

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Health and Ageing

*Private Health Insurance (Prostheses Application and Listing Fees) Act 2007*

*Private Health Insurance (Prostheses Application and Listing Fee) Rules 2007*

Section 8 of the *Private Health Insurance (Prostheses Application and Listing Fees) Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Prostheses Application and Listing Fee) Rules* (the Rules) providing for matters required or permitted by the Act to be provided; or necessary or convenient to be provided in order to carry out or give effect to the Act.

As part of reforms to private health insurance announced by the Australian Government on 26 April 2006, regulation of private health insurance was moved from the *National Health Act 1953* (NHA) (and regulations under the NHA), and the *Private Health Insurance Incentives Act 1998*, into the new *Private Health Insurance Act 2007* (PHI) (and Private Health Insurance Rules made under the PHI).

Section 8 of the *Private Health Insurance (Prostheses Application and Listing Fees) Act 2007* provides for the imposition as a tax, fees in relation to applications for listing, and listing of prostheses. The purpose of these Rules provide for the application fees, the initial listing fee and the ongoing listing fee for human tissue prosthesis and other prosthesis. The rules also provide for the ongoing listing fee imposition dates.

The purpose of the tax is to recover the cost from industry for the administration of the prostheses list arrangements and for the clinical assessment of products using expert advisory groups established to advise on products placed on the list.

The Act does not specify any conditions that need to be met before the power to make the Rules may be exercised.

Private health insurers were extensively consulted and provided with opportunities to comment upon the new Private Health Insurance legislative package. Draft Rules were published on the Departmental website for comment, and information sessions were held to provide industry stakeholders with the opportunity to be consulted on the making of the Rules.

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, Consumers' Health Forum of Australia and central agencies. All of the industry representatives have expressed strong support for the proposed legislative framework including the Private Health Insurance Rules.

The Office of Best Practice Regulation has advised that no additional Regulation Impact Statement (RIS) is required. A RIS that was prepared for the Private Health Insurance Bill 2006 (PHI Bill) which analysed the options associated with the Australian Government's recent initiatives to improve the attractiveness of and participation in private health insurance for consumers. The measures included those under the *Private Health Insurance Act 2007* and associated private health insurance levies legislation, and legislative instruments.

A discussion paper, *Prostheses Cost Recovery Arrangements: Discussion Paper 2007* is available on the Department's web page providing further details of the purpose of the tax and the basis on which the fees were determined.

Details of the Rules are set out in the Attachment.

These Rules are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Rules commence at the same time as the Act commences if they are registered before the Act commences; or, if the Rules are registered on or after the Act commences the Rules commence on the day they are registered.

Authority: Section 8 of the *Private Health Insurance (Prostheses Application and Listing Fees) Act 2007*

## ATTACHMENT

### **DETAILS OF THE *PRIVATE HEALTH INSURANCE (PROSTHESES APPLICATION AND LISTING FEE) RULES 2007***

#### **1. Name of Rules**

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Prostheses Application and Listing Fee) Rules 2007*.

#### **2. Commencement**

Rule 2 provides for the Rules to commence at the same time as the Act commences if they are registered before the Act commences; or, if the Rules are registered on or after the Act commences, the Rules commence on the day they are registered.

#### **3. Definitions**

Rule 3 provides the definition of human tissue prosthesis. The *Act* means the *Private Health Insurance (Prostheses Application and Listing Fee) Act 2007*.

#### **4. Application fees**

Rule 4 provides that the application fee charged for applying to the Minister for the listing of a human tissue prosthesis is nil, and the application listing fee for any other prosthesis is \$400.

#### **5. Initial listing fee**

Rule 5 provides that the initial listing fee charged if the Minister grants an application for listing of a human tissue prosthesis is nil, and for any other prostheses is \$110.

#### **6. Ongoing listing fee**

Rule 6 provides that the ongoing listing fee of listing of a human tissue prosthesis is nil, and for any other prosthesis is \$110.

#### **7. Ongoing listing fee imposition day**

Rule 7 provides that ongoing listing fees are imposed on 15 January and 15 July each year.

The ongoing listing fee is imposed as a tax on each day specified in the Rules as an ongoing listing fee day. Subsection 72-15(2) of the *Private Health Insurance Act 2007* provides that the ongoing listing fee must be paid within 28 days of each ongoing listing fee imposition day.

