



# **Fairer Private Health Insurance Incentives Act 2012**

**No. 26, 2012**

**An Act to provide for fairer private health  
insurance incentives, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



---

## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
<b>Schedule 1—Amendments</b>		4
	<i>Age Discrimination Act 2004</i>	4
	<i>Income Tax Assessment Act 1936</i>	4
	<i>Income Tax Assessment Act 1997</i>	4
	<i>Private Health Insurance Act 2007</i>	7
	<i>Taxation Administration Act 1953</i>	23
	<i>Taxation (Interest on Overpayments and Early Payments) Act 1983</i>	24





# Fairer Private Health Insurance Incentives Act 2012

No. 26, 2012

---

---

## **An Act to provide for fairer private health insurance incentives, and for related purposes**

[Assented to 4 April 2012]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Fairer Private Health Insurance  
Incentives Act 2012*.

---

## 2 Commencement

- (1) Each provision of this Act 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
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	4 April 2012
2. Schedule 1	The latest of: (a) the day the <i>Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Act 2012</i> receives the Royal Assent; and (b) the day the <i>Fairer Private Health Insurance Incentives (Medicare Levy Surcharge—Fringe Benefits) Act 2012</i> receives the Royal Assent; and (c) 1 July 2012.  However, the provision(s) do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.	1 July 2012

Note: This table relates only to the provisions of this Act as originally enacted.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

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

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule

---

concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Amendments

### *Age Discrimination Act 2004*

#### **1 Schedule 2 (table item 9A, column headed “Provision(s)”)**

Omit “23-1, 23-10, 26-1 and 26-5”, substitute “22-15 and 22-25”.

### *Income Tax Assessment Act 1936*

#### **2 After paragraph 264BB(2)(g)**

Insert:

- (ga) whether the premium has been reduced under section 23-1 of the *Private Health Insurance Act 2007*, and if so, the amount of the reduction;
- (gb) the name, address and date of birth of a participant (within the meaning of the *Private Health Insurance Act 2007*) in the premiums reduction scheme (within the meaning of that Act) in respect of the policy;

### *Income Tax Assessment Act 1997*

#### **3 Subsection 61-205(1)**

Repeal the subsection, substitute:

- (1) You are entitled to a \*tax offset for the 2012-13 income year or a later income year if:
  - (a) a premium, or an amount in respect of a premium, was paid by you or another entity during the income year under a \*complying health insurance policy in respect of a period (the *premium period*); and
  - (b) you are a \*PHIIB in respect of the premium or amount; and
  - (c) each person insured under the policy during the premium period is, for the whole of the time that he or she is insured under the policy during the premium period:
    - (i) an eligible person (within the meaning of section 3 of the *Health Insurance Act 1973*); or
    - (ii) treated as such because of section 6, 6A or 7 of that Act.



---

**4 Subsection 61-205(3)**

Repeal the subsection.

**5 Sections 61-210, 61-215 and 61-220**

Repeal the sections, substitute:

**61-210 Amount of the private health insurance tax offset**

- (1) The amount of the \*tax offset is your \*share of the PHII benefit in respect of the premium or amount.

*Reduction because PHII benefit received in other forms*

- (2) Subsections (3), (4) and (5) apply if any of the following paragraphs apply:
- (a) the amount of the premium was reduced because of the operation or purported operation of Division 23 of the *Private Health Insurance Act 2007*;
  - (b) a payment was made to a person because of the operation or purported operation of Division 26 of the *Private Health Insurance Act 2007* in relation to the premium.
- (3) Divide the total of the reduction (if any) and payment (if any) by the number of persons who are \*PHIIBs in respect of the premium or amount.
- (4) Reduce your \*tax offset under subsection (1) to nil if the amount worked out under subsection (3) equals or exceeds your \*share of the PHII benefit in respect of the premium or amount.

Note: If the amount worked out under subsection (3) exceeds your share of the PHII benefit, you are liable to pay the excess to the Commonwealth. See section 282-18 of the *Private Health Insurance Act 2007* (Liability for excess private health insurance premium reduction or refund).

