

EXPLANATORY STATEMENT

Issued by the Authority of the Private Health Insurance Administration Council

Private Health Insurance Act 2007

Private Health Insurance (Insurer Obligations) Amendment Rules 2010 (No 1.)

Authority for the Rules

The *Private Health Insurance (Insurer Obligations) Rules 2010* (the **Rules**) are established under section 163-1 of the *Private Health Insurance Act 2007* (the **Act**) and are made by the Private Health Insurance Administration Council (the **Council**) under item 2 of the table in section 333-25 of the Act.

Section 163-1 of the Act provides that:

- (1) The Private Health Insurance (Insurer Obligations) Rules may establish prudential standards relating to *prudential matters for private health insurers.
- (2) **Prudential matters** are matters relating to:
 - (a) the conduct by private health insurers of any of their affairs in such a way as:
 - (i) to keep themselves in a sound financial position; or
 - (ii) not to cause or promote instability in the Australian private health insurance system; or
 - (b) the conduct by private health insurers of any of their affairs with integrity, prudence and professional skill; but does not include matters relating to the solvency or capital adequacy of *health benefits funds.
- (3) A *prudential standard may impose different requirements to be complied with:
 - (a) by different classes of private health insurers; or
 - (b) in different situations; or
 - (c) in respect of different activities.
- (4) A *prudential standard may provide for the Council to exercise powers and discretions under the standard, including but not limited to discretions to approve, impose, adjust or exclude specific prudential requirements in relation to a particular private health insurer or a particular class of private health insurers.
- (5) A *prudential standard takes effect on the day on which it is established in the Private Health Insurance (Insurer Obligations) Rules, or on such later day as is specified in the Private Health Insurance (Insurer Obligations) Rules.

The Rules are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

All legal and other requirements for making the Rules have been met.

Purpose of the Rules

The purpose of these Rules is to establish (pursuant to section 163-1 of the Act) prudential standards for private health insurers, that:

- set minimum requirements for the governance arrangements of private health insurers
- specify appointed actuary requirements of private health insurers
- detail disclosure, reporting and notification requirements for private health insurers.

In relation to Appointed Actuaries and reporting and notification requirements the standards largely replace processes and requirements that were in place under the regulatory regime created by the *National Health Act 1953* (the **National Health Act**).

In relation to the Governance Standard the Rules will increase transparency within the industry, bring the industry in line with domestic and international practice, harmonise governance requirements across the industry and will form the basis for the Council to intervene on governance issues and further reduce the risk of an insurer failing.

In relation to the Disclosure Standard the Rules require private health insurers to provide information relating to interactions with contributors, members and other regulators, and exception reporting where an insurer is required to report on unusual events. This will allow the Council to be better placed to intervene earlier on issues of prudential risk and enhance its capacity to be a proactive and lawful regulator of the industry.

An explanation of each of the rules is set out in the **Attachment**.

Summary of impact of the Rules

These Rules were prepared under RIS ID 8072 and RIS ID 9764.

The impact of the reporting and notification requirements replace requirements previously imposed under the National Health Act as such the impact is in effect nil.

The likely impact of the Appointed Actuaries Standard is very small as they have been in place since 2007 and largely replace requirements and processes that were in place under the National Health Act. It is noted that the Council has required for the past six years private health insurers to appoint an actuary, who was required to provide a financial condition report to the insurer.

The Governance Standard will have a relatively minimal impact as most private health insurers have governance practices in place that are compliant with the standard.

The Disclosure Standard will have a negligible impact on private health insurers as the majority of the information required in the standard is either a duplicate of information that is already being provided to other regulators, the company's members or, in the case of unusual governance events, the board of the insurer.

Consultation

A draft of the Appointed Actuaries Standard was issued publicly on 7 February 2007. There were also public consultation forums on 19 February and 23 February 2007, where input on these rules was sought.

The first consultation draft of the Governance Standard was circulated on 21 November 2008. Based on feedback on the first draft, amendments were made to the Governance Standard and a second consultation draft was circulated on 10 July 2009.

The Disclosure Standard also underwent two rounds on industry and other major stakeholder consultations, with a draft framework promulgated on 17 May 2010 and the draft Disclosure Standard circulated on 27 August 2010. The industry and other relevant stakeholders were invited to provide feedback. Responses were received from five key stakeholders and private health insurers representing more than 85% of policyholders. The comments received as a result of the consultation process were taken into account by the Council in finalising these rules.

