

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health and Ageing

Private Health Insurance (Risk Equalisation Levy) Act 2003

Private Health Insurance (Risk Equalisation Levy) Rules 2007

Section 10A of the *Private Health Insurance (Risk Equalisation Levy) Act 2003* (the Act) provides that the Minister may make *Private Health Insurance (Risk Equalisation Levy) Rules* (the Rules) providing for matters required or permitted by the Act, or necessary or convenient in order to carry out or give effect to the Act.

The purpose of the private health insurance risk equalisation levy is to transfer and share risk across private health insurers so that insurers with an older and less healthy demographic membership are not disadvantaged. The risk equalisation levy enables private health insurers to charge the same premium to everyone, regardless of their individual risk (community rating).

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) into the new *Private Health Insurance Act 2007* (PHI) (and Private Health Insurance Rules made under the PHI).

These reforms entailed associated amendments to private health insurance legislation, including the *Private Health Insurance (Reinsurance Trust Fund Levy) Act 2003*, which became the *Private Health Insurance (Risk Equalisation Levy) Act 2003* due to item 2, Schedule 1 of the *Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Act 2007* (the amendment Act).

Paragraph 6(1)(a) of the Act provides that risk equalisation levy is imposed on each private health insurer on each day specified in the Rules as a levy day for a financial year. The purpose of these Rules is to specify the levy days for a financial year. The levy days are the 21st day of the second month of each quarter in a financial year.

Section 6(2) of the Act provides that the Rules must not specify more than 4 levy days in a financial year. Item 21, Schedule 1 of the Amendment Act provides that the total number of levy days for the financial year ending on 30 June 2007 must not exceed 6 days.

The *Private Health Insurance (Reinsurance Trust Fund Levy) Regulations 2004* no longer have operative effect, as section 6(1)(a) of the Act provides for the levy day or days to be specified in the Rules.

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, 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.

A Regulation Impact Statement (RIS) 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. The Office of Best Practice Regulation has advised that no additional RIS is required.

Details of the Rules are set out in the Attachment.

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

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

The Rules commence at the same time as Schedule 1 of the amendment Act commences; or, if the Rules are registered on or after Schedule 1 of the amendment Act commences, the Rules commence on the day on which they are registered.

Authority: Section 10A of the *Private Health Insurance (Risk Equalisation Levy) Act 2003*

ATTACHMENT**DETAILS OF THE *PRIVATE HEALTH INSURANCE (RISK EQUALISATION LEVY) RULES 2007*****1. Name of Rules**

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Risk Equalisation Levy) Rules 2007*.

2. Commencement

Rule 2 provides for the Rules to commence at the same time as Schedule 1 of the amendment Act commences; or, if the Rules are registered on or after Schedule 1 of the amendment Act commences, the Rules commence on the day they are registered.

3. Definitions

Rule 3 provides that the Act means the *Private Health Insurance (Risk Equalisation Levy) Act 2003*.

4. Risk equalization levy day

Rule 4 provides that the risk equalization levy days are the 21st day of the second month of each quarter in a financial year.