

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Assistant Treasurer and Minister for Financial Services**

*Insurance Act 1973*

*Insurance Regulations 2024*

Section 132 of the *Insurance Act 1973* (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.

The Act provides for the regulation of general insurers by the Australian Prudential Regulation Authority (APRA). The *Insurance Regulations 2024* (the Regulations) set out:

- circumstances in which foreign insurers who are not authorised under the Act are able to enter into insurance contracts in Australia;
- certain entities and types of insurance business to which the Act does not apply;
- prescribed bodies corporate and insurance businesses to which the Act does not apply; and
- technical details associated with the Act's financial claims scheme.

The purpose of the Regulations is to remake and improve the *Insurance Regulations 2002* (the 2002 Regulations) prior to the 2002 Regulations sunseting.

The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, are automatically repealed according to the progressive timetable set out in section 50 of that Act. The Attorney-General may defer sunseting in certain circumstances, pursuant to section 51 of the *Legislation Act 2003*. Legislative instruments generally cease to have effect after a specific date unless further legislative action is taken to extend their operation, such as remaking the instrument.

The *Legislation (Insurance Instruments) Sunset-altering Declaration 2018* aligned the sunseting date for the 2002 Regulations, *Insurance Acquisitions and Takeovers (Notices) Regulations 1992*, *Life Insurance Regulations 1995* and *Insurance Acquisitions and Takeovers Act 1991- Decision-Making Principles IDM 1/1992* (the Insurance Instruments) to 1 October 2023 to enable Treasury to conduct a comprehensive thematic review of regulation imposed on the insurance industry. Relevant provisions of the enabling Acts, that is, the Act, the *Insurance Acquisitions and Takeovers Act 1991* and the *Life Insurance Act 1995*, were also considered. The *Legislation (Deferral of Sunseting—Insurance Instruments) Certificate 2023* further deferred the sunseting date for the Insurance Instruments to 1 October 2024 to allow

for the passage of the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*, which amended the enabling Acts to implement certain findings of the thematic review.

As part of the thematic review, Treasury found that the 2002 Regulations are still required to support the operation of the Act, subject to the removal of redundant provisions and drafting improvements. The Regulations implement these findings.

An exposure draft of the Regulations and the accompanying explanatory materials were released for public consultation from 11 April to 26 April 2023.

The Act does not specify any conditions that need to be met before the power to make the Regulations may be exercised.

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

The finding table in [Attachment B](#) represents the previous numbering of the 2002 Regulations and the updated numbering in the Regulations.

A Statement of Compatibility with Human Rights is at [Attachment C](#).

The Office of Impact Analysis (OIA) has been consulted (OIA ref: OIA23-04962) and agreed that an Impact Analysis is not required.

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

The Regulations commence on 1 March 2024 and have effect from the date of commencement.

The 2002 Regulations are repealed by the *Treasury Laws Amendment (Insurance) Regulations 2024* which also commence on 1 March 2024.

## **ATTACHMENT A**

### **Details of the *Insurance Regulations 2024***

This Attachment sets out further details of the *Insurance Regulations 2024* (the Regulations). All references are to the Regulations unless otherwise stated.

The Regulations improve the *Insurance Regulations 2002* (the 2002 Regulations) by removing redundant provisions, simplifying language and restructuring and renumbering provisions for ease of navigation.

Changes of a minor or machinery nature, such as the increased use of headings and references to ‘section’ rather than ‘regulation’ in accordance with modern drafting practice, are generally not specifically identified in this Attachment. Substantive changes are identified and explained in this Attachment.

### **Part 1—Preliminary**

#### **Section 1 – Name of the Regulations**

This section provides that the name of the Regulations is the *Insurance Regulations 2024*.

#### **Section 2 – Commencement**

The Regulations commence on 1 March 2024.

#### **Section 3 – Authority**

This section provides that the Regulations are made under the *Insurance Act 1973* (the Act).

