

## EXPLANATORY STATEMENT

Issued by the authority of the Minister for Health

*Private Health Insurance (Council Administration Levy) Act 2003*

*Private Health Insurance (Council Administration Levy) Amendment Rule 2013  
(No. 2)*

### Authority for the Rules

Section 9A of the *Private Health Insurance (Council Administration Levy) Act 2003* (the **CAL Act**) provides that the Minister may, by legislative instrument, make *Private Health Insurance (Council Administration Levy) Rules* (the **Rules**) providing for matters required or permitted by the CAL Act, or necessary, or convenient to carry out, or give effect to the CAL Act.

The CAL Act provides for the Rules to specify the rate of the Council Administration Levy (the **CAL**), the CAL days and the census day.

Pursuant to section 307-10 of the *Private Health Insurance Act 2007* (the **PHI Act**) the purpose of the CAL is to meet the general administrative costs of the Private Health Insurance Administration Council (**PHIAC**). The CAL is imposed on registered private health insurers conducting health insurance business.

The *Private Health Insurance (Council Administration Levy) Amendment Rules 2013 (No. 2)* (the **Amendment Rules**) correct a drafting error in the *Private Health Insurance (Council Administration Levy) Amendment Rule 2013 (No. 1)* in order to properly increase the CAL for the 2013-14, 2014-15 and 2015-16 financial years.

### Purpose of the Amendment Rules

The purpose of the Amendment Rules is to correct an error noted in the denominator used to calculate the CAL so as to properly apply the increase to the CAL in the financial year 2013-14 by \$364,000 to meet PHIAC's increased general administration costs.

The Amendment Rules also include a third and fourth year increase in the CAL in accordance with the four year funding arrangements in the *Private Health Insurance (Council Administration Levy) Amendment Rules 2012 (No. 1)* to continue the work of the Premiums and Competition Unit (**PACU**) within PHIAC.

The formula specifying the rate of the CAL applied across the private health insurance industry is set out in the tables in Rules 6 and 7 of the Amendment Rules.

The tables provide the formula for the three years 2013-14, 2014-15 and 2015-16. The formula in the tables for the 2014-15 and 2015-16 financial years are unchanged as they reflect the increased funding to PHIAC for the continuation of the PACU.

The increase to the CAL for 2013-14 will be implemented by a quarterly amount of \$91,000 being added to the numerators in the formulas.

The Amendment Rules commence on 22 July 2013. Details of the Amendment Rules are set out in the Attachment.

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

### **Consultation**

Industry and consumers were not consulted in relation to the proposed increases to the CAL. This was a decision of Government having regard to the needs of PHIAC and the importance of appropriately resourcing prudential regulators.

Advice received from the Office of Best Practice Regulation (**OBPR**) on 28 February 2013 confirmed that the changes to the Rules were considered to have a low impact on business and the not-for-profit sector and were exempt from the Regulation Impact Statement requirements (OBPR reference 14778).

The Department of Finance and Deregulation (**DoFD**) advised that a Cost Recovery Impact Statement (**CRIS**) would be required for the 2013-2014 proposed increase to the CAL. The CRIS was certified by DoFD as compliant with the Guidelines on 13 May 2013.

The Commissioner for Private Health Insurance Administration certified the CRIS as compliant with the Guidelines on 24 May 2013.

The Department of Health and Ageing was consulted on the CRIS and had no objection to the CAL increase.

Authority: Section 9A of the *Private Health*

*Insurance (Council Administration Levy) Act 2003*

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Private Health Insurance (Council Administration Levy) Amendment Rules 2013 (No. 2)***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

The *Private Health Insurance (Council Administration Levy) Amendment Rules 2013 (No. 2)* increases the Council Administration Levy (the **CAL**) to meet the Private Health Insurance Administration Council's (**PHIAC's**) increased general administration costs and reflects the second to fourth years of funding for the running of a Premiums and Competition Unit within PHIAC.

The CAL is imposed on registered private health insurers (**insurers**) conducting health insurance business, and finances PHIAC's day to day costs associated with undertaking its legislative functions.

#### **Human rights implications**

The proposed amendments promote the right to health of consumers.

##### *The right to health*

Article 12 of the *International Covenant on Economic, Social and Cultural Rights* "recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health".<sup>1</sup> The steps that should be taken by Parties to the Covenant to achieve the full realisation of the right to health include the creation of conditions which provide everyone with medical services and medical attention in the event of sickness.<sup>2</sup>

The CAL funds PHIAC's day to day costs associated with undertaking its functions as set out in the *Private Health Insurance Act 2007*. Specifically, PHIAC is required to take all reasonable steps to achieve an appropriate balance between the objectives of:

- "(a) fostering an efficient and competitive health insurance industry;*
- (b) protecting the interests of consumers;*
- (c) ensuring the prudential safety of individual private health insurers."<sup>3</sup>*

The increase to the CAL to finance PHIAC's increased general administration costs will allow PHIAC to work towards fostering an efficient and competitive health insurance industry through its ongoing regulatory oversight of the industry. A competitive health insurance industry provides consumers with access to affordable health insurance products, thereby directly promoting the right to health of consumers.

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<sup>1</sup>*International Covenant on Economic, Social and Cultural Rights*, Article 12.

<sup>2</sup> Ibid.

<sup>3</sup>*Private Health Insurance Act 2007*, s 264-5: Objectives of the Council

PHIAC's second objective, of protecting the interests of consumers, directly supports their right to health, by ensuring consumer interests are considered in all key regulatory decisions.

PHIAC's third objective, of ensuring the prudential safety of insurers, aims to protect the sustainability of the private health insurance industry. This has a direct impact on consumers by protecting them from financial loss, thereby directly impacting their right to health in a positive way.

## **Conclusion**

The *Private Health Insurance (Council Administration Levy) Amendment Rules 2013 (No. 2)* are compatible with human rights because it engages with the human rights of consumers of private health insurance, by working to maintain an efficient and competitive private health insurance industry, ensuring product choice and maintaining pressure to minimise premium increases.

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**DETAILS OF THE *PRIVATE HEALTH INSURANCE (COUNCIL ADMINISTRATION LEVY) AMENDMENT RULES 2013 (NO. 2)***

**1. Name of rule**

Rule 1 provides the name is the Amendment Rules.

**2. Commencement**

Rule 2 provides that the Amendment Rules commence on 22 July 2013.

**3. Amendment of *Private Health Insurance (Council Administration Levy) Rules 2007***

Rule 3 provides that Schedule 1 to the *Private Health Insurance (Council Administration Levy) Amendment Rules 2013 (No. 2)* amends the *Private Health Insurance (Council Administration Levy) Rules 2007*.

**Schedule 1 Amendments**

a) Schedule 1 substitutes the formula in sub-rule 6(1) of the *Private Health Insurance (Council Administration Levy) Rules 2007* with a new table as follows:

Item	Financial year	Formula
1	2013–2014	$\frac{164\,275\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
2	2014–2015	$\frac{155\,475\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
3	2015–2016	$\frac{155\,775\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$

b) Schedule 1 also substitutes the formula in sub-rule 7(1) of the *Private Health Insurance (Council Administration Levy) Rules 2007* with a new table as follows:

Item	Financial year	Formula
1	2013–2014	$2 \times \frac{164\,275\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
2	2014–2015	$2 \times \frac{155\,475\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
3	2015–2016	$2 \times \frac{155\,775\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$