Documents incorporated by reference

Schedule 2, rule 11, section 10 of these Rules provides that a financial condition report on the private health insurer be prepared in accordance with the Institute of Actuaries of Australia's *Guidance Note 670 Financial Condition Reports for Health Insurers*, but as if that document was amended so that reference to provisions of the National Health Act are to the equivalent provisions in the new Act).

This Guidance Note is available from the Institute of Actuaries of Australia online at www.actuaries.asn.au, or by contacting the Institute at the following address:

The Institute of Actuaries of Australia
Level 7 Challis House
4 Martin Place
SYDNEY NSW 2000

Tel: +61 (2) 9233 3466
Fax: +61 (2) 9233 3446

Email: actuaries@actuaries.asn.au

The document can also be obtained by contacting the Council on (02) 6215 7900.

DETAILS OF THE *PRIVATE HEALTH INSURANCE (INSURER OBLIGATIONS) RULES 2010 (No. 1)*

PART 1 PRELIMINARY

1. Name of Rules

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Insurer Obligations) Amendment Rules 2010 (No. 1)*.

2. Commencement

The Rules commence on 1 January 2011.

The Rules do not have retrospective application.

3. Repeal

The *Private Health Insurance (Insurer Obligations) Rules 2009* are amended.

4. Definitions

Rule 4 defines terms used in the Rules.

PART 2 REPORTING AND NOTIFICATION REQUIREMENTS

5. Copies of reports to Council

Rule 5 details the requirement for copies of any reports made by the private health insurer to all or any of the policyholders of health benefits fund to be provided to the Council within 1 month after making the report or in such time as the Council allows (as per section 169-1 of the Act).

6. Information to be given to the Council annually

Rule 6 details the information that a private health insurer must give to Council for the purposes of complying with paragraph 169-5 (1) (b) of the Act.

Subsections 169-5 (3) and (4) of the Rules create an offence of strict liability for a failure to comply with section 169-5.

This information must be provided within three months at the end of each financial year, that is by 30 September or within such further time as the Council allows, as per subsection 169-5 (1) of the Act.

7. Certification requirements

Rule 7 establishes the certification requirements for the report required to be given to Council under subsection 169-5 (1) of the Act. Rule 7 subsection (1) provides that the report given to

Council under section 169-5 (1) of the Act, which contains the financial accounts and statements that Council provides and the statements specified in Rule 7, must be certified by two officers of the private health insurer to be true and correct. Rule 7 subsection (2) provides the form for the certification.

Subsection 169-5 (3) and (4) of the Act create an offence of strict liability for a failure to comply with section 169-5.

PART 3 PRUDENTIAL STANDARDS

8. Establishment of Prudential Standard

Rule 8 provides that Part 3 of the Rules establishes prudential standards relating to prudential matters for private health insurers under section 163-1 of the Act.

9. Application of Part 3

Rule 9 provides that Part 3 applies to all private health insurers.

10. Governance Standard

Rule 10 provides that Schedule 1 sets out the Governance Standard.

11. Appointed Actuaries Standard

Rule 11 provides that Schedule 2 sets out the Appointed Actuaries Standard.

12. Disclosure Standard

Rule 12 Provides that Schedule 3 sets out the Disclosure Standard.

SCHEDULE 1 – GOVERNANCE STANDARD (RULE 10)

1. Board composition

Section 1 sets out the requirements for the composition of the board of a private health insurer.

Subsection (1) provides that a board must have at least 5 directors.

Subsection (2) requires a board to have a majority of non-executive directors at all times.

Subsection (3) requires a board consisting of 5 to 7 directors to at all times have at least 2 independent directors and an independent chairperson.

Subsection (4) requires a board consisting of more than 7 directors to at all times have at least 3 independent directors and an independent chairperson.

Subsection (5) requires directors to have a range of skills, knowledge and experience to understand collectively the risks to the private health insurer, to understand the insurer's legal prudential obligations, to oversee effectively the management of the private health insurer

and to contribute effectively to the board's deliberations and processes.

Subsection (6) requires private health insurer to tell the Council about a change in board membership or a change in the name or contact details of a director within 28 days after the change and in a form approved by the Council.

Subsection (7) provides that an independent director of a private health insurer shall not cease to be regarded as an independent director merely because he or she is a director of the parent company of the private health insurer, or another subsidiary of the parent company of the private health insurer.

2. Chairperson

Section 2 sets out the requirements for the chairperson of a private health insurer.

Subsection (1) requires that the chairperson of a board must be an independent director.