- (5) Otherwise, reduce your \*tax offset under subsection (1) by the amount worked out under subsection (3).

**61-215 Reallocation of the private health insurance tax offset between spouses**

- (1) You can make a choice under this section in relation to the income year if:

- (a) you are a \*PHIIB in respect of the premium or amount; and
- (b) on the last day of the income year, you are married (within the meaning of the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*; and
- (c) the individual to whom you are married is also a PHIIB in respect of the premium or amount; and
- (d) the individual to whom you are married has *not* made a choice under this section in relation to the income year.

Note: If you make a choice under this section, you might be liable to pay an amount under section 282-18 of the *Private Health Insurance Act 2007* (Liability for excess private health insurance premium reduction or refund).

- (2) If you make a choice under this section in relation to the income year:
  - (a) the amount (if any) of the \*tax offset for the income year under section 61-205 in respect of the premium or amount of the individual to whom you are married is reduced to nil; and
  - (b) your tax offset for the income year under that section in respect of the premium or amount is increased by that amount.
- (3) A choice under this section in relation to the income year can only be made in your \*income tax return for the income year.
- (4) A choice under this section in relation to an income year has effect for all premiums, or amounts in respect of premiums, paid during the income year.

## 6 Subsection 995-1(1)

Insert:

*complying health insurance policy* has the meaning given by the *Private Health Insurance Act 2007*.

## 7 Subsection 995-1(1) (definition of *incentive amount*)

Repeal the definition.

## 8 Subsection 995-1(1)

Insert:

---

**PHIIB** (short for *private health insurance incentive beneficiary*) has the meaning given by the *Private Health Insurance Act 2007*.

## **9 Subsection 995-1(1)**

Insert:

*share of the PHII benefit* (short for *share of the private health insurance incentive benefit*) has the meaning given by the *Private Health Insurance Act 2007*.

## ***Private Health Insurance Act 2007***

## **10 After Division 20**

Insert:

## **Division 22—PHIIB, PHII benefit and related concepts**

### **Subdivision 22-A—PHIIB, PHII benefit and related concepts**

#### **22-1 Application of Subdivision**

This Subdivision applies if a premium, or an amount in respect of a premium, was paid, or is payable, during a financial year under a \*complying health insurance policy in respect of a period (the *premium period*).

#### **22-5 Meaning of *PHIIB***

##### *Adults insured under policy*

- (1) Each \*adult insured under the \*complying health insurance policy throughout the premium period is a **PHIIB**, in respect of the premium or amount.

Note: **PHIIB** is short for *private health insurance incentive beneficiary*.

##### *Dependent child-only policies*

- (2) Subsections (3) and (4) apply if the only persons insured under the \*complying health insurance policy throughout the premium period are one or more \*dependent children.

- (3) Each person who is a parent (within the meaning of Part 2.11 of the *Social Security Act 1991*) in relation to one or more of those \*dependent children on the last day of the financial year mentioned in section 22-1 is a **PHIIB**, in respect of the premium or amount.
- (4) However, the person who pays the premium or amount is the only **PHIIB**, in respect of the premium or amount, if:
- (a) disregarding this subsection, more than one person would be a \*PHIIB in respect of the premium or amount because of subsection (3); and
  - (b) those persons are not married to each other (within the meaning of the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*) at the end of the financial year; and
  - (c) the person who pays the premium or amount is not a \*dependent child.

#### **22-10 Meaning of *PHII benefit***

The amount of the **PHII benefit**, in respect of the premium or amount, is:

- (a) if there is only one \*PHIIB in respect of the premium or amount—the PHIIB's \*share of the PHII benefit in respect of the premium or amount; or
- (b) if there is more than one PHIIB in respect of the premium or amount—the sum of each of those PHIIB's share of the PHII benefit in respect of the premium or amount.

Note: **PHII benefit** is short for *private health insurance incentive benefit*.

