



Health Insurance (Diagnostic Imaging Services Table) Amendment (Equipment Capital Sensitivity) Regulations 2024

I, the Honourable Frances Adamson AC Administrator of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 29 August 2024

Frances Adamson AC
Administrator

By Her Excellency's Command

Mark Butler
Minister for Health and Aged Care

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1 Name

This instrument is the *Health Insurance (Diagnostic Imaging Services Table) Amendment (Equipment Capital Sensitivity) Regulations 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	30 August 2024
2. Schedule 1	The day after this instrument is registered.	30 August 2024
3. Schedule 2	1 December 2024.	1 December 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Health Insurance Act 1973*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments commencing day after registration

Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020

1 Clause 1.2.1 of Schedule 1

Before “Subject”, insert “(1)”.

2 At the end of clause 1.2.1 of Schedule 1

Add:

- (2) If reinstatement under clause 1.2.10B is granted in respect of diagnostic imaging equipment, an item in this Schedule does not apply to a service that is performed on that equipment on a day:
- (a) that is before the day the reinstatement was granted; and
 - (b) on which the age of the equipment exceeded its new effective life age.
- (3) If:
- (a) reinstatement under clause 1.2.10B is granted in respect of diagnostic imaging equipment that has not been upgraded; and
 - (b) the equipment is not upgraded within 3 months after the end of the equipment’s new effective life age;
- an item in this Schedule does not apply to a service that is performed on that equipment on a day that is after the end of 3 months after the end of the equipment’s new effective life age.

3 Paragraph 1.2.2(4)(a) of Schedule 1

Omit “within the new effective life age for the equipment”, substitute “, within the period mentioned in subclause (5),”.

4 At the end of clause 1.2.2 of Schedule 1

Add:

- (5) For the purposes of paragraph (4)(a), the period is:
- (a) the new effective life age for the equipment; or
 - (b) for equipment for which an exemption under clause 1.2.8 has been granted—the exemption period of the exemption; or
 - (c) for equipment for which reinstatement under clause 1.2.10B has been granted—3 months after the end of the equipment’s new effective life age.

5 Subdivision B of Division 1.2 of Part 1 of Schedule 1 (heading)

Repeal the heading.

6 Before clause 1.2.7 of Schedule 1

Insert:

Subdivision B—Exemptions from capital sensitivity requirements**7 Subclause 1.2.10(2) of Schedule 1 (heading)**

Omit “*extension*”, substitute “*exemption*”.

8 After clause 1.2.10 of Schedule 1

Insert:

Subdivision BA—Reinstatement for capital sensitivity requirements**1.2.10A Equipment not upgraded before end of new effective life age—applying for reinstatement of subsequently upgraded equipment***Applying for reinstatement*

- (1) The relevant proprietor for diagnostic imaging equipment may apply to the Secretary for reinstatement under clause 1.2.10B in respect of the equipment if:
 - (a) the equipment was not upgraded before the end of its new effective life age; and
 - (b) the relevant proprietor did not apply for an exemption under clause 1.2.8 in respect of the equipment before the end of its new effective life age.

Note: For *relevant proprietor*, see clause 1.2.4.

- (2) The application must:
 - (a) be in writing; and
 - (b) be made before the later of the following:
 - (i) the end of 3 months after the end of the equipment’s new effective life age;
 - (ii) the end of 30 November 2024; and
 - (c) set out:
 - (i) reasons why the proprietor was unable to upgrade the equipment before the end of its new effective life age; and
 - (ii) reasons why the proprietor was unable to apply for an exemption under clause 1.2.8 in respect of the equipment before the end of its new effective life age; and
 - (iii) an explanation of how the equipment has been, or will be, upgraded; and
 - (iv) if the equipment has not been upgraded—the steps taken by the proprietor to ensure that it will be upgraded within 3 months after the end of its new effective life age, and the date on which the upgrade will occur.

Notifying proprietor of receipt of application

- (3) If:
 - (a) the Secretary receives an application under subclause (1) of this clause for reinstatement in respect of the equipment; and
 - (b) the application complies with subclause (2);
 the Secretary must notify the relevant proprietor for the equipment in writing that the Secretary has received the application.

1.2.10B Equipment not upgraded before end of new effective life age—granting reinstatement of subsequently upgraded equipment

Scope of this clause

- (1) This clause applies if, under subclause 1.2.10A(3), the Secretary notifies the relevant proprietor for diagnostic imaging equipment that the Secretary has received an application for reinstatement in respect of the equipment.

Granting reinstatement

- (2) The Secretary must, by notice in writing given to the proprietor:
 - (a) subject to subclause (3) of this clause, grant the reinstatement; or
 - (b) refuse to grant the reinstatement.
- (3) The Secretary must not grant the reinstatement unless the Secretary is satisfied that both of the following apply:
 - (a) the proprietor was unable to upgrade the equipment before the end of its new effective life age;
 - (b) the equipment has been or will be upgraded within 3 months after the end of its new effective life age.
- (4) The Secretary must make a decision on the application under subclause (2) within 28 days after notifying the proprietor as mentioned in subclause (1).

Subdivision BB—Reconsideration and review of decisions

9 At the end of subclause 1.2.11(1) of Schedule 1

Add:

- ; or (c) a decision under clause 1.2.10B to refuse to grant reinstatement in respect of diagnostic imaging equipment.

10 Subclause 1.2.11(6) of Schedule 1 (at the end of the heading)

Add “—*exemption decisions*”.

11 Subclause 1.2.11(6) of Schedule 1

Omit “on the equipment”, substitute “on equipment to which a decision mentioned in paragraph (1)(a) or (b) relates”.

12 Subclause 1.2.12(4) of Schedule 1 (heading)

Omit “*decision*”, substitute “*exemption decisions*”.

13 Subclause 1.2.12(4) of Schedule 1

Omit “If the Secretary affirms the decision, clause 1.2.1 does not apply to a service that is performed on the equipment”, substitute “If the Secretary affirms a decision mentioned in paragraph 1.2.11(1)(a) or (b), clause 1.2.1 does not apply to a service that is performed on equipment to which the decision relates”.

Schedule 2—Amendments commencing 1 December 2024

Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020

1 Paragraph 1.2.10A(2)(b) of Schedule 1

Repeal the paragraph, substitute:

- (b) be made within 3 months after the end of the equipment’s new effective life age; and