#### **Section 4 – Definitions**

This section sets out the definitions for terms used in the Regulations. The note to this section directs the reader to a number of expressions used in the Regulations that are defined in the Act.

#### **Section 5 – Meaning of *unauthorised foreign insurer***

This section remakes the definition of *unauthorised foreign insurer* (UFI) in regulation 4 of the 2002 Regulations.

The definition prescribes relevant tests for determining whether a particular entity—a body corporate, Lloyd’s underwriter or unincorporated body—is a UFI for the purposes of the Regulations and the Act.

In certain circumstances, the Act does not apply to UFIs.

#### **Section 6 – Meaning of *related group***

This section remakes the definition of *related group* in regulation 4B of the 2002 Regulations. It sets out relevant tests for defining a related group and *members* of a related group in relation to partnerships and associated entities.

## **Part 2—Insurance contracts that are not insurance business**

### Section 7 – Simplified Outline

This section provides a simplified outline of Part 2 of the Regulations.

### Section 8 – Circumstances in which undertaking liability under insurance contracts is not insurance business

This section remakes regulation 4A of the 2002 Regulations for the purpose of subsection 3A(1) of the Act. An insurance business (as defined in subsection 3(1) of the Act), does not include undertaking liability under insurance contracts in the circumstances prescribed under this section.

If the insurer is a UFI (as defined in section 5) and undertakes liability under an insurance contract in any of the following circumstances, the undertaking of liability will not be insurance business:

- at least one party to the contract (other than the insurer) is a high value insured (see section 9);
- section 10 (insurance contracts for atypical risks) applies to the contract;
- an Australian insurance broker has certified in writing that the risks insured under the contract cannot reasonably be placed with an Australian insurer (see section 11), or
- section 12 (insurance contracts required by foreign laws to be issued by specified insurers) applies.

This exemption is also relevant to certain exemptions under the *Corporations Act 2001* (Corporations Act). Subsection 985D(1) of the Corporations Act prohibits Australian financial services licence holders and authorised representatives from dealing in a general insurance products unless the general insurance product is issued by an authorised insurer under the Act, a Lloyd’s underwriter or an exemption in the Insurance Act applies. However, subsection 985D(2) of the Corporations Act provides that the prohibition in subsection 985D(1) of the Corporations Act does not apply if undertaking liability under the contract of insurance concerned is not, or would not be, insurance business for the purposes of the Insurance Act. Regulation 7.6.01AAAB of the *Corporations Regulations 2001* allows an UFI to handle insurance claims without an Australian financial services licence if they authorise another person who has an Australian financial service licence for handling claims.

### Section 9 – Meaning of *high-value insured*

This section remakes regulation 4B of the 2002 Regulations. It establishes what constitutes a *high-value insured* for the purposes of subparagraph 8(2)(b)(i) of the

Regulations. If at least one of the policyholders on the insurance contract meets the definition of high-value insured, the insurance business can then be placed with a UFI.

The thresholds are calculated by averaging the revenue, assets or employees at the end of each of the previous three financial years.

The high-value insured exemption will allow Australia's largest businesses and global companies headquartered in Australia to use UFIs as part of their risk management frameworks and to cover their global risks. It recognises that high-value insureds are likely to be sophisticated purchasers of general insurance with complex risks that may not be able to be covered solely through authorised insurers.

Subsections 9(2) to (5) clarify the meaning and accounting standards of *Australian operating revenue*, *gross Australian assets* and *number of Australian employees* for determining the high-value insured status of an entity. Employees include people employed on a full-time or part-time basis and both casual and permanent employees.

Subsection 9(6) defines the scope of the relevant entities to which the exemption applies, specifically in relation to related groups.

Subsections 9(7) and (8) provide for how an entity's operating revenue, gross assets and number of Australian-based employees are to be treated if the entity was not in existence at the end of a relevant financial year.