#### **22-15 Meaning of *share of the PHII benefit*—single PHIIB**

- (1) If there is only one \*PHIIB in respect of the premium or amount, the amount of the \*PHIIB's **share of the PHII benefit**, in respect of the premium or amount, is the sum of:
- (a) 30% of the amount of the premium, or of the amount in respect of a premium, paid or payable in respect of days in the premium period on which no person insured under the policy was aged 65 years or over; and
  - (b) 35% of the amount of the premium, or of the amount in respect of a premium, paid or payable in respect of days in the premium period on which:

- 
- (i) at least one person insured under the policy was aged 65 years or over; and
  - (ii) no person insured under the policy was aged 70 years or over; and
  - (c) 40% of the amount of the premium, or of the amount in respect of a premium, paid or payable in respect of days in the premium period on which at least one person insured under the policy was aged 70 years or over.
- (2) Reduce the amount of each percentage mentioned in subsection (1) by 10 percentage points if the \*PHIIB is a \*tier 1 earner for the financial year mentioned in section 22-1.
  - (3) Reduce the amount of each percentage mentioned in subsection (1) by 20 percentage points if the \*PHIIB is a \*tier 2 earner for the financial year mentioned in section 22-1.
  - (4) Reduce the amount of each percentage mentioned in subsection (1) to nil if the \*PHIIB is a \*tier 3 earner for the financial year mentioned in section 22-1.
  - (5) For the purposes of applying subsections (2), (3) and (4) in relation to the premium or amount, treat the table in subsection 22-30(1) as applying to the \*PHIIB for the financial year if he or she is a PHIIB in respect of the premium or amount because of subsection 22-5(3) or (4).

Note 1: The table in subsection 22-30(1) sets out the private health insurance tiers for families.

Note 2: Subsections 22-5(3) and (4) apply if the only persons insured under the policy are dependent children.

## **22-20 Meaning of *share of the PHII benefit*—multiple PHIIBs**

If there is more than one \*PHIIB in respect of the premium or amount, work out in accordance with section 22-15 the amount of each of those PHIIB's *share of the PHII benefit*, in respect of the premium or amount, on the following assumptions:

- (a) assume that the PHIIB is the only person who is a PHIIB in respect of the premium or amount;
- (b) assume that the premium or amount is the amount of the premium (or the amount in respect of the premium) divided

by the number of persons who are PHIIBs in respect of the premium or amount.

**22-25 Application of subsection 22-15(1) after a person 65 years or over ceases to be covered by policy**

- (1) If:
- (a) the \*PHIIB mentioned in subsection 22-15(1) was insured under a \*complying health insurance policy (the *original policy*) (whether or not the policy mentioned in section 22-1) at a time before the start of the premium period mentioned in that section; and
  - (b) the PHIIB was not a \*dependent child at that time; and
  - (c) at that time, another person (the *entitling person*) was:
    - (i) insured under the original policy; and
    - (ii) aged 65 years or over; and
  - (d) the entitling person subsequently ceased to be insured under the original policy;
- subsection 22-15(1) applies in relation to the complying health insurance policy mentioned in section 22-1 as if:
- (e) the entitling person were also insured under that policy; and
  - (f) the entitling person were the same age as the age at which he or she ceased to be insured under the original policy.
- (2) Subsection (1) ceases to apply if a person (other than a \*dependent child) who was not insured under the original policy at the time the entitling person ceased to be insured under it becomes insured under the \*complying health insurance policy mentioned in section 22-1.
- (3) Subsection (1) does not apply if its application would result in the \*PHIIB's \*share of the PHII benefit being less than it would otherwise have been.