Subsection (2) requires that a person may only be chairperson of a board if he or she has not been the chief executive officer (or equivalent) of the private health insurer at any time during the previous 3 years.

Subsection (3) provides the Council with the power to approve in writing a person who does not meet subsection (1) as chairperson of a board.

Subsection (4) provides that if the position of chief executive officer (or equivalent) is unexpectedly vacated, the chairperson may serve in the role for up to 90 days without Council approval.

Subsection (5) requires private health insurers to gain approval from the Council if a chairperson seeks to serve as chief executive officer (or equivalent) for more than 90 days.

3. Residency of directors

Section 3 sets out the residency requirements for directors of private health insurers.

Subsection (1) requires that the majority of directors of Australian-owned private health insurers must ordinarily reside in Australia.

Subsection (2) requires that for a foreign-owned private health insurer at least 2 directors must be in Australia for a majority of the time within any 12 month period and at least 1 of the directors must be an independent director.

4. Directors — associates of shareholders

Section 4 requires that for a private health insurer that is a company limited by shares, the number of directors who may be associates of a shareholder must be proportionate to the shareholder's shareholding.

5. Board charter

Section 5 requires a private health insurer have a board charter that, in writing which:

- sets out the roles and responsibilities of the board, committees and management of the private health insurer
- provides a structure for determining how board decisions are to be made
- encourages directors to exercise independent thinking and judgment in the discharge of their responsibilities
- if the private health insurer is part of a corporate group — clearly documents how the board will interact with the group.

6. Delegation

Section 6 sets out the delegation requirements for boards of private health insurers.

Subsection (1) provides that a board may delegate its authority to a person or a committee.

Subsection (2) requires that any delegation under subsection (1) must be in writing and retained as a record by the private health insurer.

Subsection (3) provides that a board must ensure there are procedures for it to monitor the exercise of delegations and must not abrogate its responsibilities through the use of delegations.

7. Board policies

Section 7 sets out private health insurers requirements to establish board policies.

Subsection (1) provides that a board must ensure that the private health insurer has written policies to manage the insurer's risks, and the private health insurer has procedures in place to monitor and evaluate compliance with policies and that these are regularly reviewed.

Subsection (2) requires that if the private health insurer is part of a corporate group and applies group policies or carries out group functions, the board of the insurer must ensure that the group policies or functions take account of the business requirements of the insurer.

8. Board performance

Subsection (1) requires that a board must have a policy and procedures for annually assessing its performance against its objectives.

Subsection (2) requires that the policy and procedures must provide for an assessment of individual directors, board committees and the board collectively, and provides example objectives.

9. Board renewal

Section 9 requires that a board must have a policy about board renewal that addresses how the board will renew membership to ensure that it remains open to new ideas and independent thinking and that consideration is given to the length of time a director has served on the board. The board renewal policy must also comply with the requirements Section 1 – board composition.

10. Board audit committee

Section 10 sets out private health insurers requirements for a board audit committee.

Subsection (1) requires a private health insurer must have a board audit committee.

Subsection (2) provides that the functions of a board audit committee must include an objective, non-executive review of the effectiveness of the private health insurer's financial reporting and risk management framework.

Subsection (3) provides that a board audit committee need not undertake a review of risk management if there is another board committee undertaking this function.

Subsection (4) sets out a list of requirements for the board audit committee.

Subsection (5) requires that the chairperson of the board audit committee must be an independent director.

Subsection (6) provides that chairperson of the board may sit on the board audit committee but must not chair the committee.

Subsection (7) sets out a list of minimum requirements for the board audit committee charter..The board audit committee charter must be approved by the board.

Subsection (8) sets out a list of required activities for the board audit committee.

Subsection (9) provides that if a private health insurer is part of a corporate group, the insurer may use an audit committee of the group to satisfy subsection (1) and sets out the list of conditions that must be met.

11. Internal audit

Section 11 sets out the internal audit requirements for a private health insurer.

Subsection (1) requires a private health insurer to have an internal audit function that is adequately resourced and skilled for the size and corporate complexity of the insurer.

Subsection (2) provides that the board must be satisfied that the internal audit function is independent, the internal audit processes are clearly documented and subject to regular review and that the internal audit function has unfettered access to all business operations of the insurer.

14. Review of certain Council decisions

Section 14 provides that a person may apply to the Administrative Appeals Tribunal for review of a Council decision not to approve the person as an independent director or a Council decision not to approve, under subsection 2 (3), a person as chairperson of a board.

