



Private Health Insurance Legislation Amendment Bill 2009

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Private Health Insurance Legislation Amendment Bill 2009

Date introduced: 3 June 2009

House: House of Representatives

Portfolio: Health and Ageing

Commencement: Sections 1–3 on Royal Assent; Schedule 1 items 1–3 and item 13, on the later of 1 July 2009 or Royal Assent; Schedule 1 items 4–12 and item 14, at the same time as sections 3–9 of the *Private Health Insurance (National Joint Replacement Register Levy) Act 2009*.

Links: The relevant links to the [Bill](#), [Explanatory Memorandum](#) and [second reading speech](#) can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of this Bill is twofold. First, the Bill proposes to amend the *Private Health Insurance Act 2007* (PHIA 2007) and the *Age Discrimination Act 2004* (Age Discrimination Act), to permanently allow private health insurers to offer ‘extended family policies’ that cover single 18–24 year olds who are not studying full-time.

Second, the Bill proposes consequential amendments to the PHIA 2007 to make it consistent with the Private Health Insurance (National Joint Replacement Register Levy) Bill 2009, which seeks to establish cost recovery arrangements for the maintenance of the National Joint Replacement Register.

Background

Extended Family Policies

Currently, the PHIA 2007 requires that private health insurers are only allowed to offer complying health insurance policies to individuals or persons that are specified as belonging to a particular category of insured groups.

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These insured groups are not specified in the PHIA 2007, but are specified in private health insurance rules which are legislative instruments.¹ Categories of insured groups that are specified in the rules include singles, couples and families with dependent children.

Since late 2007, the private health insurance rules have also included a category known as a 'dependent child non-student', being a person who is aged between 18 and 24, is single and not in full time education. This has allowed health insurers to offer 'extended family policies' that include health cover to these 'dependent child non-students'. These policies were developed by health insurers to encourage young adults to maintain their health cover into adulthood.²

Health insurers can charge a higher premium for these 'extended family policies' compared to the premiums they charge for other family policies that cover younger children or older children who are students. However, the premium of an extended family policy is usually less than that charged for a separate health insurance policy for a single adult child combined with a family policy. This makes this type of policy more attractive for families with older single children not in full time education. The Minister's second reading speech notes the current lower participation rate of young adults in private health insurance arrangements.³

The arrangements allowing health insurers to offer these policies for dependent child non-students have been temporary, although they have been extended on a number of occasions since their introduction in late 2007. Most recently, the Private Health Insurance (Complying Product) Amendment Rules 2008 (no.3) specified the insurance category 'dependent child non-student' be extended until December 2009.⁴

The Bill proposes amendments to insert the category of 'dependent child non-student' into the PHIA 2007. This will allow health insurers to offer these extended family policies covering this specific category of insured group on a permanent basis, rather than on the temporary basis currently specified in the private health insurance rules. No other category of insured group is similarly specified in the PHIA 2007. The Bill also proposes

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1. Under the *Legislative Instruments Act 2003* a legislative instrument is subject to disallowance by either House of Parliament after it is tabled.
 2. N Roxon, 'Second reading speech: Private Health Insurance Legislation Amendment Bill 2009', House of Representatives, *Debates*, 3 June 2009, p. 2, viewed 9 June 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2009-06-03%2F0009%22>
 3. N Roxon, 'Second reading speech'.
 4. Private Health Insurance (Complying Product) Amendment Rules 2008 (no.3), ComLaw database, viewed 11 June 2009, <http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/asmade/bytitle/E80D5F27ADC99226CA25751400741212?OpenDocument&VIEWCAT=item&COUNT=999&START=1>

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amendments to the Age Discrimination Act that will allow for an exemption from unlawful age discrimination where higher premiums are charged for ‘dependent child non-students’.

Statistics from the industry regulator, the Private Health Insurance Administration Council (PHIAC) show that the percentage of persons in the 20–24 age cohort covered by private hospital insurance has declined in recent years from 5.2 per cent in 2006 to 3.98 per cent in 2008.⁵ The Government intends that the proposed provisions in this Bill will make private health insurance for young adults more attractive.⁶

National Joint Replacement Register (NJRR) Levy

The Bill also proposes consequential amendments to PHIA 2007 to allow for the administration of the NJRR levy proposed in the Private Health Insurance (National Joint Replacement Register Levy) Bill 2009. This latter Bill proposes to impose a levy on sponsors of joint replacement prostheses in order to recover costs associated with the maintenance of the NJRR.⁷

Basis of policy commitment

The 2009–10 Portfolio Budget Statement for Health and Ageing flagged that legislation allowing extended family policies to continue to be offered would be introduced in 2009.⁸

The introduction of cost recovery arrangements for the NJRR was announced in the 2009–10 Budget as a cost saving measure.⁹

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5. Private Health Insurance Administration Council (PHIAC), ‘Industry statistics: annual coverage survey 31 December [2008]’ PHIAC, 2008, viewed 11 June 2009, <http://www.phiac.gov.au/statistics/survey/index.htm>
 6. N Roxon, ‘Second reading speech’.
 7. N Roxon, ‘Second reading speech’.
 8. Australian Government, *Portfolio budget statements 2009–10: budget related paper no. 1.10: Health and Ageing Portfolio*, Commonwealth of Australia, Canberra, 2009, p. 253, viewed 15 June 2009 [http://www.health.gov.au/internet/budget/publishing.nsf/Content/2009-2010_Health_PBS_sup1/\\$File/Department%20of%20Health%20and%20Ageing%20PBS.pdf](http://www.health.gov.au/internet/budget/publishing.nsf/Content/2009-2010_Health_PBS_sup1/$File/Department%20of%20Health%20and%20Ageing%20PBS.pdf).
 9. Australian Government, *Budget measures: budget paper no. 2: 2009–10*, Commonwealth of Australia, Canberra, 2009, p. 298 viewed 15 June 2009 <http://www.budget.gov.au/2009-10/content/bp2/html/index.htm>.

