



BERMUDA

HEALTH INSURANCE AMENDMENT ACT 2012

2012 : 14

TABLE OF CONTENTS

1	Citation
2	Amends section 1
3	Amends references to standard hospital benefit
4	Amends section 3A
5	Transfers responsibility to the Council and amends sections 26 and 28 to 30
6	Amends section 29A
7	Amends section 31
8	Amends section 32
9	Amends section 33
10	Amends section 40
11	Minor amendments
12	Amends Health Insurance (Licensing of Insurers) Regulations 1971
13	Amends Health Insurance (Approved Scheme) Regulations 1971
14	Commencement

WHEREAS it is expedient to amend the Health Insurance Act 1970;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Health Insurance Amendment Act 2012.

Amends section 1

2 In section 1(1) of the Health Insurance Act 1970 ("the principal Act")—

HEALTH INSURANCE AMENDMENT ACT 2012

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- (a) in the definition of “approved scheme”, delete “Minister” and substitute “Council”;
- (b) in the definition of “health insurance”, delete “any standard hospital benefit” and substitute “standard hospital benefit and medical, dental or other professional healthcare procedures (whether provided at or outside the hospital)”;
- (c) in the definition of “insured”, delete “in respect of hospital treatment”;
- (d) in the definition of “licensed insurer”, delete “Minister of Finance” and substitute “Council”;
- (e) insert in the appropriate alphabetical position—

“health service provider” has the meaning given in section 2 of the Bermuda Health Council Act 2004;”.

Amends references to standard hospital benefit

3 The principal Act is amended—

- (a) by deleting “any” from the expression “any standard hospital benefit” in section 2(1)(a), (b), (bb) and (e); and
- (b) by deleting “full” from the expressions “full standard hospital benefit” and “full standard hospital benefits” in section 20(1) and the proviso, section 26(2), section 27(1) and (2)(b).

Amends section 3A

4 Section 3A of the principal Act is amended by inserting the following after subsection (3)—

“(3A) There shall be paid out of the Mutual Re-insurance Fund any expenses incurred by the Committee in carrying out its functions in respect of the Fund.”

Transfers responsibility to the Council and amends sections 26 and 28 to 30

5 (1) Responsibility for the licensing of insurers under the principal Act is transferred from the Minister of Finance to the Bermuda Health Council.

(2) Responsibility for the approval of health insurance schemes under the principal Act is transferred from the Minister responsible for health to the Bermuda Health Council.

(3) Accordingly, the principal Act is amended as follows—

- (a) in section 26(2) and (3), delete “Minister” (in each place) and substitute “Council”;
- (b) in section 26(2), delete “he is”, “his” and “he may” and substitute “it is”, “its” and “it may”;

## HEALTH INSURANCE AMENDMENT ACT 2012

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- (c) in sections 28, 29, 29A and 30, delete “Minister of Finance” (in each place) and substitute “Council”;
- (d) in section 28(2), (3) and (4), delete “he may” (in each place) and substitute “it may”;
- (e) in section 29, delete “he shall give his reasons” and substitute “it shall give its reasons”;
- (f) in section 29A(1)(a), delete “he is” and substitute “it is”.

### Amends section 29A

6 In section 29A of the principal Act, at the end of subsection (1)(f) insert “and in accordance with regulations made under section 40(1ZA)”.

### Amends section 31

7 Section 31 of the principal Act is amended as follows—

- (a) in subsection (1), after “hospital treatment” insert “in respect of standard hospital benefit”;
- (b) in subsection (2), after “being hospital treatment” insert “in respect of standard hospital benefit”;
- (c) in subsection (3), at the end insert “insofar as it relates to standard hospital benefit”;
- (d) in subsection (4)—
  - (i) delete “other than the Council”;
  - (ii) after “by the insurer” insert “insofar as it relates to standard hospital benefit”;
- (e) in subsection (5), after “contract of health insurance” (in both places) insert “insofar as it relates to standard hospital benefit”;
- (f) in subsection (6), after “hospital treatment” insert “in respect of standard hospital benefit”.

### Amends section 32

8 In section 32 of the principal Act, after “hospital treatment” in subsections (1) (in both places) and (3), and after “hospital expenses” in subsection (2), insert “in respect of standard hospital benefit”.

### Amends section 33

9 In section 33 of the principal Act, delete “\$250” and substitute “\$2000”.

### Amends section 40

10 In section 40 of the principal Act—

## HEALTH INSURANCE AMENDMENT ACT 2012

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- (a) in subsection (1)(l), after “fine” insert “or penalty”; and
- (b) after subsection (1) insert—

“(1ZA) Without prejudice to the generality of subsection (1), regulations made under that subsection may also—

- (a) prohibit a health service provider from requiring an insured person to pay directly to the provider any part of the cost of an insured procedure which is payable by a licensed insurer (“the insured portion”);
- (b) prescribe the manner and time within which a licensed insurer must make available to health service providers current information as to the persons insured by the insurer, insured procedures and the insured portion;
- (c) prescribe the manner and time within which a claim in respect of the insured portion must be submitted by a health service provider to a licensed insurer, and the data to be included in the claim;
- (d) prescribe the manner and time within which a licensed insurer must pay the insured portion to a health service provider;
- (e) provide for exceptions in prescribed circumstances.”

