

# EXPLANATORY STATEMENT

## **Issued by authority of the Assistant Treasurer**

*Terrorism Insurance Act 2003*

*Terrorism Insurance (Premiums) Direction 2019*

Paragraph 38(2)(d) of the *Terrorism Insurance Act 2003* (the Act) provides that the Minister may give written directions to the Australian Reinsurance Pool Corporation (ARPC) setting premiums that the ARPC is to charge in respect of contracts of reinsurance. The Act established the ARPC and the framework for the Government's terrorism insurance scheme. The Act effectively deems terrorism risk cover into eligible insurance contracts by rendering terrorism exclusion clauses void. Insurance companies may then reinsure their additional risk with the ARPC, in which case a premium is payable to the ARPC. The premium payable is calculated according to a system of tiers which are set by reference to postcodes. The tiers are set to reflect the risks of various locations.

The *Terrorism Insurance (Premiums) Direction 2019* (the Direction) allocates properties in Australian postcodes to one of three 'tiers' which are broadly representative of risk, and specifies a premium amount payable to the ARPC according to the tiers. Properties allocated to Tier A are those in postcodes covering the central business districts of Australian cities with a population of over one million. Properties allocated to Tier B are those in postcodes covering the urban areas of all state and territory capital cities and other Australian cities with a population of over 100,000. Properties allocated to Tier C are those in postcodes not allocated to either Tier A or B.

The Direction makes four key changes to the direction previously in force, the *Terrorism Insurance Act 2003 – Premiums Direction 2017*.

First, in order to ensure that all postcodes are allocated to the correct tier, the ARPC engaged Finity Actuarial and Insurance Consultants to undertake a review in order to capture demographic and risk rating changes that have taken place since the last postcode review in 2017. The Direction updates the postcode allocation list, consistent with the findings of the review undertaken, so that appropriate premiums may be charged to reinsure properties in those postcodes.

These changes:

- reallocate 2007 to Tier A from Tier B;
- reallocate 2233, 2557, 2765, 2912, 3059, 3063, 3336, 4510, 6038, 6069, 6172 to 6175, 6180 and 6210 to Tier B from Tier C; and
- allocate 2901 to Tier C.

The complete, revised allocations can be found in sections 6 and 7 of the Direction.

Second, the list of definitions has been updated. The definitions for ‘Australia Post’, ‘population centre’, ‘reinsured’ and ‘Tier A, B, C postcode’ have been removed. ‘Australia Post’ is instead referred to as the ‘Australian Postal Corporation’ in the text of the direction, ‘population centre’ and ‘Tier A, B, C postcode’ are incorporated into the sections outlining the different tiers, and ‘reinsured’ is instead used as a tag in subsection 9(1). The definition for ‘premium income’ has moved to section 9, and the definitions for ‘Tier A property’ and ‘Tier B property’ are integrated into sections 6 and 7 respectively. The definition for ‘Tier C’ property has been amended so that it includes any eligible property that is not a Tier A or B property. The Direction includes definitions for ‘reinsured eligible insurance contract’ and ‘amount’, both of which were previously incorporated into operative subsections. These changes do not alter the substantive effect of the previous direction but clarify and simplify the new Direction.

Third, some provisions have been refined to improve clarity and accuracy, including sections 7, 8 and 9.

Fourth, the Direction repeals the *Terrorism Insurance Act 2003 – Premiums Direction 2015* and the *Terrorism Insurance Act 2003 – Premiums Direction 2017*. There is some uncertainty as to whether the *Terrorism Insurance Act 2003 – Premiums Direction 2017* was fully effective in repealing the *Terrorism Insurance Act 2003 – Premiums Direction 2015*. As such, in order to maintain the integrity of the statute book, both previous instruments are repealed.

Apart from changes to the postcode allocation list, the Direction does not alter to operation of the scheme.

The Direction is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Direction commences on 1 July 2019.

## **Statement of Compatibility with Human Rights**

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

### **Terrorism Insurance (Premiums) Direction 2019**

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**

This Legislative Instrument sets out how, under section 38 of the *Terrorism Insurance Act 2003*, the Australian Reinsurance Pool Corporation is to calculate the premium for a reinsured eligible insurance contract. This premium is based on whether the property to be insured is a Tier A, B or C property. Properties are ranked according to the postcode in which they are located, with status for postcodes determined by factors such as population size and risk factor for events covered by terrorism insurance.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.