definition of ‘day hospital facility’ will be repealed by section 20, Schedule 1, T&C.

All references to ‘day hospital facility’ contained in the regulations made under the *Health Insurance Act 1973* will not operate on and from the commencement of the PHI Act.

Subsection 3(1) of the HIA will contain definitions of ‘hospital’ and ‘private hospital’ which cross-refer to the definitions of ‘hospital’ and ‘private hospital’ in the PHI.

Item 1 has the effect of removing the definition of ‘approved day hospital facility’ in Schedule 1, Part 2, subrule 3(1).

Item [2] Schedule 1, Part 2, rule 5

Item [3] Schedule 1, Part 2, subrule 12AA(9)

Item [4] Schedule 1, Part 2, paragraphs 44(1)(b), (2)(c) and (2B)(b) and 45(1)(b)

Item [5] Schedule 1, Part 2, paragraph 45(1A)(b)

Item [6] Schedule 1, Part 2, paragraph 45(2)(b)

Item [7] Schedule 1, Part 2, paragraph 45(2A)(c)

Item [8] Schedule 1, Part 2, paragraph 45(3)(c)

Item [9] Schedule 1, Part 2, rule 55

Item [10] Schedule 1, Part 2, paragraph 58C(1)(b)

Item [11] Schedule 1, Part 2, rule 59 Meaning of *living in a community setting* in item 900

Item [12] Schedule 1, Part 3, item 708

Item [13] Schedule 1, Part 3, items 10990, 10991 and 10992, paragraph (c)

Item [14] Schedule 1, Part 3, item 52055

Item [15] Further amendments

Items 2 to 14 remove references to ‘day hospital facility’.

Item 15 removes references to ‘approved day hospital facility’ in the specified items in Part 3 of Schedule 1.

References to ‘hospital’ or ‘private hospital’ in the interpretive rules or Medicare items referred to in items 2-15 will be sufficient to also cover premises which were ‘day hospital facilities’ immediately prior to commencement of the PHI, whether the purpose of the reference to ‘hospital’ or ‘private hospital’ is for the purposes of inclusion or exclusion from coverage by a medicare item.

DETAILS OF THE *HEALTH INSURANCE (DIAGNOSTIC IMAGING SERVICES TABLE) AMENDMENT REGULATIONS 2007 (No. 1)*

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2007 (No. 1)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before the *Private Health Insurance Act 2007 (PHI Act)* – on the commencement of the PHI Act; or if they are registered after the PHI Act commences – on the day after they are registered.

3. Amendment of *Health Insurance (Diagnostic Imaging Services Table) Regulations 2006*

Regulation 3 provides that the *Health Insurance (Diagnostic Imaging Services Table) Regulations 2006* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 - Amendments

Item [1] Schedule 1, Part 3, items 64990 and 64991, paragraph (c)

Item 1 removes the reference to ‘day hospital facility’ in items 64990 and 64991.

On the commencement of the *Private Health Insurance Act 2007 (PHI)* ‘day hospital facilities’ will become private hospitals pursuant to paragraph 15(1)(d) and subsection 15(3), T&C. The definition of ‘day hospital facility’ will be repealed by section 20, Schedule 1, T&C.

Amended items 64990 and 64991 apply to persons who are ‘not an admitted patient of a hospital’. This will continue to exclude persons who are admitted patients of day hospital facilities, as premises which were ‘day hospital facilities’ immediately prior to commencement of the PHI become private hospitals.

Subsection 3(1) of the HIA will contain definitions of ‘hospital’ and ‘private hospital’ which cross-refer to the definitions of ‘hospital’ and ‘private hospital’ in the PHI.

DETAILS OF THE *HEALTH INSURANCE (PATHOLOGY SERVICES TABLE) AMENDMENT REGULATIONS 2007 (No. 1)*

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *Health Insurance (Pathology Services Table) Amendment Regulations 2007 (No. 1)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before the *Private Health Insurance Act 2007* (PHI Act) – on the commencement of the PHI Act; or if they are registered after the PHI Act commences – on the day after they are registered.

3. Amendment of *Health Insurance (Pathology Services Table) Regulations 2006*

Regulation 3 provides that the *Health Insurance (Pathology Services Table) Regulations 2006* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 - Amendment

Item [1] Schedule 1, Part 3, items 74990 and 74991, paragraph (c)

Item 1 has the effect of removing the reference to ‘day hospital facility’ in items 74990 and 74991.

On the commencement of the *Private Health Insurance Act 2007* (PHI) ‘day hospital facilities’ will become private hospitals pursuant to paragraph 15(1)(d) and subsection 15(3), T&C. The definition of ‘day hospital facility’ will be repealed by section 20, Schedule 1, T&C.

Amended items 74990 and 74991 will apply to persons who are ‘not an admitted patient of a hospital’. This will continue to exclude persons who are admitted patients of day hospital facilities, as premises which were ‘day hospital facilities’ immediately prior to commencement of the PHI become private hospitals.

Subsection 3(1) of the HIA will contain definitions of ‘hospital’ and ‘private hospital’ which cross-refer to the definitions of ‘hospital’ and ‘private hospital’ in the PHI.

DETAILS OF THE *PRIVATE HEALTH INSURANCE INCENTIVES REPEAL REGULATIONS 2007 (No. 1)*

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *Private Health Insurance Incentives Repeal Regulations 2007 (No. 1)*.

2. Commencement

Regulation 2 provides for the Regulations to commence on 30 September 2007.

3. Repeal of *Private Health Insurance Incentives Regulations 1998*

Regulation 3 provides that the *Private Health Insurance Incentives Regulations 1998* are repealed.