#### Section 10 – Insurance contracts for atypical risks

This section remakes regulation 4C of the 2002 Regulations. It establishes what constitutes an atypical risk for the purposes of subparagraph 8(2)(b)(ii).

There are a number of limited specific atypical insurance risks that currently cannot be placed, on a stand-alone basis, with authorised insurers. Some risks are offered in a global market by a very limited number of global insurers. For other risks, while there may be limited cover available, there may not be sufficient capacity to satisfy local demand, or the cover may only be available if bundled with other risks.

Subsection 10(2) provides that the exemption does not apply to contracts of insurance that fall within the definition of *equestrian package*. Subsection 10(3) defines an equestrian package to be an insurance policy that covers risks arising from horse-riding or the ownership or possession of a horse for purposes related to horse-riding.

*Atypical risks* are defined to be:

Nuclear	Loss or liability arising from the hazardous properties (including radioactive, toxic or explosive properties) of nuclear fuel, nuclear material or nuclear waste.
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Biological	Loss or liability arising from the hazardous properties of biological material or biological waste.
War	Loss or liability arising from war or warlike activities (within the meaning of the <i>Insurance Contracts Regulations 2017</i> ).
Terrorism	Loss or liability arising from a terrorist act (within the meaning of section 100.1 of the <i>Criminal Code</i> ).
Medical clinical trials	Liability arising from health-care related research.
Space	Loss of, or liability arising from the operation of, a space object (within the meaning of the <i>Space (Launches and Returns) Act 2018</i> ).
Aviation liability	Liability arising from the ownership or operation of an aircraft (but not loss of the aircraft or its cargo).
Protection & indemnity for ships other than pleasure craft	Liability and expenses arising from a person owning, chartering, managing, operating or being in possession of a vessel other than a pleasure craft (within the meaning of subsection 9A(2) of the <i>Insurance Contracts Act 1984</i> ).
Equine other than equestrian packages	Loss or liability arising from equine mortality or fertility and related risks.
Incidental cover	Loss or liability incidental to any loss or liability set out above.  An incidental risk being covered by the contract is a risk of lesser importance than, and covered in conjunction with, the other atypical risks.

Section 11 – Obligations of Australian insurance brokers in relation to certifying that risks cannot reasonably be placed in Australia

This section remakes regulation 4D of the 2002 Regulations for the purposes of paragraph 3A(3)(b) of the Act. This section prescribes the requirements that Australian insurance brokers must have regard to in certifying that a risk cannot reasonably be placed in Australia. If these are fulfilled, then a certificate can be given under subparagraph 8(2)(b)(iii). This adds capacity to the Australian insurance market for certain risks.

An assessment will be made in writing by an insurance broker to determine if a specific risk cannot reasonably be placed with an authorised insurer. If the insurance broker is satisfied that the risk cannot reasonably be placed with an authorised insurer, the business could then be placed with a UFI.

An ‘insurance broker’ is defined to be a person who is permitted under section 923B of the Corporations Act to use the expression ‘insurance broker’ or ‘general insurance broker’.

The insurance broker, in making their assessment, must be satisfied that:

- there is no Australian insurer that will insure against the risk; or
- the terms (including price) on which any Australian insurer will insure against the risk are substantially less favourable to the insured than the terms on which the UFI will insure against the risk; or
- there are other circumstances that mean that insurance with an Australian insurer is substantially less favourable to the insured than with the UFI.

The insurance broker’s assessment needs to be reasonable. The section clarifies that the insurance broker’s certification needs to be based on a reasonable level of investigation and market analysis.

Subsection 11(3) provides that the insurance broker must also keep written records of its inquiries, its decision and reasons for its decision. If asked by an insured, the broker must provide the insured with a copy of the certificate which certifies that the insurance broker has made an assessment that the risk cannot reasonably be placed in Australia. This will allow an insured to use another intermediary, for example, an insurance agent, to place their business with a UFI without breaching the prohibitions. The certificate from the insurance broker is required because only an insurance broker can make an assessment under the Regulations.