**Subdivision 22-B—Private health insurance tiers****22-30 Private health insurance tiers***Families*

- (1) The following table applies to a person (the **first person**) for a financial year if:
- (a) on the last day of the financial year, the person is married (within the meaning of the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*); or
  - (b) on any day in the financial year, the person contributes in a substantial way to the maintenance of a \*dependent child who is:
    - (i) the person's child (within the meaning of the *Income Tax Assessment Act 1997*); or
    - (ii) the person's sibling (including the person's half-brother, half-sister, adoptive brother, adoptive sister, step-brother, step-sister, foster-brother or foster-sister) who is dependent on the person for economic support:

<b>Private health insurance tiers—families</b>			
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>For the financial year, the person is a ...</b>	<b>if his or her income for surcharge purposes for the financial year exceeds the following for the financial year ...</b>	<b>but does not exceed the following (if applicable) for the financial year ...</b>
1	<b>tier 1 earner</b>	his or her *family tier 1 threshold	his or her *family tier 2 threshold.
2	<b>tier 2 earner</b>	his or her *family tier 2 threshold	his or her *family tier 3 threshold.
3	<b>tier 3 earner</b>	his or her *family tier 3 threshold	not applicable.

- (2) For the purposes of subsection (1), if paragraph (1)(a) applies, treat the \*income for surcharge purposes for the financial year of the person to whom the first person is married (as mentioned in that paragraph) as included in the first person's income for surcharge purposes for the financial year.

- (3) Subdivision 960-J of the *Income Tax Assessment Act 1997* (Family relationships) applies to subparagraphs (1)(b)(i) and (ii) of this section in the same way as it applies to that Act.

*Singles*

- (4) The following table applies to a person for a financial year if the table in subsection (1) does not apply to the person for the financial year:

<b>Private health insurance tiers—singles</b>			
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>For the financial year, the person is a ...</b>	<b>if his or her income for surcharge purposes for the financial year exceeds the following for the financial year ...</b>	<b>but does not exceed the following (if applicable) for the financial year ...</b>
1	<i>tier 1 earner</i>	his or her *singles tier 1 threshold	his or her *singles tier 2 threshold.
2	<i>tier 2 earner</i>	his or her *singles tier 2 threshold	his or her *singles tier 3 threshold.
3	<i>tier 3 earner</i>	his or her *singles tier 3 threshold	not applicable.

**22-35 Private health insurance singles thresholds**

- (1) A person's *singles tier 1 threshold* for the 2008-09 financial year is \$70,000. This amount is indexed annually.
- (2) A person's *singles tier 2 threshold* for the 2010-11 financial year is \$90,000. This amount is indexed annually.
- (3) A person's *singles tier 3 threshold* for the 2010-11 financial year is \$120,000. This amount is indexed annually.

Note 1: A person may be a tier 1 earner, tier 2 earner or tier 3 earner if his or her income for surcharge purposes exceeds the applicable threshold for that tier: see section 22-30.

Note 2: Section 22-45 shows how to index amounts.



**22-40 Private health insurance family thresholds**

- (1) A person's *family tier 1 threshold* for a financial year is an amount equal to double his or her \*singles tier 1 threshold for the financial year.
- (2) A person's *family tier 2 threshold* for a financial year is an amount equal to double his or her \*singles tier 2 threshold for the financial year.
- (3) A person's *family tier 3 threshold* for a financial year is an amount equal to double his or her \*singles tier 3 threshold for the financial year.
- (4) However, if the person has 2 or more dependants (within the meaning of the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*) who are children, increase his or her *family tier 1 threshold*, *family tier 2 threshold* and *family tier 3 threshold* for the financial year by the result of the following formula:

$$\$1,500 \times \left( \text{Number of those dependants who are children} - 1 \right)$$

Example: If the person has 3 such dependants who are children, his or her family tier 2 threshold for the 2010-11 financial year is:

$$\$180,000 + \left( \$1,500 \times 2 \right) = \$183,000$$

Note: A person may be a tier 1 earner, tier 2 earner or tier 3 earner if his or her income for surcharge purposes exceeds the applicable threshold for that tier: see section 22-30.

**22-45 Indexation**

- (1) This section applies in relation to an amount mentioned in section 22-35 (Private health insurance singles thresholds).