SCHEDULE 2 – APPOINTED ACTUARIES STANDARD (RULE 11)

PART 1 GENERAL

1. Insurers to Notify Actuaries of Certain Circumstances

Section 1 is a new prudential standard to ensure that insurers notify actuaries about notifiable circumstances.

Subsection (1) provides a private health insurer to inform its appointed actuary about any notifiable circumstances and provide to the actuary all relevant information and documents about that notifiable circumstance.

Subsection (2) requires the private health insurer to provide information as soon as practicable after becoming aware of a notifiable circumstance.

Subsection (3) provides a list of notifiable circumstances.

Section 9 deals with the appointed actuaries' obligations when informed of a notifiable circumstance.

2. Insurers to prepare financial condition report

Section 2 requires a private health insurer to request after the end of each financial year that its appointed actuary prepare a financial condition report and provide a copy of that report to the Council within three months after the end of the financial year, which is by 30th of September each year.

3. Eligibility for Appointment

Section 3 defines the criteria for appointment of a person as a private health insurer's appointed actuary. An appointed actuary must be ordinarily resident in Australia, be a Fellow of the Institute of Actuaries of Australia and have been a Fellow for at least 5 years. In addition, the appointed actuary must not be the insurer's chief executive officer or a director, or member of the committee of management or other governing body, of the insurer. If a person does not meet the eligibility criteria, the Council may approve the appointment of the person as an appointed actuary. A decision to give such an approval is a reviewable decision under item 20 of the table in section 328-5 of the Act.

4. Declaration by the Council

Section 4 sets out the process by which the Council may make a declaration that a person is not eligible for appointment as an appointed actuary to a private health insurer.

Subsection (1) requires that any declaration by the Council under subsection 160-5 (2) of the Act is to be made in accordance with this rule.

Subsection (2) permits the Council to make a written declaration if it is satisfied that the person has previously failed to adequately or properly perform the duties, or exercise the powers of an appointed actuary under the Act, or does not possess the competence, character,

diligence, honesty, integrity or judgment to adequately or properly perform the duties of an appointed actuary.

Subsection (3) requires that before making a declaration the Council must give written notice to the person of the matters that it is considering and providing an opportunity for the person to show cause why such a declaration should not be made.

Subsection (4) requires that the Council give the declaration in writing to the person affected.

Subsection (5) states that the declaration takes effect from the date specified in writing and remains in effect until revoked by the Council.

5. Notification of Appointment etc

Section 5 sets out the requirements for notification of the appointment of a person as an insurer's appointed actuary.

Subsection (1) requires written notification of the appointment of a person as an insurer's appointed actuary to be provided to the Council within 28 days of the appointment being made.

Subsection (2) details the information that must be provided in the written notice to the Council.

Subsection (3) details the requirement that the private health insurer must notify the Council in writing of the cessation of the appointment of person as an insurer's appointed actuary within 28 days of the cessation of the appointment.

Subsection (4) details the information that the notification of cessation of appointment must include, including the date of the cessation and the reason or reasons for the cessation of the appointment.

6. Cessation of Appointment

Section 6 sets out the circumstances in which a person may cease to hold an appointment as an appointed actuary.

Subsection (1) lists the reason why a person may cease to hold an appointment as an appointed actuary.

Subsection (2) provides that if a person resigns, or is terminated from being an appointed actuary, the person ceases to be an appointed actuary for the purposes of the Act on and from the date that the resignation or termination takes effect.

PART 2 DUTIES AND POWERS OF APPOINTED ACTUARIES

7. Performance of duties and exercise of powers by appointed actuary

Section 7 sets out duties of appointed actuaries.

Subsection (1) requires that an appointed actuary complies with this rule.

Subsection (2) requires that the appointed actuary performs the duties mentioned in Subsection (3) or if the insurer has undertaken this work, the actuary reviews the insurer's material and advises the insurer on the matter

Subsection (3) sets out the duties that the appointed actuary must perform.

8. Application of skill and diligence

Section 8 requires that an appointed actuary must comply with professional requirements and apply skill and diligence in carrying out the duties and exercising their powers.

9. Notifiable circumstances

Section 9 requires the appointed actuary to provide advice to the private health insurer as to whether actuarial advice is warranted on notifiable circumstances.

Subsection (1) requires that the appointed actuary must advise the private health insurer whether actuarial advice is necessary in relation to a notifiable circumstance.

Subsection (2) requires that if a private health insurer requests advice from the appointed actuary in relation to a notifiable circumstance, then the actuary must provide a report to the insurer in relation to that circumstance.