This section recognises that there will be a range of circumstances where a business or consumer has a unique risk that cannot be placed with an authorised insurer or with a UFI under the previous two limbs of the exemption (that is, high-value insured and atypical risk). This may include where an Australian insurer does not offer the necessary terms and conditions to cover a particular risk or where the capacity of the Australian market in a particular line has been exhausted (for example, for environmental impairment) or where there are benefits that accrue to an insured through a longstanding on-going relationship with an insurer.

#### Section 12 – Insurance contracts required by foreign laws to be issued by specified insurers

This section remakes regulation 4E of the 2002 Regulations. It sets out circumstances, for the purposes of subparagraph 8(2)(b)(iv) (insurance contracts required by foreign laws to be issued by specified insurers). For example, an Australian business operating in Country A that is required by the law of Country A to take out workers’ compensation insurance with an insurer authorised in Country A will be able to place this business with a UFI in Country A.

## **Part 3—Insurance business to which the Act does not apply**

### Section 13 – Simplified Outline

This section provides a simplified outline of Part 3 of the Regulations.

### Section 14 – Prescribed bodies corporate

This section remakes regulation 5 and Schedule 1 to the 2002 Regulations. This section provides that certain bodies corporate are exempted from the application of the Act for the purposes of paragraph 5(2)(b) of the Act.

This section contains the same bodies corporate as in the 2002 Regulations, however the reference to the Motor Vehicle Insurance Trust constituted under the *Motor Vehicle (Third Party Insurance Act 1943* (WA) has been changed to the Insurance Commission of Western Australia. Section 8 of Schedule 4 of the *Insurance Commission of Western Australia Act 1986* (WA) provides that references to the Motor Vehicle Investment Trust should be read as references to the State Government Insurance Commission. The State Government Insurance Commission was renamed the Insurance Commission of Western Australia in the *Acts Amendment (ICWA) Act 1986* (WA).

### Section 15 – Prescribed insurance business

This section remakes regulation 6 and Schedule 2 to the 2002 Regulations for the purposes of paragraph 5(2)(c) of the Act. It provides that certain kinds of insurance businesses are exempted from the operation of the Act.

The exempted kinds of insurance businesses in paragraphs 15(a) and 15(b) are regulated by New South Wales and Victoria.

The exempted kinds of insurance business in paragraph 15(c) are for contracts that were entered into prior to 1 July 2008 and have not been varied, renewed, or extended on or after 1 July 2008. This provision has been remade because businesses relying on and operating under this exemption are offshore, and so the number of businesses continuing to rely on it is unknown.

Item 2 of Schedule 2 to the 2002 Regulations prescribed the carrying on by the Municipal Association of Tasmania of the business of fidelity guarantee insurance. The Municipal Association of Tasmania no longer exists, as it has been replaced by the Local Government Association of Tasmania under the *Municipal Association Act 1993* (TAS). In addition, Tasmania no longer runs its own insurance schemes, and has joined the Victorian scheme. The Victorian scheme is covered under paragraph 6(b). Item 2 has therefore not been remade.

## **Part 4—Financial claims scheme**

Part 4 relates to the Financial Claims Scheme (the FCS). The FCS is a government-backed safety net, covering most general insurance policies for claims up to \$5,000, with claims of \$5,000 or above eligible if they meet certain criteria. It provides



protection to general insurance policyholders and claimants, in the event that one of those financial institutions fails.

### Section 16 – Simplified Outline

This section provides a simplified outline of Part 4 of the Regulations.

### Section 17 – Policies that are not protected policies

This section remakes regulation 7B of the 2002 Regulations.

Paragraph (a) of the definition of *protected policy* in subsection 3(1) of the Act permits regulations to be made prescribing certain policies to not be protected policies for the purposes of the Act. This means that certain categories of insurance policies can be excluded from coverage under the FCS where this is appropriate. For example, where a foreign insurer was not regulated by APRA at the time the policy was issued.

