

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Private Health Insurance Act 2007

Private Health Insurance (Levy Administration) Rules 2015

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make Private Health Insurance (Levy Administration) Rules providing for matters required or permitted by Part 6-6 of the Act, or necessary or convenient in order to carry out or give effect to Part 6-6 of the Act.

Part 6-6 of the Act deals with the collection of private health insurance levies and other matters relating to their administration. A private health insurance levy is imposed under one of the following levy Acts:

- *Private Health Insurance (Complaints Levy) Act 1995*;
- *Private Health Insurance (National Joint Replacement Register Levy) Act 2009*;
- and
- *Private Health Insurance (Risk Equalisation Levy) Act 2003*.

The *Private Health Insurance (Levy Administration) Rules 2015* (the Rules) commence on 1 July 2015 and revoke the *Private Health Insurance (Levy Administration) Rules 2010* (the Previous Rules). The Previous Rules specified the payment day for complaints levy, Council Administration Levy and risk equalisation levy. The Rules also set the rate of late payment penalty at 15% per year, to be imposed if a private health insurance levy remains wholly or partly unpaid after it has become due and payable on the payment day.

The Rules differ from the Previous Rules by removing the Council Administration Levy. The Council Administration Levy has been removed as a consequence of the *Private Health Insurance (Prudential Supervision) (Consequential Amendments and Transitional Provisions) Act 2015*. This Act commenced on 1 July 2015 and enables the transfer of the prudential regulatory functions from the Private Health Insurance Administration Council to the Australian Prudential Regulation Authority by making consequential and transitional amendments arising from the enactment of the *Private Health Insurance (Prudential Supervision) Act 2015*.

The Rules also amend rule 9 to remove paragraph (a) because the reference to 2014 is now redundant.

The removal of the Council Administration Levy is required as the *Private Health Insurance (Council Administration Levy) Act 2003*, under which the levy was collected, has been repealed.

Consultation

Treasury, APRA and select industry stakeholders were consulted on the drafting of these rules.

Regulation Impact Statement

The Office of Best Practice Regulation has advised that no Regulatory Impact Statement is required.

Details of the Rules are set out in the Attachment.

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

Authority: Section 333-20
of the *Private Health
Insurance Act 2007*.

DETAILS OF THE *PRIVATE HEALTH INSURANCE (LEVY ADMINISTRATION) RULES 2015*

1. Name of Rules

Rule 1 provides that the title of the Rules is the Private Health Insurance (Levy Administration) Rules 2015.

2. Commencement

Rule 2 provides for the Rules to commence on 1 July 2015.

3. Revocation

Rule 3 revokes the *Private Health Insurance (Levy Administration) Rules 2010*.

4. Authority

Rule 4 states that the *Private Health Insurance Act 2007* is the authority under which these Rules are made.

5. Definitions

Rule 5 notes that terms used in these Rules have the same meaning as in the *Private Health Insurance Act 2007*.

6. Complaints levy

Rule 6 provides that the payment day for the complaints levy is 31 December of each year.

7. Risk equalisation levy

Rule 7 provides that the payment day for the risk equalisation levy is 14 days after an imposition day. An imposition day for the risk equalisation levy is the 21st day of the second month of each quarter ending on the last day of March, June, September and December in a financial year.

8. Rate of late payment penalty

Rule 8 specifies, for the purposes of paragraph 307-5(2)(a) of the Act, the rate of late payment penalty as 15% per year.

9. National joint replacement register levy

Rule 9 provides that the payment day for the national joint replacement register levy is 21 days after an imposition day. The imposition days for the national joint replacement register levy are 31 October and 30 April of each financial year.

Statement of Compatibility with Human Rights

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

Private Health Insurance (Levy Administration) Rules 2015

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 (Levy Administration) Rules 2015* (the Rules) revoke and replace the *Private Health Insurance (Levy Administration) Rules 2010* (the Previous Rules) to remove any mention of the Council Administration Levy.

The Council Administration Levy has been removed as a consequence of the *Private Health Insurance (Prudential Supervision) (Consequential Amendments and Transitional Provisions) Act 2015* which commenced on 1 July 2015 and enables the transfer of the prudential regulatory functions from the Private Health Insurance Administration Council to the Australian Prudential Regulation Authority by making consequential and transitional amendments arising from the enactment of the *Private Health Insurance (Prudential Supervision) Act 2015*.

The Rules also amend rule 9 to remove paragraph (a) because the reference to 2014 is now redundant.

Human rights implications

This legislative instrument engages Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Private health insurance regulation assists with the advancement of these human rights by improving the governing framework for private health insurance in the interests of consumers. Private health insurance regulation aims to encourage insurers and providers of private health goods and services to provide better value for money to consumers, to improve information provided to consumers of private health services to allow consumers to make more informed choices when purchasing services and requires insurers not to differentiate the premiums they charge according to individual health characteristics such as poor health.

Conclusion

This legislative instrument is compatible with human rights because it advances the protection of human rights.

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