*Indexing amounts*

- (2) Index the amount by:
  - (a) firstly:
    - (i) if the amount is mentioned in subsection 22-35(1) (singles tier 1 threshold)—multiplying the amount for

the 2008-2009 financial year by its \*indexation factor mentioned in subsection (4); or

- (ii) if the amount is mentioned in subsection 22-35(2) or (3) (singles tier 2 threshold or singles tier 3 threshold)—  
multiplying the amount for the 2010-2011 financial year by its indexation factor mentioned in subsection (5); and

- (b) next, rounding the result in paragraph (a) down to the nearest multiple of \$1,000.

Example 1: If the amount to be indexed is \$90,000 and the indexation factor increases this to an indexed amount of \$90,500, the indexed amount is rounded back down to \$90,000.

Example 2: If the amount to be indexed is \$120,000 and the indexation factor increases this to an indexed amount of \$121,500, the indexed amount is rounded down to \$121,000.

- (3) Do not index the amount if its indexation factor mentioned in subsection (4) or (5) is 1 or less.

*Indexation factor*

- (4) For indexation of the amount on an annual basis in accordance with subparagraph (2)(a)(i), the ***indexation factor*** is:

\*Index number mentioned in subsection (7) for  
the \*quarter ending on 31 December just before the  
start of the relevant financial year

---

\*Index number mentioned in subsection (7)  
for the \*quarter ending on 31 December 2007

- (5) For indexation of the amount on an annual basis in accordance with subparagraph (2)(a)(ii), the ***indexation factor*** is:

\*Index number mentioned in subsection (7) for  
the \*quarter ending on 31 December just before the  
start of the relevant financial year

---

\*Index number mentioned in subsection (7)  
for the \*quarter ending on 31 December 2009

- (6) Work out the \*indexation factor mentioned in subsection (4) or (5) to 3 decimal places (rounding up if the fourth decimal place is 5 or more).

---

*Index number*

- (7) For calculating the amounts, the *index number* for a \*quarter is the estimate of full-time adult average weekly ordinary time earnings for the middle month of the quarter first published by the Australian Statistician in respect of that month.

**11 Subdivision 23-A**

Repeal the Subdivision, substitute:

**Subdivision 23-A—Amount of reduction**

**23-1 Reduction in premiums**

- (1) The amount of premiums payable under a \*complying health insurance policy in respect of a period is reduced in accordance with this section if a person is a \*participant in the \*premiums reduction scheme in respect of the policy.
- (2) The amount of the reduction for each premium is the \*PHII benefit in respect of the premium.

**12 Paragraph 23-15(1)(b)**

Repeal the paragraph, substitute:

- (b) the person is a \*PHIIB in respect of a premium paid or payable under the policy; and

**13 Section 23-25**

Repeal the section.

**14 Subsections 26-1(1), (2), (3) and (4)**

Repeal the subsections, substitute:

*Entitlement to payment*

- (1) A person is entitled to a payment under this subsection if:
- (a) a premium was paid (whether or not by the person) under a \*complying health insurance policy in respect of a period; and
- (b) the person is a \*PHIIB in respect of the premium; and

- (c) the amount of the premium was not reduced under Division 23; and
- (d) the person meets any requirements specified in the Private Health Insurance (Incentives) Rules for the purposes of this paragraph.

*Amount of payment*

- (2) The amount of the payment is the \*PHII benefit in respect of the premium.
- (2A) However, if there is more than one \*PHIIB in respect of the premium, the amount of the payment is the \*PHII benefit in respect of the premium divided by the number of those PHIIBs.

*Payment if there is more than one PHIIB*

- (3) If subsection (2A) applies and the person is paid the amount to which he or she is entitled under subsection (1) in respect of the premium:
  - (a) the person is also to be paid each amount to which another person is entitled under subsection (1) in respect of the premium because the other person is one of those \*PHIIBs; and
  - (b) if the person is paid an amount in accordance with paragraph (a)—he or she is liable to account for that amount to the other person mentioned in that paragraph.