Subsection (3) requires that where a notifiable circumstance exists, and the fund has not sought advice and the appointed actuary has notified the insurer that advice is warranted in relation to that circumstance, then the actuary must inform the Council if the insurer does not seek such advice within 21 days.

Subsection (4) requires that the report referred to in subsection (2) includes information of the appointed actuary's assessment of the actual and potential impact of the notifiable circumstance on health insurance business of the insurer.

Subsection (5) requires that the appointed actuary must notify the private health insurer of any event known to the actuary which the actuary reasonably expects to have a material impact on the health insurance business of the insurer.

Subsection (6) provides that subsection (5) does not apply if the disclosure would breach a duty of confidentiality owed by the appointed actuary to any other party.

10. Financial condition report

Section 10 requires the appointed actuary to prepare a financial condition report in respect of each financial year at the request of the insurer..

The report must be prepared in accordance with the Institute of Actuaries of Australia's *Guidance Note 670 Financial Condition Reports for Health Insurers* (as if it were amended to reflect differences in terminology between the National Health Act and the Act).

The appointed actuary must submit the financial condition report to the insurer.

SCHEDULE 3 – DISCLOSURE STANDARD (RULE 12)

1. Insurers must give copies of certain forms lodged with ASIC to Council

Section 1 requires private health insurers to provide the Council with a copy of the forms set out in (a) through (e) at the same time as lodging with ASIC. For this purpose the private health insurer may achieve compliance by mailing a copy of the form to PHIAC at PO Box 4549, Kingston ACT 2604, or emailing a copy of the form to phiac@phiac.gov.au marked “Disclosure Standard compliance” as soon as practicable after lodging the form.

Subsection (1) sets out the prescribed forms, namely:

- (a) Form 205 — Notification of resolution;
- (b) Form 315 — Notification of resignation, removal or cessation of auditor;
- (c) Form 388 — Copy of financial statements and reports;
- (d) Form 484 — Change to company details;
- (e) Form 2501 — Application for extension of time to hold Annual General Meeting.

Subsection (2) requires the private health insurer to also provide the Council with copies of ancillary documents to the forms in subsection (1) as required by the Corporations legislation.

Subsection (3) provides that if a form number is prescribed in the Corporations Regulations that is the correct reference to the form. However, if the form is not prescribed in those Regulations the reference shall be the number that if the approved by ASIC.

2. Insurers to give copies of notice of meetings of members to Council

Section 2 requires private health insurers to notify the Council of meetings of members.

Subsection (1) (a) requires the private health insurer to give the Council a written notice of meetings in accordance with the provisions of section 249J of the *Corporations Act 2001*. For this purpose the Council may be notified by mail to PHIAC at PO Box 4549, Kingston ACT 2604, or email to phiac@phiac.gov.au marked “Disclosure Standard compliance”.

Subsection (1) (b) requires the private health insurer to give the Council copies of any other communications that a member of the insurer is entitled to receive under the *Corporations Act 2001*.

Subsection (2) (a) provides that if the private health insurer is a listed company they must give the Council 28 days notice of the meeting.

Subsection (2) (b) provides that if the private health insurer is not a listed company they must give the Council 21 days notice of the meeting, or the period specified in the private health insurer’s constitution, whichever is the longer. If the meeting is called on shorter notice then the provisions in section 249H (2), (3) and (4) of the *Corporations Act 2001* apply.

For the purpose of this section a notice sent by post is taken to be given 3 days after it is posted and a notice sent by email is taken to be given on the day after it is sent.

3. Insurers to notify Council of resolution to remove director

Section 3 requires private health insurer to notify the Council of a resolution to remove a director. This will allow the Council to consider if the board composition still meets the Governance Standard in Schedule 1 and it may be indicative of instability at board level.

Subsection (1) (a) requires a private health insurer to notify the Council in writing, if the insurer by resolution removes a director from office.

Subsection (1) (b) requires a private health insurer, which is not a public company, to notify the Council in writing if the directors of the insurer by resolution remove a director from office.

Subsection (2) provides that the insurer must notify the Council within 14 days after the day the resolution is passed.

4. Insurers to notify Council of termination of person's complying private health insurance policy

Subsection 4(1) requires a private health insurer to notify the Council, in writing, of the termination of a person's complying health insurance policy. The purpose is to allow a better understanding of the numbers and reasons that lead to a termination from a fund and the appropriateness of such termination. A notice is not required where the termination relates to the payment of premiums or as a result of a request to terminate the policy.