This mechanism ensures that the FCS is targeted to those individuals and businesses that are least able to assess risk and to promote market discipline by those excluded from the FCS.

This section excludes:

- State or Territory mandated policies that are already protected through arrangements administered by the State or Territory;
- policies that are pre-authorisation liabilities of foreign general insurers;
- policies that are reinsurance or a retrocession of other policies; and
- policies that are indemnifications of other policies.

A pre-authorisation liability is defined in the Act as a liability that was taken on by a general insurer before it became authorised to conduct general insurance business under section 12 of the Act.

Different prudential supervision arrangements apply to the pre-authorisation liability of a foreign general insurer's Australian branch and those of an Australian general insurer or a foreign general insurer's Australian subsidiary (together, Australian-established general insurers). Unlike an Australian-established general insurer, a foreign general insurer's Australian branch is not required to maintain assets to meet its pre-authorisation liabilities.

The pre-authorisation liabilities of foreign general insurers are excluded because, in accordance with the different treatment of the Australian branches' pre-authorisation liabilities, the FCS is not intended to apply to these liabilities. The FCS is intended to apply to all the liabilities of an Australian-established general insurer, whether the liability was acquired before or after its authorisation under section 12 of the Act.

### Section 18 – Entitlement to payment of claimant under protected policy – period for making claim

This section remakes regulation 7C of the 2002 Regulations.

Subparagraphs 62ZZF(1)(b)(i) and 62ZZF(1)(b)(ii) of the Act enable regulations to be made, prescribing:

- the day when an eligible claimant can lodge a claim under the cover of their protected policies and be eligible for payment of their claims under the FCS; and
- the day after which no further claims under the cover can be made.

Subsection 18(1) provides two types of start dates for policyholders that are entitled to make a claim under the cover of a protected insurance policy.

The first type of start date applies to policyholders that have not yet made a claim under cover of their protected policy before the day on which the Minister makes a declaration in relation to the general insurer. The start date for these policyholders is the day of the Minister's declaration.

The second type of start date applies to policyholders that have already made a claim under cover of their protected policy before the day on which the Minister makes a declaration in relation to the general insurer. The start date for these policyholders is the day on which they made a claim under that cover.

Subsection 18(2) prescribes the final day on which an eligible claimant can make a claim under the cover of their protected policy in order to be eligible for assistance under the FCS. This is the day that occurs 12 months after the day on which the Minister made the declaration that the FCS applies to the general insurer.

If the prescribed time period under section 18 is insufficient, APRA has the power under section 62ZZA of the Act to extend the final day on which claims can be made.

#### Section 19 – Entitlement to payment of third party – period for making claim

This section remakes regulation 7CA of the 2002 Regulations.

Subparagraphs 62ZZG(1)(aa)(i) and 62ZZG(1)(aa)(ii) of the Act enable regulations to be made, prescribing:

- the date on which an eligible claimant can lodge a claim under the cover of their protected policies and be eligible for payment of their claims under the FCS; and
- the date on which no further claims under the cover can be made.

Section 19 applies to a person who, as determined by APRA, is entitled to recover an amount from a general insurer under certain provisions. This entitlement is known as a 'cut-through' right and persons who hold them may be eligible for coverage under the FCS as a third-party.

This section applies the timeframes from section 18 of the Regulations so that the period for making the claim is not only for the holders of protected policies, but also extends to third party claimants entitled to a recoverable amount.

Subsection 19(1) specifies two types of start dates that apply to third party claimants that are entitled to make a claim for a recoverable amount with a general insurer. The first is for third party claimants that have not yet made a claim for the recoverable amount prior to the Minister making a declaration in relation to the general insurer. For these claimants, the start date is the day of the Minister's declaration. The second is for third party claimants that have already made a claim for the recoverable amount before the Minister making a declaration in relation to the general insurer. For these claimants, the start date is the day on which the claimants made the claim.