*Reduction in amount payable*

- (4) A person's entitlement under subsection (1) in respect of the premium is reduced to the extent that:
  - (a) a previous payment was made under this section in relation to that entitlement; or
  - (b) the person has received a tax offset under Subdivision 61-G of the *Income Tax Assessment Act 1997* in respect of the premium.

**15 Saving provision—Private Health Insurance (Incentives) Rules**

- (1) This item applies to a requirement specified in the Private Health Insurance (Incentive) Rules if:
-

- (a) the requirement was specified for the purposes of paragraph 26-1(1)(c) of the *Private Health Insurance Act 2007*; and
  - (b) the requirement was in force immediately before the commencement of this item.
- (2) The requirement has effect, on and after the commencement of this item, as if it had been made for the purposes of paragraph 26-1(1)(d) of that Act as amended by this Schedule.

**16 Section 26-5**

Repeal the section.

**17 Section 26-30**

Repeal the section.

**18 After subsection 282-1(1)**

Insert:

- (1A) However, an amount is not recoverable under paragraph (1)(d), (e), (f) or (g) if the situation giving rise to the amount did not occur due to the fault of the private health insurer.

**19 After Subdivision 282-A**

Insert:

**Subdivision 282-AA—Recovery of certain amounts by  
Commissioner of Taxation**

**282-16 Administration of this Subdivision by Commissioner of  
Taxation**

The Commissioner of Taxation has the general administration of:

- (a) this Subdivision; and
- (b) any other provision of this Act to the extent that it relates to this Subdivision.

**282-17 Subdivision operates in addition to Subdivision 282-A**

- (1) This Subdivision:
- (a) operates in addition to Subdivision 282-A; and

- (b) does not limit the operation of that Subdivision.
- (2) Subdivision 282-A does not limit the operation of this Subdivision.

*No double recovery*

- (3) Despite subsections (1) and (2):
  - (a) an amount is not recoverable under section 282-1 to the extent that it has already been recovered in accordance with section 282-18; and
  - (b) an amount is not recoverable under section 282-18 to the extent that it has already been recovered in accordance with section 282-1.

Note: This section means that an amount that is recoverable under both paragraph 282-1(1)(e) and section 282-18 is recoverable from the private health insurer in accordance with section 282-1 or from the participant in accordance with section 282-18.

**282-18 Liability for excess private health insurance premium reduction or refund**

- (1) This section applies if any of the following requirements are satisfied:
  - (a) the amount of a premium payable during a financial year under a \*complying health insurance policy is reduced because of the operation or purported operation of Division 23;
  - (b) a payment is made to a person because of the operation or purported operation of Division 26 in relation to a premium paid during a financial year (whether or not by the person) under a complying health insurance policy.
- (2) Divide the total of the reduction (if any) and payment (if any) by the number of persons who are \*PHIIBs in respect of the premium.
- (3) If the amount worked out under subsection (2) exceeds the \*share of the PHII benefit of a person who is a \*PHIIB in respect of the premium, that person is liable to pay the amount of that excess to the Commonwealth.
- (4) If subsection (3) applies, the Commissioner of Taxation must give the person a notice stating that the person is liable to pay the amount of that excess to the Commonwealth.

- 
- (5) A notice given to a person under subsection (4) may be contained in a notice of assessment under the *Income Tax Assessment Act 1936*.
- (6) An amount that a person is liable to pay under subsection (3) is due and payable at the same time as the income tax the person must pay for the financial year is due and payable under section 5-5 of the *Income Tax Assessment Act 1997*. For the purposes of determining that time, assume that the person must pay income tax for the financial year and that the Commissioner of Taxation makes an assessment of the income tax.

Note: The liability is a tax-related liability: see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953* for collection and recovery provisions.

