

Insurance Regulations 2002 2002 No. 103

EXPLANATORY STATEMENT

Statutory Rule 2002 No. 103

Issued by the Authority of the Minister for Revenue and Assistant Treasurer

Insurance Act 1973

Insurance Regulations 2002

Section 132 of the *Insurance Act 1973* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act and the *Insurance Regulations 1974* (Old Regulations) provide for the regulation of general insurers by the Australian Prudential Regulation Authority (APRA).

The purpose of the Regulations is to repeal and replace the Old Regulations with the *Insurance Regulations 2002* (New Regulations) as a means of rationalising provisions no longer in use across a number of Regulations.

The Old Regulations have been made redundant as a total of 17 Old Regulations are now included under other Acts, Guidance Notes and Standards. The Regulations to be included in the *Insurance Regulations 2002* are those that have been carried over from the Old Regulations which are still in force or else made necessary by the repeal of provisions in the Act by the *General Insurance Reform Act 2001*. The regulations to be included in the New Regulations are:

- a list of prescribed bodies corporate and prescribed insurance business exempted from the application of the Insurance Act;
- notifications to APRA of commencement or cessation of a body corporate conducting insurance business; and
- the processes and costs involved in inspecting the Register of General Insurers and Authorised NOHCs and/or an inspection of auditors' certificates.

The Regulations commence from 1 July 2002.

Details of the Regulations are set out in the Attachment.

Authority: Section 132 of the *Insurance Act 1973*

Amendments to the Old Regulations

Item [1] - Name of Regulations

Item 1 provides that these Regulations are the New Regulations.

Item [2] - Commencement

Item 2 provides that the New Regulations commence on 1 July 2002.

Item [3] - *Insurance Regulations 1974* - Repeal

Item 3 repeals all Statutory Rules under the Old Regulations.

The repeals are have been implemented as the majority of regulations are no longer in force, or they have been replaced by new legislation, standards or guidance notes.

Regulations 1, 2 (the definition of the Act), 4AA, 4A, 26, 27, 28 and 29 have all been included in complete or amended form in the New Regulations.

Regulations 2 (applicant, class of insurance business and the forms determination) and 3A have been made redundant as a result of other amendments.

Regulations 3, 3B, 3C and 8 have been replaced by Reporting Standards (Div. 2) under the *Financial Sector (Collection of Data) Act 2001* (FSCoDA).

Regulations 5 and 7 have been replaced by the Authorisation Guidance Note.

Regulations 5A and 6 have been replaced by the Risk Management Prudential Standard.

Regulations 8AA, 8A, 9, 10 and 14 are redundant as the associated sections in the *Insurance Act 1973* (Insurance Act) will be repealed by the *General Insurance Reform Act 2001* (Reform Act).

Regulation 12A is redundant since the reporting requirements for Lloyd's are in an APRA determination made on 9 June 2000.

Regulation 25 is redundant, as the associated section in the Insurance Act has been repealed by the FSCoDA.

Regulation 26A is redundant, as the associated section in the Insurance Act has been repealed by the *Corporations (Repeals, Consequential and Transitionals) Act 2001*.

Item [4] - Definition

Item 4 replaces Regulation 2 of the Old Regulations.

Item [5] - Prescribed bodies corporate

Item 5 lists prescribed bodies corporate exempted from the application of the Insurance Act as per Schedule 1, for the purposes of paragraph 5(2)(b) of the Insurance Act.

It replaces the previous list of prescribed bodies corporate contained in subsections 5(2), 5(3) and 5(4) of the Insurance Act, which will be repealed on the commencement of the Reform Act.

Item [6] - Prescribed insurance business

Item 6 lists prescribed insurance business exempted from the application of the Insurance Act as per Schedule 2, for the purposes of paragraph 5(2)(c) of the Insurance Act.

Item 6 replaces subsection 5(2A) of the Insurance Act (repealed on the commencement of the Reform Act) and Regulations 4A and 4AA of the Old Regulations. The change ensures that prescribed insurance business is listed under Schedule 2 rather than in the body of the Regulations.

Item [7] - Notice of commencement and cessation of businesses

Item 7 is Regulation 26 from the Old Regulations, combined with an Insurance Act reference change to correspond with the amendments made under the Reform Act.

Item [8] - Applications under section 123 of the Act

Item 8 is Regulation 27 from the Old Regulations.

Item [9] - Prescribed fee - section 123

Item 9 is Regulation 28 from the Old Regulations.

Item [10] - Copies of documents to be provided by APRA

Item 10 is a rewrite of Regulation 29 from the Old Regulations to improve its readability. The meanings and implications of the two Regulations are the same.

Schedule 1 - Prescribed bodies corporate

Schedule 1 lists the prescribed bodies corporate for the purposes of item 5. It has been updated to remove all obsolete references.

Schedule 2 - Prescribed insurance business

Schedule 2 lists prescribed insurance business for the purposes of item 6.