

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Ageing

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

*Private Health Insurance (Prostheses Application and Listing Fee) Amendment Rules 2009
(No.1)*

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 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.

Sections 3 and 4 of the Act provide that the Private Health Insurance (Prostheses Application and Listing Fee) Rules may specify:

- an application fee for applications made under section 72-10 of the *Private Health Insurance Act 2007* (the PHI Act);
- an initial listing fee for the purposes of subsection 72-10(5) of the PHI Act;
- an ongoing listing fee for the purposes of section 72-15 of the PHI Act; and
- ongoing listing fee imposition days.

These specified fees are imposed as taxes (see subsections 3(2), 4(2) and 4(4) of the Act).

The purpose of these taxes 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 Private Health Insurance (Prostheses Application and Listing Fee) Rules may be exercised.

The *Private Health Insurance (Prostheses Application and Listing Fee) Rules 2008 (No.1)* commenced on 14 July 2008 (the Principal Rules).

The *Private Health Insurance (Prostheses Application and Listing Fee) Amendment Rules 2009 (No.1)* (the Rules) amend the Principal Rules by:

- (i) increasing the application fee, initial listing fee and ongoing listing fee(s) payable in respect of an application under section 72-10 of the PHI Act; and
- (ii) altering the “ongoing listing fee imposition days” pursuant to section 72-15 of the PHI Act.

CONSULTATION

Consultation with industry regarding the proposed increase to the application fee, initial listing fee and ongoing listing fee(s) payable in respect of an application under section 72-10 of the PHI Act and the proposed alteration to the current “ongoing listing fee imposition days” pursuant to section 72-15 of the PHI Act, occurred in the following three ways:

- (i) liaison with the relevant industry association, the Medical Technology Association of Australia, including formal correspondence in October 2008;
- (ii) the circulation of the Prostheses and Devices Committee Bulletin Number 26 in October 2008, to all interested and affected stakeholders; and
- (iii) by presentation at the National Prostheses Congress, held in Sydney on 5 & 6 November 2008.

A preliminary assessment of the regulatory impact of these amendments was conducted. The impact of these amendments on the private health insurance industry and the economy were assessed as low and therefore no further regulatory analysis is required.

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 on the day after registration.

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) AMENDMENT RULES 2009 (No. 1)***1. Name of Rules**

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Prostheses Application and Listing Fee) Amendment Rules 2009 (No. 1)*.

2. Commencement

Rule 2 provides that the Rules commence on the day after registration.

3. Amendment of the *Private Health Insurance (Prostheses Application and Listing Fee) Rules 2008 (No. 1)*

Rule 3 provides that the Schedule to the Rules amends the *Private Health Insurance (Prostheses Application and Listing Fee) Rules 2008 (No. 1)* (the Principal Rules).

Schedule – Amendments**Item 1 – Part 2, Paragraph 5(1)(b)**

Rule 5 of the Principal Rules currently specifies application fees for applications made to the Minister under subsection 72-10(2) of the PHI Act.

Paragraph 5(1)(a) of the Principal Rules currently provides that the application fee for an application made in relation to a human tissue prosthesis is nil.

Paragraph 5(1)(b) of the Principal Rules currently provides that the application fee for an application made in relation to any other prosthesis, except where subrule 5(2) applies, is \$400. (Subrule 5(2) concerns applications that involve a ‘revocation and relisting’ or a duplicate listing. The specific circumstances in which an application will result in a revocation and relisting are described in subrule 5(4).)

Item [1] amends paragraph 5(1)(b) of the Principal Rules by increasing the application fee from \$400 to \$600.

Item 2 – Part 2, Paragraph 6(1)(b)

Rule 6 of the Principal Rules currently specifies the initial listing fees imposed for the purposes of subsection 72-10(5) of the PHI Act.

Paragraph 6(1)(a) of the Principal Rules currently provides that the initial listing fee for a human tissue prosthesis is nil.

Paragraph 6(1)(b) of the Principal Rules currently provides that the initial listing fee for any other prosthesis, except where subrule 6(2) applies or rule 8 applies, is \$110. (Subrule 6(2) concerns applications that involve a ‘revocation and relisting’ or a duplicate listing. Rule 8

concerns ‘transitioned applications’ (i.e. applications to which rule 7 of the *Private Health Insurance (Transition) Rules 2007* applies.)).

Item [2] amends paragraph 6(1)(b) of the Principal Rules by increasing the initial listing fee from \$110 to \$200.

Item 3 – Part 2, Paragraph 7(b)

Rule 7 of the Principal Rules currently specifies the ongoing listing fee for the purposes of section 72-15 of the PHI Act.

Paragraph 7(a) of the Principal Rules currently provides that the ongoing listing fee for a human tissue prosthesis is nil.

Paragraph 7(b) of the Principal Rules currently provides that the ongoing listing fee for any other prosthesis, except where rule 9 applies, is \$110. (Rule 9 operates as an exception to rule 7. It provides that the first ongoing listing fee immediately following the granting of an application (other than an application for a ‘revocation and relisting’ or a duplicate listing) is nil.

Item [3] amends paragraph 7(b) of the Principal Rules by increasing the ongoing listing fee from \$110 to \$200.

Item 4 – Part 2, Rule 10

Rule 10 of the Principal Rules currently specifies the “ongoing listing fee imposition days” of each year.

Item [4] amends rule 10 of the Principal Rules by changing the specified “ongoing listing fee imposition days” of each year from 15 January and 15 July to 15 March and 15 September.