Subsection 19(2) prescribes the final date on which an eligible third-party claimant can make a claim for the recoverable amount and be eligible for assistance under the FCS. This is the day that occurs 12 months after the day on which the Minister made the declaration that the FCS applies to the general insurer. APRA has the power under subsection 62ZZA(1) of the Act to extend this claim period.

#### Section 20 – Conditions of eligibility

This section remakes and clarifies regulation 7D of the 2002 Regulations.

Paragraph 62ZZF(3)(b) of the Act permits regulations to be made setting the eligibility criteria for persons who may be entitled to claim under the FCS for insurance claims worth \$5,000 or more.

Section 20 prescribes a list of eligibility criteria for a person to be entitled to claim under the FCS. The prescribed eligibility criteria are intended to capture policyholders who are least able to effectively assess the prudential stability of the general insurers with whom they deal. Other policyholders will be eligible to recover claims in the normal course of liquidating the insurer.

A person is entitled to claim under the FCS if:

- the person is a citizen or permanent resident of Australia;
- the person is an individual, and the insurance under which they are entitled to claim is insurance cover against a risk that is located in Australia;
- the person is a small business entity, a not-for-profit body or a trustee of a family trust, and the central management and control of the small business entity, not-for-profit body or trustee is located in Australia;
- the person is entitled to claim insurance cover provided in relation to a small business entity that is not an individual or corporation, and the central management and control of the small business entity is located in Australia; or

- the person is entitled to claim insurance cover provided in relation to a not-for-profit body that is not a corporation, and the central management and control of the not-for-profit body is located in Australia.

Section 20 clarifies that the relevant insurance cover under which a person is entitled to claim is one under which the person is entitled to claim under the FCS as mentioned in paragraph 62ZZF(1)(a) of the Act. This is an update from regulation 7D of the 2002 Regulations but is not intended to change the effect of the provision.

### Section 21 – Conditions of eligibility—third parties

This section remakes and clarifies regulation 7E of the 2002 Regulations.

Paragraph 62ZZG(3)(b) of the Act permits regulations to be made setting the eligibility criteria for third party claimants who may be entitled to claim under the FCS for insurance claims worth \$5,000 or more. Section 21 sets out the relevant criteria.

The list of eligibility criteria in this section is intended to include third parties, such as individuals and small businesses, that are more likely to be vulnerable should a claim not be settled. Third parties who do not meet these criteria will be eligible to recover claims in the normal course of liquidating the insurer.

For claims of \$5,000 or more, a person that is a third party is entitled to claim under the FCS if:

- the person is a citizen or permanent resident of Australia;
- the person is an individual, and is entitled to recover the recoverable amount in relation to insurance cover against a risk that is located in Australia;
- the person is a small business entity, a not-for-profit body or a trustee of a family trust, and the central management and control of the small business entity, not-for-profit body or trustee is located in Australia;
- the person is entitled to recover the recoverable amount from insurance cover that is provided in relation to a small business entity that is not an individual or corporation, and the central management and control of the small business entity is located in Australia; or
- the person is entitled to recover the recoverable amount from insurance cover that is provided in relation to a not-for-profit body that is not a corporation, and the central management and control of the not-for-profit body is located in Australia.

Section 21 clarifies that the relevant insurance cover which gives rise to the entitlement, is cover specified in a determination mentioned in paragraph 62ZZG(1)(a) of the Act (the FSC provisions in the Act). This is an update from

regulation 7E of the 2002 Regulations but is not intended to change the effect of the provision.

### Section 22 – Recovery of overpayments

This section remakes regulation 7F of the 2002 Regulations.