### Minor amendments

11 In sections 2(2) and 38(1) of the principal Act, after “(b)” insert “, (bb)”.

### Amends Health Insurance (Licensing of Insurers) Regulations 1971

12 The Health Insurance (Licensing of Insurers) Regulations 1971 are amended as follows—

- (a) in regulations 2, 3 and 4, delete “Minister” (in each place) and substitute “Council”;
- (b) in regulation 2, delete “March” and substitute “December”;
- (c) in regulation 4, delete “\$550” and substitute “\$1000”;
- (d) in regulation 5, after “application for” insert “grant or renewal of”;
- (e) delete the Notes to the Form in the Schedule and substitute—

“Notes:

1. If the application is for the first grant of a licence, this form must be submitted to the Council together with—

- (a) a copy of each type of contract of health insurance intended to be offered by the applicant to the public;

- (b) a copy of the latest financial statements relating to the business of the applicant;
- (c) confirmation that the applicant has met the registration requirements of the Bermuda Monetary Authority under the Insurance Act 1978;
- (d) such other information as the Council may reasonably require to determine the suitability of the applicant to undertake insurance business.

2. If the application is for the renewal of a licence, this form must be submitted to the Council together with—

- (a) a copy of the audited statutory return submitted most recently by the applicant to the Bermuda Monetary Authority;
- (b) a completed Bermuda Health Council Annual Health Insurance Return for the period 1 April in any given year to 31 March in the following year, setting out such statistical data as the Council may require, including (but not limited to)—
  - (i) the number of persons insured;
  - (ii) the value and number of claims paid; and
  - (iii) the total value of premiums collected;
- (c) a statement from the applicant's auditors verifying—
  - (i) the number of individual policyholders eligible for standard hospital benefit under the applicant's health plans; and
  - (ii) the related premium amounts paid to the Mutual Reinsurance Fund by the applicant during the most recent fiscal year ending 31 March;
- (d) the total number of persons insured for benefits supplemental to standard hospital benefit as at 31 March in any given year;
- (e) a copy of each form of health insurance offered for sale in respect of—
  - (i) standard hospital benefit;
  - (ii) group health policy;
  - (iii) individual health policy;
- (f) a copy of the most recently published audited financial report of the parent or majority owner of the applicant;
- (g) any other relevant information required by the Council for the purposes of health system analysis, planning and management.

## HEALTH INSURANCE AMENDMENT ACT 2012

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3. Where the applicant operates in Bermuda through an agent the information required relates to the business of the principal.”

Amends Health Insurance (Approved Scheme) Regulations 1971

13 The Health Insurance (Approved Scheme) Regulations 1971 are amended as follows—

- (a) in regulation 2—
  - (i) renumber the existing provision as paragraph (1); and
  - (ii) delete the proviso and insert—

“(2) But the Council may, in any particular case where it considers it appropriate to do so, approve a proposed scheme which applies to less than one hundred employees.”;

- (b) in regulation 3, delete “approval by the Minister” and substitute “grant or renewal of approval by the Council”;
- (c) in regulation 4, delete “\$400” and substitute “\$1000”;
- (d) delete the Notes to the Form in the Schedule and substitute—

“Notes:

1. If the application is for the first grant of a licence, three copies of this form must be submitted to the Council together with—

- (a) three copies of the proposed scheme including all terms and conditions thereto;
- (b) a copy of the undertaking of a surety required by section 26(3) of the Act; and
- (c) such other information as the Council may reasonably require to approve the proposed scheme.

2. If the application is for the renewal of a licence, this form must be submitted to the Council together with—

- (a) financial statements (a balance sheet and income statement) of the health scheme for the most recent fiscal year, signed by a senior financial officer of the company or organisation sponsoring the scheme;
- (b) a completed Bermuda Health Council Annual Health Insurance Return for the period 1 April in any given year to 31 March in the following year, setting out such statistical data as the Council may require, including (but not limited to)—
  - (i) the number of persons insured;

## HEALTH INSURANCE AMENDMENT ACT 2012

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- (ii) the value and number of claims paid; and
- (iii) the total value of premiums collected;
- (c) a statement from the applicant's auditors verifying—
  - (i) the number of individual persons eligible for standard hospital benefit under the approved scheme; and
  - (ii) the related premium amounts paid to the Mutual Reinsurance Fund by the approved scheme during the most recent fiscal year ending 31 March;
- (d) the total number of persons insured for benefits supplemental to standard hospital benefit as at 31 March in any given year;
- (e) a copy of the schedule of benefits notice provided to the employer and other persons covered under the scheme;
- (f) a copy of the contract of surety purchased to guarantee an approved scheme's obligations to pay claims;
- (g) any other relevant information required by the Council for the purposes of health system analysis, planning and management.”

### Commencement

14 This Act comes into operation on 1 August 2012.

[Assent Date: 30 March 2012]

[Operative Date: 01 August 2012]