EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

*Private Health Insurance (Risk Equalisation Levy) Act 2003*

*Private Health Insurance (Risk Equalisation Levy) Rules 2017*

Authority

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.

Purpose

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).

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.

The creation of the *Private Health Insurance (Risk Equalisation Levy) Rules 2017* replaces the *Private Health Insurance (Risk Equalisation Levy) Rules 2007* which sunset on 1 April 2017.

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

Details

Details of the Rules are set out in the **Attachment**.

Consultation

These Rules are made as a result of the sunsetting of the previous Rules on 1 April 2017.

The assessment that the instrument is operating effectively and efficiently was informed by a consultation process which involved subject matter experts in the Private Health Insurance Branch, Legal Services Branch, and the Best Practice Regulation Branch over the period   
2 March 2017 to 14 April 2017. The Department also consulted with Special Counsel at the Australian Prudential Regulation Authority from 2 March 2017 to 23 March 2017.

The assessment supported the remaking of the previous Rules in the same form.

These Rules commence on 20 May 2017.

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

**ATTACHMENT**

###### Details of the Private Health Insurance (Risk Equalisation Levy) Rules 2017

**Section 1 - Name of Rules**

Section 1 of the Rules provides that the title of the Rules is the *Private Health Insurance (Risk Equalisation Levy) Rules 2017.*

**Section 2 - Commencement**

Section 2 of the Rules provides that it commences on 20 May 2017.

**Section 3 - Authority**

Section 3 of the Rules provides that it is made under Section 10A of the *Private Health Insurance (Risk Equalisation Levy) Act 2003.*

**Section 4 - Schedule**

Section 4 of the Rules provides that any instrument specified in a Schedule to the Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule has effect according to its terms.

**Section 5 - Definitions**

Section 5 of the Rules provides that the Actmeans the *Private Health Insurance (Risk Equalisation Levy) Act 2003.*

**Section 6 - Risk equalisation levy day**

Section 6 of the Rules provides that the risk equalisation levy days are the 21st day of the second month of each quarter in a 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 (Risk Equalisation Levy) Rules 2017***

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 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).

The creation of the *Private Health Insurance (Risk Equalisation Levy) Rules 2017* replaces the *Private Health Insurance (Risk Equalisation Levy) Rules 2007* which sunset on 1 April 2017.

**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.

**Greg Hunt**

**Minister for Health**