This section is made for the purpose of section 62ZZS of the Act. Section 62ZZS permits regulations to make provision for and in relation to the recovery by APRA of the excess of an amount paid to, or applied for the benefit of, a person, purportedly to meet an entitlement under the FCS. APRA may be required to recover overpayments if a payment is incorrectly made under the FCS to a person in relation to the quantum of the payment or because of an error as to the person's eligibility.

Section 22 makes an excess payment of a person's entitlement under the FCS a debt due to APRA. APRA can recover the amount of the debt in the following ways:

- in court proceedings; or
- by withholding the amount of the debt from another payment that would otherwise be made to the person under the FCS; or
- by withholding the amount of the debt from any amount payable to the person upon the winding up of a declared general insurer that provided insurance cover to the person under a protected policy.

## **Part 5—Application and transitional provisions**

### Section 23 – Certificates

This section provides that a certificate issued under subregulation 4D(1) of the 2002 Regulations which was in force immediately before section 23 commenced has effect as if it had been issued under subparagraph 8(2)(b)(iii) of the Regulations.

Together, subparagraph 8(2)(b)(iii) and section 23 remake regulation 4D of the 2002 Regulations.

### **Regulations not being remade**

Regulation 7 of the 2002 Regulations has not been remade because the Act was amended by Schedule 4 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023* to include an offence for failure to give written notice to APRA if a general insurer starts, or stops, carrying on insurance business in Australia.

Regulations 8, 9, and 10 of the 2002 Regulations were made for the purpose of section 123 of the Act. In practice, the mechanism provided by section 123 of the Act (to prescribe matters in relation to an application under that section) is no longer used by APRA and section 123 was repealed by the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*. Consequently, regulations 8, 9, and 10 of the 2002 Regulations have not been remade.

Regulations 11 and 12 of the 2002 Regulations were transitional provisions that are now redundant and have not been remade.

**FINDING TABLE—*Insurance Regulations 2024***

This Explanatory Statement includes a finding table to assist in identifying which provision in the *Insurance Regulations 2024* corresponds to a provision in the *Insurance Regulations 2002* that has been rewritten or consolidated, and vice versa.

In the finding table:

- ***No equivalent*** means that this is a new provision in the *Insurance Regulations 2024* that has no equivalent in the *Insurance Regulations 2002*. These are typically guidance material.
- ***Omitted*** means that the provision of the *Insurance Regulations 2002* has not been rewritten into the new *Insurance Regulations 2024*. Omitted provisions are redundant or have been moved to the *Insurance Act 1973*.

<i>Old Law</i>	<i>New Law</i>
<i>Insurance Regulations 2002</i>	<i>Insurance Regulations 2024</i>
1	1
No equivalent	2
No equivalent	3
4	4
4 (definition of <i>unauthorised foreign insurer</i> )	5
4B (definition of <i>related group</i> )	6
No equivalent	7
4A	8
4B	9
4C	10
4D	11
4E	12
No equivalent	13
5 and Schedule 1	14

6 and Schedule 2	15
No equivalent	16
7	Omitted
7A	4
7B	17
7C	18
7CA	19
7D	20
7E	21
7F	22
No equivalent	23
8	Omitted
9	Omitted
10	Omitted
11	Omitted
12	Omitted

**Statement of Compatibility with Human Rights**

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

***Insurance Regulations 2024***

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**

The *Insurance Regulations 2024* (the Regulations) provide for the regulation of general insurers by the Australian Prudential Regulation Authority (APRA). The Regulations are a result of a thematic review of the Insurance Instruments, substantially remaking the *Insurance Regulations 2002* where the regulations are still necessary and appropriate.

The Regulations exempt certain unauthorised foreign insurers from the *Insurance Act 1973*, as well as certain bodies corporate and types of insurance business. Further, the Regulations provide that, for the Financial Claims Scheme, some policies are not protected. The Regulations also prescribe a period for making a claim under a protected policy, and the conditions a person must meet to be eligible for the Financial Claims Scheme. The Regulations also provide for the recovery of overpayments by APRA.

**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.