The *Private Health Insurance Incentives Regulations 1998* contain conditions of participation as a participating fund in the premiums reduction scheme prescribed for the purpose of paragraph 14A-1(1)(b) of the *Private Health Insurance Incentives Act 1998*.

The discrete topic covered by the *Private Health Insurance Incentives Regulations 1998* will be dealt with in *Private Health Insurance (Incentives) Rules 2007* made for the purpose of paragraph 206-1(1)(b) of the PHI.

However, the *Private Health Insurance (Incentives) Rules 2007* will apply in relation to financial years on or after 1 July 2007. Therefore, it is necessary to retain the *Private Health Insurance Incentives Regulations 1998* until 1 September 2007, to apply to the annual statement made by private health insurers on or before 15 July 2007, and to allow ample transition time in relation to this last annual statement required by the *Private Health Insurance Incentives Regulations 1998*.

DETAILS OF THE *PRIVATE HEALTH INSURANCE COMPLAINTS LEVY REPEAL REGULATIONS 2007 (No. 1)*

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *Private Health Insurance Complaints Levy Repeal Regulations 2007 (No. 1)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before the Schedule 1 to the *Private Health Insurance Complaints Levy Amendment Act 2007* (Complaints Levy Amendment Act) - on the commencement of that Schedule; or if they are registered after that Schedule commences – on the day after they are registered.

Schedule 1 to the Complaints Levy Amendment Act will commence on the same date as the *Private Health Insurance Act 2007*.

3. Repeal of *Private Health Insurance Complaints Levy Regulations 1995*

Regulation 3 provides that the *Private Health Insurance Complaints Levy Regulations 1995* are repealed.

On and from commencement of the *Private Health Insurance Complaints Levy Amendment Act 2007*, the amended *Private Health Insurance (Complaints Levy) Act 1995* will provide for certain matters to be specified in Private Health Insurance (Complaints Levy) Rules, and will no longer provide for those matters to be specified in regulations. A new rule making power will be contained in section 8 of the *Private Health Insurance (Complaints Levy) Act 1995*.

Private Health Insurance (Complaints Levy) Rules 2007 will be made for the purpose of the *Private Health Insurance (Complaints Levy) Act 1995*, to commence on the commencement of Schedule 1 to the *Private Health Insurance (Complaints Levy) Amendment Act 2007*.

DETAILS OF THE *PRIVATE HEALTH INSURANCE (COUNCIL ADMINISTRATION LEVY) REPEAL REGULATIONS 2007 (No. 1)*

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *Private Health Insurance (Council Administration Levy) Repeal Regulations 2007 (No. 1)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before Schedule 1 to the *Private Health Insurance (Council Administration Levy) Amendment Act 2007* (Council Administration Levy Amendment Act) - on the commencement of that Schedule; or if they are registered after that Schedule commences – on the day after they are registered

Schedule 1 to the Council Administration Levy Amendment Act will commence on the same date as the *Private Health Insurance Act 2007*.

3. Repeal of *Private Health Insurance (Council Administration Levy) Regulations 2004*

Regulation 3 provides that the *Private Health Insurance (Council Administration Levy) Regulations 2004* are repealed.

On and from commencement of the *Private Health Insurance (Council Administration) Amendment Act 2007*, the amended *Private Health Insurance (Council Administration Levy) Act 2003* will provide for certain matters to be specified in Private Health Insurance (Council Administration Levy) Rules, and will no longer provide for those matters to be specified in regulations. A new rule making power will be contained in section 9A of the *Private Health Insurance (Council Administration Levy) Act 2003*.

Private Health Insurance (Council Administration Levy) Rules 2007 will be made for the purpose of the *Private Health Insurance (Council Administration Levy) Act 2003*, to commence on the commencement of Schedule 1 to the *Private Health Insurance (Council Administration Levy) Amendment Act 2007*.

DETAILS OF THE *PRIVATE HEALTH INSURANCE (REINSURANCE TRUST FUND LEVY) REPEAL REGULATIONS 2007 (No. 1)*

1. Name of Regulations

Regulation 1 provides that the title of the Regulations is the *Private Health Insurance (Reinsurance Trust Fund Levy) Repeal Regulations 2007 (No. 1)*.

2. Commencement

Regulation 2 provides for the Regulations to commence, if they are registered before Schedule 1 to the *Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Act 2007* (Reinsurance Trust Fund Levy Amendment Act) - on the commencement of that Schedule; or if they are registered after that Schedule commences – on the day after they are registered.

Schedule 1 to the Reinsurance Trust Fund Levy Amendment Act will commence on the same date as the *Private Health Insurance Act 2007*.

3. Repeal of *Private Health Insurance (Reinsurance Trust Fund Levy) Regulations 2004*

Regulation 3 provides that the *Private Health Insurance (Reinsurance Trust Fund Levy) Regulations 2004* are repealed.

On and from the commencement of the *Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Act 2007*, the amended *Private Health Insurance (Risk Equalisation Levy) Act 2003* (the new name for the *Private Health Insurance (Reinsurance Trust Fund Levy) Act 2003*), will provide for certain matters to be specified in Private Health Insurance (Risk Equalisation Levy) Rules, and will no longer provide for those matters to be specified in regulations. A new rule making power will be contained in section 10A of the *Private Health Insurance (Risk Equalisation Levy) Act 2003*.

Private Health Insurance (Risk Equalisation Levy) Rules 2007 will be made for the purpose of the *Private Health Insurance (Risk Equalisation Levy) Act 2003*, to commence on commencement of Schedule 1 to the *Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Act 2007*.