

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing**

#### *Terrorism Insurance Act 2003*

#### *Terrorism Insurance Amendment (Cyclones and Related Flood Damage) Regulations 2021*

The *Terrorism Insurance Act 2003* (the Act) was established following the events of 11 September 2001 and the withdrawal of terrorism cover by insurance companies. The Act establishes the Australian Reinsurance Pool Corporation (ARPC) to provide insurance cover for eligible terrorism losses and to perform any other function prescribed in the *Terrorism Insurance Regulations 2003* (the Terrorism Insurance Regulations).

Section 43 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

As part of the 2021-22 Budget, the Government announced its intention to establish a reinsurance pool to cover cyclones and related flood damage to commence from 1 July 2022. The reinsurance scheme would seek to improve the accessibility and affordability of insurance by covering the risk of property damage caused by cyclones and related flooding.

The *Terrorism Insurance Amendment (Cyclones and Related Flood Damage) Regulations 2021* (the Regulations) amends the Terrorism Insurance Regulations to confer the ARPC with the new function of preparing to operate a cyclones and related flood damage reinsurance scheme. The Regulations will allow the ARPC to support the Government in designing and implementing the cyclones and related flood damage reinsurance scheme. These changes are being made in regulations to provide sufficient time for the ARPC to commence preliminary planning and undertake preparatory work so that the cyclones and related flood damage reinsurance scheme can be operational, if agreed by Government, from 1 July 2022.

It is intended that the Regulations will be repealed and replaced with amendments to primary law that would confer the ARPC with the function of operating the cyclones and related flood damage reinsurance scheme, if agreed by Government.

The amendment is being made so that the ARPC can assist the Government in the design and implementation of the cyclones and related flood damage reinsurance scheme. Accordingly, consultation was not sought for the Regulations, but public consultation will be undertaken on the changes required to implement the scheme.

Details of the Regulations are set out in [Attachment A](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on the day after the instrument is registered on the Federal Register of Legislation.

The Office of Best Practice Regulation advised that this preparatory work does not constitute a final decision, and therefore a final Regulation Impact Statement is not required. The amendment is estimated to have a negligible impact on compliance costs.

A statement of Compatibility with Human Rights is at [Attachment B](#).

**Details of the *Terrorism Insurance Amendment (Cyclones and Related Flood Damage) Regulations 2021***

**Section 1 – Name of the Regulations**

This section provides that the name of the Regulations is the *Terrorism Insurance Amendment (Cyclones and Related Flood Damage) Regulations 2021* (the Regulations).

**Section 2 – Commencement**

Schedule 1 to the Regulations commence on the day after the instrument is registered on the Federal Register of Legislation.

**Section 3 – Authority**

The Regulations are made under the *Terrorism Insurance Act 2003*.

**Section 4 – Schedule**

This section provides that each instrument that is specified in the Schedule to this instrument will be amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule to this instrument has effect according to its terms.

**Schedule 1 – Amendments**

Item 3 amends the *Terrorism Insurance Regulations 2003* to provide that a function of the ARPC is to prepare for the operation of a cyclones and related flood damage reinsurance pool.

**Statement of Compatibility with Human Rights**

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

**Terrorism Insurance Amendment (Cyclones and Related Flood Damage) Regulations 2021**

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 makes an amendment to the *Terrorism Insurance Regulations 2003* to provide the Australian Reinsurance Pool Corporation (ARPC) with the function of preparing to operate a cyclones and related flood damage reinsurance pool, if agreed by Government.

**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.