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Committee consideration

The main provisions of the Bill have been referred to the Community Affairs Legislation Committee for inquiry and report by 16 June 2009, in accordance with Senate resolutions of 14 May 2009 to refer certain budget-related bills to Senate Committees.

Position of significant interest groups/press commentary

The proposed provisions in this Bill relating to extended family policies have not attracted significant commentary, which contrasts with recent debate over changes to the private health insurance rebate. This is probably because, unlike the proposed changes to the private health insurance rebate, the effects of this Bill are not expected to reduce private health insurance membership; on the contrary, the stated aim is to bolster private health insurance uptake for young adults—where declines have been observed.

Financial implications

The proposed consequential amendments to the PHIA 2007 contained in this Bill along with the proposed provisions in the Private Health Insurance (National Joint Replacement Register Levy) Bill 2009, introducing a levy, are estimated to realise savings of \$5 million over four years.¹⁰

The Explanatory Memorandum to this Bill does not predict any financial implications for the proposed provisions to allow health insurers to offer permanently extended family policies covering the ‘dependent child non-student’. However, as the proposed provisions are intended to support the maintenance of private health insurance there may be financial implications if higher than expected Government expenditure on the private health insurance rebate occurs as a result.

The private health insurance rebate is a discount on private health insurance premiums paid by the Government. Those under 65 with private health cover currently receive a 30 per cent rebate on their health insurance premiums.¹¹ If the proposed provisions in this Bill

10. Explanatory memorandum, Private Health Insurance Legislation Amendment Bill 2009, p. 2.

11. For those aged 65–70 the rebate is set at 35 per cent and at 40 per cent for those aged over 70. The Government is proposing changes to these arrangements in a separate Bill. The *Fairer Private Health Insurance Incentives Bill 2009* is proposing changes to the rebate amounts based on income—effectively means-testing the rebate. For more details, see, A Biggs, *Fairer Private Health Insurance Incentives Bill 2009*, Bills digest no. 152 2008–09, Parliamentary Library, 5 June 2009, viewed 12 June 2009, <http://www.aph.gov.au/library/pubs/bd/2008-09/09bd152.pdf>

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result in increasing numbers of extended family policies being purchased (at a higher premium cost than a normal family policy), then it could be expected that Government expenditure on the rebate may also increase.

Main provisions

Schedule 1—Amendments

Amendments to the *Age Discrimination Act 2004*

Item 1 proposes to replace a reference to ‘Part 2–3’ in Schedule 2 with a reference to ‘Part 2–3 and subsection 63-5(4)’. This will allow the provisions of **proposed subsection 63-5(4)** of the PHIA 2007 to be lawful under the Age Discrimination Act.

Amendments to the *Private Health Insurance Act 2007*

Item 2 proposes to insert new words ‘or subsection 63-5(4)’ after ‘lifetime health cover’ into existing paragraph 55-5(2)(c). This will exclude premiums charged for the purchase of extended family policies from being discriminatory under the PHIA 2007.

Item 3 proposes to insert two new subsections. Proposed **subsection 63-5(4)** allows for a higher premium to be charged for a health insurance policy that includes a ‘dependent child non-student’ than the premium charged for the same policy that includes dependent children. Proposed **subsection 63-5(5)** defines the meaning of ‘*dependent child non-student*’ as being a dependent child who is aged between 18 to 24 (inclusive) and who is not in full time education. A ‘*dependent child*’ is already defined in the PHIA 2007 as one who is single, so marital status is not required to be specified in this proposed section.

Items 4 and 6 propose to insert definitions of the proposed national joint replacement levy. **Item 4** inserts the definition at the end of **section 304-10**, which lists private health insurance levies; **item 6** inserts the definition at the end of paragraph 307-1(1)(a) which deals with collection and recovery of levies.

Items 7 and 8 propose to substitute references to private health insurers at **subsection 307-5(1)** with a reference to a ‘person’ so as to include sponsors of joint replacement prostheses.

Item 9 proposes to insert the national joint replacement levy and late payment penalty for the levy, into a list of levies payable to the Commonwealth at **subsection 307-10(1)**.

Item 10 proposes to add the national joint replacement levy into a list of levies for which the Minister may choose to waive liability.

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Items 11 and 12 propose changes to the headings of **divisions 310** and **313** so as to include private health insurers.

Item 13 proposes to insert a definition of *‘dependent child non-student’* into the dictionary at **Schedule 1**. **Item 14** proposes to insert a definition of *‘national joint replacement register levy’* into the Dictionary at **Schedule 1**.

Concluding comments

This Bill proposes amendments that will insert a ‘dependent child non-student’ as a recognised category of insured person into the PHIA 2007. This will allow health insurers to continue to offer extended family policies covering young adults and to charge higher premiums for this category without being subject to unlawful discrimination provisions. These amendments are intended to bolster private health insurance membership among young adults. The Bill also proposes consequential amendments to the PHIA 2007 relating to the proposed establishment of the National Joint Replacement Register levy.

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