- (7) If the person is dissatisfied with the notice under subsection (4), he or she may object against it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

*Reallocation of liability between spouses*

- (8) Subsection (10) applies if:
- (a) a person (the **first person**) is a \*PHIIB in respect of the premium; and
  - (b) the first person is, on the last day of the financial year, married (within the meaning of the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*); and
  - (c) the person to whom the first person is married is also a PHIIB in respect of the premium; and
  - (d) either:
    - (i) the first person has made a choice under section 61-215 of the *Income Tax Assessment Act 1997* in relation to the \*income year corresponding to the financial year mentioned in subsection (1); or
    - (ii) the requirement in subsection (9) is satisfied.
- (9) The requirement in this subsection is satisfied if:
- (a) during an \*income year (the **lodgement year**), the first person lodges his or her income tax return for the income year (the **return year**) corresponding to the financial year mentioned in subsection (1); and

- (b) the person to whom the first person is married does not lodge his or her income tax return for the return year before the end of the lodgement year (whether or not he or she is required to lodge such a return).
- (10) If this subsection applies:
- (a) the amount (if any) that the person to whom the first person is married is liable to pay under subsection (3) in respect of the premium is reduced to nil; and
  - (b) the first person's liability under subsection (3) is increased by that amount.

### **282-19 When general interest charge payable**

- (1) If:
- (a) a person is liable under section 282-18 to pay an amount; and
  - (b) the whole or a part of the amount remains unpaid after the time by which the amount is due to be paid;
- the person is liable to pay \*general interest charge on the unpaid amount.
- (2) A person who is liable under this section to pay \*general interest charge on an unpaid amount is liable to pay the charge for each day in the period that:
- (a) started at the beginning of the day by which the unpaid amount was due to be paid; and
  - (b) finishes at the end of the last day at the end of which any of the following remains unpaid:
    - (i) the unpaid amount;
    - (ii) general interest charge on any of the unpaid amount.

### **20 Section 282-25**

Omit "or this Part" (wherever occurring), substitute "; this Part or paragraph 323-5(c)".

### **21 At the end of section 323-5**

Add:

; or (c) for the purpose of enabling a person to perform functions under:



- 
- (i) a provision of the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*; or
  - (ii) a provision of the *Medicare Levy Act 1986*; or
  - (iii) a provision of Subdivision 61-G of the *Income Tax Assessment Act 1997*; or
  - (iv) any other provision of the *Income Tax Assessment Act 1997*, or of any other Act, to the extent that the provision relates to a provision mentioned in subparagraph (i), (ii) or (iii).

**22 Clause 1 of Schedule 1**

Insert:

*family tier 1 threshold* has the meaning given by section 22-40.

**23 Clause 1 of Schedule 1**

Insert:

*family tier 2 threshold* has the meaning given by section 22-40.

**24 Clause 1 of Schedule 1**

Insert:

*family tier 3 threshold* has the meaning given by section 22-40.

**25 Clause 1 of Schedule 1**

Insert:

*general interest charge* means the charge worked out under Part IIA of the *Taxation Administration Act 1953*.

**26 Clause 1 of Schedule 1 (definition of *incentive amount*)**

Repeal the definition.

**27 Clause 1 of Schedule 1**

Insert:

*income for surcharge purposes*, of a person for a financial year, means the income for surcharge purposes (within the meaning of the *Income Tax Assessment Act 1997*) for the person for the \*income year corresponding to the financial year.

**28 Clause 1 of Schedule 1**

Insert:

*income year* has the meaning given by the *Income Tax Assessment Act 1997*.

**29 Clause 1 of Schedule 1**

Insert:

*indexation factor* has the meaning given by section 22-45.

**30 Clause 1 of Schedule 1**

Insert:

*index number* has the meaning given by section 22-45.

**31 Clause 1 of Schedule 1**

Insert:

*PHIIB* (short for *Private Health Insurance Incentive Beneficiary*) has the meaning given by section 22-5.

**32 Clause 1 of Schedule 1**

Insert:

*PHII benefit* (short for *Private Health Insurance Incentive benefit*) has the meaning given by section 22-10.

