

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Health

Private Health Insurance (Council Administration Levy) Act 2003

*Private Health Insurance (Council Administration Levy) Amendment Rule 2012
(No. 1)*

Authority for the Rules

Section 9A of the *Private Health Insurance (Council Administration Levy) Act 2003* (the **CAL Act**) provides that the Minister may, by legislative instrument, make *Private Health Insurance (Council Administration Levy) Rules* (the **Rules**) providing for matters required or permitted by the Act, or necessary, or convenient to carry out, or give effect to the Act.

The Act provides for the Rules to specify the rate of the Council administration levy (the **CAL**), the CAL days and the census day.

Pursuant to section 307-10 of the *Private Health Insurance Act 2007* (the **PHI Act**) the purpose of the CAL is to meet the general administrative costs of the Private Health Insurance Administration Council (**PHIAC**). The CAL is imposed on registered private health insurers conducting health insurance business.

Purpose of the amendment

The purpose of this amendment is to increase the CAL in financial year 2012-13 by:

- \$278,000 to meet PHIAC's increased general administration costs
- \$2,307,000 over the four years (2012-13 to 2015-16) to fund the establishment of the Premiums and Competition Unit (**PACU**) within PHIAC.

The Government approved the establishment of the PACU in PHIAC from 1 July 2012 to enable PHIAC to deliver more detailed advice on industry pricing, industry cost drivers, insurance premiums and competition policy within the private health insurance industry to the Government. PACU will enhance PHIAC's capacity to engage with the industry, assist the Government and support the interests of consumers.

The cost of establishing the PACU will cause the CAL to increase (on top of the current year) as follows:

- 2012-13 – an additional \$0.582 million
- 2013-14 – an additional \$0.563 million
- 2014-15 – an additional \$0.575 million
- 2015-16 – an additional \$0.587 million

Each of the annual increases will be implemented by an amendment to the numerators in the formulas applied across the private health insurance industry to calculate the amount of the CAL.

The CAL, imposed on registered private health insurers conducting health insurance business, funds PHIAC's day to day costs associated with undertaking its functions as required by legislation. The amendments will increase the total amount collected from the industry per annum to fund PHIAC's operations over financial years 2012-13, 2013-14, 2014-15 and 2015-16. The total CAL for the four financial years is as follows:

Financial Year	CAL 2011-12	Admin Cost	PACU	Total CAL
2012-13	\$5,366,000	\$278,000	\$582,000	\$6,226,000
2013-14	\$5,366,000	\$278,000	\$563,000	\$6,207,000
2014-15	\$5,366,000	\$278,000	\$575,000	\$6,219,000
2015-16	\$5,366,000	\$278,000	\$587,000	\$6,231,000

Rules 6 and 7 of the Rule contain a formula specifying the rate of the CAL. The amendments substitute the formulas in rules 6(1) and 7(1) of the Rule with new formulas for each of the next four years. The changes amend the numerators in the formulas setting the rate of the CAL to realise the business as usual (**BAU**) increase in the 2012-13 and the first four years of establishing PACU within PHIAC.

The *Private Health Insurance (Council Administration Levy) Amendment Rule 2012 (No. 1)* (the **amendment rule**) commences on 1 July 2012. Details of the amendment rule are set out in the Attachment.

The amendment rule is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Consultation

Industry and consumers were not consulted in relation to the proposed increases to the CAL. This was a decision of Government having regard to the needs of PHIAC and the importance of appropriately resourcing prudential regulators.

Advice received from the Office of Best Practice Regulation (**OBPR**) confirmed that the changes to the Rules were considered to have a low impact on business and the not-for-profit sector and were exempt from the Regulation Impact Statement requirements (OBPR references: 13442 (**PACU**) and 13601 (**BAU**)).

The Department of Finance and Deregulation (**DoFD**) confirmed that a Cost Recovery Impact Statement was not required for either amendment.

Authority: Section 9A of the *Private Health Insurance (Council Administration Levy) Act 2003*

Statement of Compatibility with Human Rights

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

Private Health Insurance (Council Administration Levy) Amendment Rule 2012 (No.1)

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 (Council Administration Levy) Amendment Rule 2012 (No. 1)* increases the Council administration levy (the **CAL**) to meet the Private Health Insurance Administration Council's (**PHIAC's**) increased general administration costs and to fund the first four years of establishing and running a Premiums and Competition Unit (**PACU**) within PHIAC.

