



# **Private Health Insurance (Collapsed Insurer Levy) Act 2003**

**No. 71, 2003**

## **Compilation No. 3**

<b>Compilation date:</b>	1 July 2016
<b>Includes amendments up to:</b>	Act No. 86, 2015
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## About this compilation

### This compilation

This is a compilation of the *Private Health Insurance (Collapsed Insurer Levy) Act 2003* that shows the text of the law as amended and in force on 1 July 2016 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act to impose a levy to be known as the collapsed insurer levy on private health insurers, and for related purposes**

## **1 Short title**

This Act may be cited as the *Private Health Insurance (Collapsed Insurer Levy) Act 2003*.

## **2 Commencement**

This Act commences on 1 July 2004.

## **3 Crown to be bound**

This Act binds the Crown in each of its capacities.

## **4 Extension of Act to external Territories**

This Act extends to Norfolk Island, to the Territory of Cocos (Keeling) Islands and to the Territory of Christmas Island.

## **5 Definitions**

In this Act, unless the contrary intention appears:

**APRA** means the Australian Prudential Regulation Authority.

**collapsed insurer**: a private health insurer is a **collapsed insurer** if at least one of the following paragraphs applies in relation to at least one of the insurer's health benefits funds:

- (a) APRA has approved the termination of the health benefits fund under section 37 of the *Private Health Insurance (Prudential Supervision) Act 2015*;
- (b) APRA has appointed an external manager of the health benefits fund under section 51 of the *Private Health Insurance (Prudential Supervision) Act 2015*;

- (c) the Federal Court of Australia has ordered the appointment of a terminating manager of the health benefits fund under section 67 of the *Private Health Insurance (Prudential Supervision) Act 2015*.

***collapsed insurer levy*** means a collapsed insurer levy imposed under section 7.

***collapsed insurer levy day*** means a collapsed insurer levy day specified in a determination under section 7.

***complying health insurance policy*** has the same meaning as in the *Private Health Insurance Act 2007*.

***health benefits fund*** has the same meaning as in the *Private Health Insurance Act 2007*.

***levy determination*** means a determination by the Minister under paragraph 7(1)(b).

***private health insurer*** has the same meaning as in the *Private Health Insurance (Prudential Supervision) Act 2015*.

## 6 Purpose of imposing collapsed insurer levy

The purpose of imposing a collapsed insurer levy is to help meet a collapsed insurer's liabilities to the people insured under its complying health insurance policies that it is unable to meet itself.

## 7 Imposition of collapsed insurer levy

(1) If:

- (a) a private health insurer is a collapsed insurer; and
- (b) the Minister determines, by legislative instrument, that this section applies to the insurer;

collapsed insurer levy is imposed on each private health insurer (other than an exempt insurer) on each collapsed insurer levy day for the levy determination.

Note: Section 8 deals with exempt insurers.

- (2) The Minister may determine, by legislative instrument, the day that is, or the days that are, to be the collapsed insurer levy day or days for the levy determination.
- (3) A determination specifying a collapsed insurer levy day must also specify the payment day for levy imposed on that collapsed insurer levy day.

Note: The payment day is the day on which the levy is due and payable under Part 3B of the *Financial Institutions Supervisory Levies Collection Act 1998*.

## 8 Exempt insurers

- (1) A private health insurer is an exempt insurer in relation to a levy determination if:
  - (a) it is the collapsed insurer; or
  - (b) the Minister determines, by legislative instrument, that the insurer is an exempt insurer.
- (2) The Minister may make a determination under paragraph (1)(b) if the Minister is satisfied that imposing the collapsed insurer levy on the insurer would have a significantly adverse effect on the insurer's ability to comply with:
  - (a) a prudential standard (within the meaning of the *Private Health Insurance (Prudential Supervision) Act 2015*) relating to capital adequacy or solvency that applies in relation to the insurer; or
  - (b) a direction given to the insurer under section 96 of that Act.

## 9 Rate of collapsed insurer levy

- (1) The rate of collapsed insurer levy imposed on a collapsed insurer levy day is the rate that:
  - (a) is determined by the Minister by legislative instrument; and
  - (b) applies on that day.

- (2) In determining the rate of levy, the Minister must have regard to the total value of the collapsed insurer's liabilities to people insured under its complying health insurance policies.
- (3) The rate of levy:
  - (a) must be based on the number of complying health insurance policies that are on issue on the day determined by the Minister, by legislative instrument, as the census day for the levy day; and
  - (b) may be different for complying health insurance policies under which different numbers of people are insured; and
  - (c) may be set at zero.

## **10 Minister to obtain advice from APRA**

- (1) Before making a determination under section 7, 8 or 9, the Minister must obtain, and take into account, advice from APRA in relation to the following matters:
  - (a) whether to make a levy determination;
  - (b) whether to make a determination under paragraph 8(1)(b);
  - (c) the day that is to be, or the days that are to be, specified as the collapsed insurer levy day or days;
  - (ca) the day that is to be specified as the payment day in relation to a collapsed insurer levy day;
  - (d) the rate that is to be specified as the rate of the collapsed insurer levy imposed on the collapsed insurer levy day or days;
  - (e) the day that is to be, or the days that are to be, specified as the census day or days for the collapsed insurer levy day or days;
  - (f) the total value of the collapsed insurer's liabilities to people insured under its complying health insurance policies.
- (2) An advice given to the Minister by APRA under subsection (1) must be laid before each House of the Parliament with the determination to which the advice relates.



## **12 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Before the Governor-General makes regulations under subsection (1), the Minister must take into consideration any relevant recommendation made to the Minister by APRA.

## Endnotes

### Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled

Endnote 1—About the endnotes

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law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Private Health Insurance (Collapsed Organization Levy) Act 2003	71, 2003	15 July 2003	1 July 2004 (s 2)	
Private Health Insurance (Collapsed Organization Levy) Amendment Act 2007	34, 2007	30 Mar 2007	Sch 1: 1 Apr 2007 (s 2(1) item 2) Remainder: 30 Mar 2007 (s 2(1) item 1)	—
Private Health Insurance (Collapsed Insurer Levy) Amendment Act 2015	86, 2015	26 June 2015	Sch 1 (items 1–14): 1 July 2015 (s 2(1) item 2) Sch 1 (item 15): 1 July 2016 (s 2(1) item 3)	Sch 1 (item 14)

## Endnotes

### Endnote 4—Amendment history

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#### Endnote 4—Amendment history

Provision affected	How affected
Title .....	am. No. 34, 2007
s. 1 .....	am. No. 34, 2007
s. 4 .....	am No 86, 2015
s. 5 .....	am. No. 34, 2007; No 86, 2015
s. 6 .....	rs. No. 34, 2007
s. 7 .....	rs. No. 34, 2007 am No 86, 2015
s. 8 .....	rs. No. 34, 2007 am No 86, 2015
s. 9 .....	am. No. 34, 2007
s. 10 .....	am. No. 34, 2007; No 86, 2015
s. 11 .....	rep No 86, 2015
s. 12 .....	am No 86, 2015