

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Private Health Insurance (Complaints Levy) Act 1995

Private Health Insurance (Complaints Levy) Rules 2018

Section 8 of the *Private Health Insurance (Complaints Levy) Act 1995* (the Act) provides that the Minister may make Private Health Insurance (Complaints Levy) Rules providing for matters required or permitted by the Act to be provided, or necessary or convenient to be provided, in order to carry out or give effect to the Act.

The Act imposes levies on private health insurers conducting health insurance business. The Act provides that the rate of complaints levy must be based on the number of complying health insurance policies on issue on the census day and may be different for policies under which different numbers of people are insured. The Act also provides that the rate of complaints levy must not exceed \$0.50 a quarter in respect of complying health insurance policies under which only one person is insured and, otherwise, \$1.00 a quarter.

The complaints levy is collected in accordance with the *Private Health Insurance Act 2007* and the *Private Health Insurance (Levy Administration) Rules 2015*. The *Private Health Insurance (Levy Administration) Rules 2015* specify that the complaints levy is payable on 31st day of December each year.

Purpose of the Rules

The *Private Health Insurance (Complaints Levy) Rules 2018* (the Rules) repeal and replace the *Private Health Insurance (Complaints Levy) Rules 2017* (the Previous Rules) to alter the rate of complaints levy payable. The Rules also specify the complaints levy days and the census day for the purposes of the Act.

The purpose of the complaints levy is to finance the administrative costs of the Private Health Insurance Ombudsman (PHIO). The functions of PHIO are set out at section 20D of the *Ombudsman Act 1976*. Functions of PHIO include: dealing with complaints, conducting investigations, publishing and reporting information, and making recommendations.

The rate of complaints levy is based on the expected administrative costs of the PHIO for the financial year. This year's costs are significantly higher than last year because PHIO is preparing to expand its role and upgrade the government's private health insurance website.

A new numerator, equal to the PHIO budget for the current financial year, is inputted into the formulas for calculating the complaints levy rates in the Rules each year unless the PHIO budget is the same as the previous financial year.

Details of the Rules are set out in the [Attachment](#).

The Rules commence on the day following their registration on the Federal Register of Legislation.

Consultation

Private health insurers are aware that the complaints levy amount they are required to pay changes from year to year, according to changes in the number of policies that private health insurers hold and increases/decreases in the expected administrative costs of the PHIO.

Insurers were consulted about the expansion of the PHIO powers and upgrading of the government private health insurance website. The increase funding for these changes was announced in the Mid-Year Economic and Fiscal Outlook 2017-18.

This Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

ATTACHMENT

DETAILS OF THE *PRIVATE HEALTH INSURANCE (COMPLAINTS LEVY) RULES 2018***1. Name**

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Complaints Levy) Rules 2018* (the Rules).

2. Commencement

Rule 2 provides that the Rules commence on the day after they are registered on the Federal Register of Legislation.

3. Authority

Rule 4 provides that the Rules are made under section 8 of the *Private Health Insurance (Complaints Levy) Act 1995*.

4. Definitions

Rule 5 provides definitions for the Rules.

5. Schedules

Rule 5 provides that 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 specifies and repeals the *Private Health Insurance (Complaints Levy) Rules 2017* (the Previous Rules).

6. Census day

Rule 6 provides that the census day is the 30 June last occurring before the day on which the levy is payable. This is unchanged from the day specified in Rule 6 of the Previous Rules.

7. Complaints levy day

Rule 7 specifies that the complaints levy day is 1 October each year. This is unchanged from the day specified in Rule 7 of the Previous Rules.

8. Rate of levy for a single policy

Rule 8 provides that the rate of complaints levy for a single policy on issue from an insurer on the census day is calculated using the formula:

$$\frac{\$3,792,000.00}{\text{total number of single policies} + (2 \times \text{total number of joint policies})}$$

Subrule 8(2) provides that if the rate of levy calculated for a single policy on issue from an insurer is more than \$0.50, the rate for the policy is \$0.50.

9. Rate of levy for a joint policy

Rule 9 provides that the rate of complaints levy for a joint policy on issue from an insurer on the census day is calculated using the formula:

$$2 \times \frac{\$3,792,000.00}{\text{total number of single policies} + (2 \times \text{total number of joint policies})}$$

Subrule 9(2) provides that if the rate of levy calculated for a joint policy on issue from an insurer is more than \$1.00, the rate for the policy is \$1.00.

Schedule 1—Repeals

Schedule 1 specifies and repeals the Previous Rules.

Statement of Compatibility with Human Rights

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

Private Health Insurance (Complaints Levy) Rules 2018

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 (Complaints Levy) Rules 2018* (the Rules) specify the days on which the complaints levy is imposed, and the rate at which it is imposed, for the purposes of the *Private Health Insurance (Complaints Levy) Act 1995* (the Act). The purpose of the complaints levy is to finance the administrative costs of the Private Health Insurance Ombudsman (PHIO).

A new rate of levy has been incorporated into the Rules.

Human rights implications

The Rules do not directly engage any of the individual human rights covered by the *Human Rights (Parliamentary Scrutiny) Act 2011* because the complaints levy is imposed on private health insurers who conduct health insurance business, not on individuals.

However, the Rules indirectly engage article 12(1) of the *International Covenant on Economic Social and Cultural Rights* by assisting with the progressive realisation of the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

The complaints levy funds the operations of the PHIO, which protects the interests of private health insurance consumers. The PHIO supports consumers in dealing with complaints they have about access to, or administration of, private health insurance policies. The continued collection of the complaints levy at an appropriate level to fund the PHIO is critical to ensure that consumers and health care providers have confidence in the administration of the private health insurance system, particularly through effective complaints management and consumer information services.

Conclusion

The Rules are compatible with human rights because it supports the right to health by ensuring the continued funding of the PHIO at appropriate levels.

Greg Hunt
Minister for Health