The CAL, imposed on registered private health insurers (**insurers**) conducting health insurance business, funds PHIAC's day to day costs associated with undertaking its legislative functions. The aim of the PACU is to enhance PHIAC's capacity to engage with industry, assist the Government and support the interests of consumers of private health insurance, through more detailed advice on industry pricing, industry cost drivers, insurance premiums and competition policy.

Human rights implications

The proposed amendments promote the right to health of consumers.

The right to health

Article 12 of the *International Covenant on Economic, Social and Cultural Rights* sets out the right to health. The Covenant "recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health".¹ The steps that should be taken by Parties to the Covenant to achieve the full realisation of the right to health include the creation of conditions which provide everyone with medical services and medical attention in the event of sickness.²

The CAL funds PHIAC's day to day costs associated with undertaking its functions as set out in the *Private Health Insurance Act 2007*. Specifically, PHIAC is required to take all reasonable steps to achieve an appropriate balance between the objectives of:

- "(a) fostering an efficient and competitive health insurance industry;
- (b) protecting the interests of consumers;
- (c) ensuring the prudential safety of individual private health insurers."³

The increase to the CAL to finance PHIAC's increased general administration costs will allow PHIAC to work towards fostering an efficient and competitive health insurance industry through its ongoing regulatory oversight of the industry. A competitive health insurance

¹ Article 12 *International Covenant on Economic, Social and Cultural Rights*

² Ibid.

³ s 264-5, *Private Health Insurance Act 2007*

industry provides consumers with access to affordable health insurance products, thereby directly promoting the right to health of consumers.

The PACU initiative, by delivering to Government more detailed advice on industry pricing and competition policy, will further enhance PHIAC's capacity to foster a competitive health industry, thereby benefiting consumers.

PHIAC's second objective, of protecting the interests of consumers, directly supports their right to health, by ensuring consumers interests are considered in all key regulatory decisions.

PHIAC's third objective, of ensuring the prudential safety of insurers, aims to protect the sustainability of the private health insurance industry. This has a direct impact on consumers by protecting them from financial loss, thereby directly impacting their right to health in a positive way.

Conclusion

The *Private Health Insurance (Council Administration Levy) Amendment Rule 2012 (No.1)* is compatible with human rights because it engages with the human rights of consumers of private health insurance, by working to maintain an efficient and competitive private health insurance industry, ensuring product choice and maintaining pressure to minimise premium increases.

Shaun Gath

Chief Executive Officer

Private Health Insurance Administration Council (PHIAC)

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DETAILS OF THE *PRIVATE HEALTH INSURANCE (COUNCIL ADMINISTRATION LEVY) AMENDMENT RULE 2012 (NO. 1)*

1. Name of Rule

Rule 1 provides that the Rule is the Amendment Rule.

2. Commencement

Rule 2 provides that the Amendment Rule commences on 1 July 2012.

3. Definitions

Rule 3 provides that Schedule 1 to the *Private Health Insurance (Council Administration Levy) Amendment Rule 2012 (No. 1)* amends the *Private Health Insurance (Council Administration Levy) Rules 2007*.

4. Schedule 1 Amendment

Schedule 1 substitutes the formulas in rules 6(1) and 7(1) of the *Private Health Insurance (Council Administration Levy) Rules 2007* with new formulas for each financial year as follows:

Rule 6(1) formula:

Financial year	Rate for single policy
2012-2013	$\frac{155\,650\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
2013-2014	$\frac{155\,175\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
2014-2015	$\frac{155\,475\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
2015-2016	$\frac{155\,775\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$

Rule 7(1) formula:

Financial year	Rate for joint policy
2012-2013 change	$2 \times \frac{155\,650\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
2013-2014 change	$2 \times \frac{155\,175\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
2014-2015 change	$2 \times \frac{155\,475\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$
2015-2016 change	$2 \times \frac{155\,775\,000}{\text{single coverage policies} + (2 \times \text{joint coverage policies})}$