Subsection (2) provides that a notification must be provided within 14 days after the end of each month. The notification only has to include the number of terminations within the month and the reasons for each termination.

5. Insurers to notify Council of investigation of insurer or officer of insurer

Section 5 requires a private health insurer to notify the Council of an investigation into an insurer or an officer of an insurer in specific circumstances. This information reflects the disqualified person criteria in section 166-15 of the Act and amongst other things will assist the Council in ensuring disqualified persons do not act as a director or a senior manager of an insurer.

Subsection (1) (a) defines the scope of the investigation to criminal or civil proceedings in relation to alleged or suspected contraventions of:

- the Act;
- the *Corporations Act 2001*;
- the *Trade Practices Act 1974*; or
- a law in force in Australia, or of a foreign country, if the offence concerns dishonest conduct or conduct relating to a financial sector company within the meaning of the *Financial Sector Shareholding Act 1998*.

Subsection (1) (b) requires the Council to be notified of an investigation of an insurer or an officer of an insurer by another regulatory authority that is reasonably likely to affect the operations of the insurer. It does not encapsulate investigations of a personal nature which are not considered by the insurer to impact on the affairs of an insurer, such as personal family law matters or traffic violations.

Subsection (1) (c) requires an insurer to notify the Council if it gives a written undertaking to the Australian Competition and Consumer Commission under section 87B of the *Trade Practices Act 1974*.

Subsection (2) provides that the insurer must give to the Council details of a matter mentioned in subsection (1) within 14 days of the insurer becoming aware of the matter.

Subsection (3) requires the insurer to report the outcome of the matter referred to in subsection (1) to the Council within 14 days after the day the insurer is notified of the outcome. The insurer will not be at fault if they are not notified of the outcome of the matter.

Subsection (4) (a) clarifies what is not intended to constitute an investigation and as such is not required to be notified to Council. In particular, an insurer is not required to notify the Council of a preliminary inquiry for the purpose of deciding how to deal with a complaint or whether to conduct an investigation in relation to the insurer or an officer of an insurer.

Subsections (4) (b) through to (e) excludes specific investigations conducted under the Act by the Minister or the Department of Health and Ageing and the Private Health Insurance Ombudsman, namely:

- a request under section 96-15 of the Act for a private health insurer to give specified information about a complying health insurance product or products, or a complying health insurance policy of the insurer
- a request by the Minister to explain operations under section 191-1 of the Act
- an investigation of the operations of a private health insurer under Division 194 of the Act
- the exercise of search powers by an authorised officer in accordance with Division 313 of the Act.

Subsection (4) (f) excludes investigations conducted by the Private Health Insurance Ombudsman as these investigations fall outside of the legislative responsibilities of the Council.

6. Insurer must notify Council of unusual incidents or circumstances

Subsection 6 (1) provides that a private health insurer must notify the Council as soon as practicable after an unusual incident or circumstance occurs that affects prudential matters relating to the insurer. This may be done by telephoning (02-62157909), writing to PHIAC at PO Box 4549, Kingston ACT 2604, or emailing phiac@phiac.gov.au.

Subsection (2) provides clarification as to the types of unusual events that may be considered to affect prudential matters relating to the insurer. The provision sets out a non-exhaustive list of examples which set the threshold for what is a notifiable incident. These include

- fire, flood or other damage to infrastructure resulting in a substantial loss of operational capacity of the insurer for more than 72 hours;
- total or partial loss of information and communications technology infrastructure for more than 72 hours;
- an accident that causes the death of, or serious personal injury to, a substantial proportion of the officers of the insurer; or causes a substantial proportion of the officers of the insurer to be incapacitated from performing work;
- biohazard, bomb threat, lockdown or other event that results in a substantial loss of operational capacity of the insurer for more than 24 hours.

7. Exemptions and modifications by Council

Section 7 provides the Council with the power to grant exemptions or modify the disclosure requirements of the standard in its application to a particular insurer. The Council may do this on a written application by the insurer.

8. Transitional arrangements

Section 8 provides some flexibility where a private health insurer is not able to comply with some or all of the provisions set out in the disclosure standard at the commencement date.

Subsection (1) provides that if a private health insurer is not able to comply with this Standard on the commencement date it must write to the Council and identify a date by which time it can comply with all of the provisions.

Subsection (2) provides that the Council must approve a date for compliance by the private health insurer with the identified provisions and tell the insurer, in writing, of the approved date, which need not be the same as the date requested.

Subsection (3) requires the private health insurer to comply with the identified provisions by the date approved by the Council.