**33 Clause 1 of Schedule 1**

Insert:

*quarter* has the meaning given by the *Income Tax Assessment Act 1997*.

**34 Clause 1 of Schedule 1**

Insert:

*share of the PHII benefit* has the meaning given by sections 22-15, 22-20 and 22-25.

**35 Clause 1 of Schedule 1**

Insert:

---

---

*singles tier 1 threshold* has the meaning given by section 22-35.

**36 Clause 1 of Schedule 1**

Insert:

*singles tier 2 threshold* has the meaning given by section 22-35.

**37 Clause 1 of Schedule 1**

Insert:

*singles tier 3 threshold* has the meaning given by section 22-35.

**38 Clause 1 of Schedule 1**

Insert:

*tier 1 earner* has the meaning given by section 22-30.

**39 Clause 1 of Schedule 1**

Insert:

*tier 2 earner* has the meaning given by section 22-30.

**40 Clause 1 of Schedule 1**

Insert:

*tier 3 earner* has the meaning given by section 22-30.

***Taxation Administration Act 1953*****41 Subsection 8AAB(4) (after table item 20)**

Insert:

20A	282-19	<i>Private Health Insurance Act 2007</i>	repayment of private health insurance premium reduction or refund
-----	--------	--	---

**42 Subsection 250-10(2) in Schedule 1 (after table item 45A)**

Insert:

45B	liability for excess private health insurance premium reduction or refund	282-18	<i>Private Health Insurance Act 2007</i>
-----	--	--------	--

***Taxation (Interest on Overpayments and Early Payments) Act  
1983***

**43 Subsection 3(1) (after paragraph (ca) of the definition of  
*decision to which this Act applies*)**

Insert:

(caaa) in a case where the expression is used in relation to relevant tax of a kind referred to in item 60 of the table in section 3C—a decision of the Commissioner to give a notice under subsection 282-18(4) of the *Private Health Insurance Act 2007*; or

**44 Section 3C (after item 55 of the table)**

Insert:

60 Liabilities under section 282-18 of the *Private Health Insurance Act 2007*

**45 After subparagraph 8E(1)(d)(iv)**

Insert:

(iva) a liability under section 282-18 of the *Private Health Insurance Act 2007* that is notified in the notice of assessment;

**46 After subparagraph 8E(2)(d)(iv)**

Insert:

(iva) a liability under section 282-18 of the *Private Health Insurance Act 2007*, payable by the person immediately before the post-notice crediting;

**47 At the end of section 9**

Add:

---

*Liabilities under section 282-18 of the Private Health Insurance Act 2007*

- (8) For the purposes of this section, if:
- (a) the Commissioner gives a notice to a person under subsection 282-18(4) of the *Private Health Insurance Act 2007*; and
  - (b) the notice states that the person is liable to pay an amount to the Commonwealth under section 282-18 of that Act; and
  - (c) the person pays the stated amount to the Commissioner; and
  - (d) the stated amount exceeds the amount the person is liable to pay under that section; and
  - (e) the excess is refunded to the person or applied against any liability of the person to the Commonwealth;

treat the excess as being overpaid by the person, and so refunded or applied, as a result of the decision of the Commissioner to give the notice.

Note 1: The decision of the Commissioner to give the notice is a decision to which this Act applies. See section 3.

Note 2: Liabilities under section 282-18 of the *Private Health Insurance Act 2007* are relevant tax. See section 3C.

## **48 Application**

- (1) The amendments made by this Schedule apply in relation to premiums, and amounts in respect of premiums, paid on and after 1 July 2012.
- (2) To avoid doubt, a choice under section 61-215 of the *Income Tax Assessment Act 1997*, as substituted by this Schedule, does not have effect for a premium, or an amount in respect of a premium, paid before 1 July 2012.

---

*[Minister's second reading speech made in—  
House of Representatives on 7 July 2011  
Senate on 27 February 2012]*

(108/11)

---

26      *Fairer Private Health Insurance Incentives Act 2012*      No. 26, 2012