

EXPOSURE DRAFT



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Terrorism Insurance Amendment (Cyclone and Related Flood Damage Reinsurance Pool) Regulations 2022

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2022

David Hurley
Governor-General

By His Excellency's Command

Michael Sukkar [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing

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1 Name

This instrument is the *Terrorism Insurance Amendment (Cyclone and Related Flood Damage Reinsurance Pool) Regulations 2022*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Terrorism and Cyclone Insurance Act 2003*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Amendments

Schedule 1—Amendments

Legislation (Exemptions and Other Matters) Regulation 2015

1 Section 10 (item 31 of the table)

Repeal the item, substitute:

31 A declaration made under section 6 of the *Terrorism and Cyclone Insurance Act 2003*

2 Section 12 (item 63 of the table)

Repeal the item, substitute:

63 Each of the following:

(a) a declaration made under section 6 of the *Terrorism and Cyclone Insurance Act 2003*;

(b) a regulation made under that Act

Terrorism Insurance Regulations 2003

3 Regulation 1

Repeal the regulation, substitute:

1 Name

This instrument is the *Terrorism and Cyclone Insurance Regulations 2003*.

4 Regulation 3 (definition of Act)

Repeal the definition, substitute:

Act means the *Terrorism and Cyclone Insurance Act 2003*.

5 Regulation 3 (definition of business)

Omit “*Trade Practices Act 1974*”, substitute “*Competition and Consumer Act 2010*”.

6 Regulation 3

Insert:

cyclone has the meaning given by regulation 3A.

end, in relation to a cyclone, has the meaning given by regulation 3A.

reintensify, in relation to a cyclone, has the meaning given by regulation 3A.

7 After regulation 3

Insert:

3A Definition of *cyclone* and of when a cyclone *ends* and *reintensifies*

- (1) This section has effect for the purposes of the definitions of *cyclone*, *end* and *reintensify* in section 3 of the Act.
- (2) A *cyclone* is a non-frontal low pressure system, of synoptic scale, that:
 - (a) develops over warm waters; and
 - (b) has organised convection, and a maximum mean wind speed of 34 knots or greater that extends more than half-way around near the centre of the system and has persisted for at least 6 hours.

Note: This definition describes tropical cyclones, which are referred to in the Act and these Regulations as cyclones.

- (3) A cyclone *ends* at the earliest time (the *downgrade time*) when the low pressure system concerned meets the following conditions:
 - (a) the maximum mean wind speed near the centre of the system falls below 34 knots and remains below 34 knots for at least 6 hours;
 - (b) in the opinion of the Bureau, the likelihood that the system will intensify to such an extent as to again meet the condition in paragraph (2)(b) at some time during the next 24 hours is less than the likelihood that it will not.However, if the system does intensify as mentioned in paragraph (b) of this subsection, it again becomes a *cyclone*, and is taken to *reintensify* at the time when it again meets the condition in paragraph (2)(b).

8 After regulation 5

Insert:

5A Premium income threshold for eligible cyclone loss cover

- (1) For the purposes of subsection 8A(5) of the Act, the prescribed threshold amount is \$10 million.
- (2) For the purposes of subsection 8A(6) of the Act, the prescribed reporting standard is the one set out in Schedule 1 to the *Financial Sector (Collection of Data) (reporting standard) determination No. 18 of 2013*.

5B Definition of *pool insurance contract*

Non-residential policies: maximum sum insured

For the purposes of paragraph 8B(3)(d) of the Act, the prescribed amount is \$5 million.

5C Definitions of *storm surge* and *flood*

- (1) For the purposes of subparagraph 8C(b)(ii) of the Act, *storm surge* means an abnormal rise in sea level, over and above the normal astronomical tide levels.
- (2) For the purposes of subparagraph 8C(b)(iii) of the Act, *flood* means a flood as defined by subsection 34(1) of the *Insurance Contracts Regulations 2017* (for the purposes of paragraph 37B(2)(a) of the *Insurance Contracts Act 1984*).

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Schedule 1 Amendments

5D End of claims period for a cyclone event

For the purposes of subsection 8F(3) of the Act, the prescribed duration is 48 hours.

5E Content of Financial Outlook Report

For the purposes of subsection 40A(1) of the Act, a Financial Outlook Report must set out the following:

- (a) an overview of the performance of the cyclone reinsurance scheme during the financial year;
- (b) observations on broader financial risks affecting the scheme's financial outlook;
- (c) an assessment of the adequacy of:
 - (i) the premiums the Corporation is receiving in respect of its contracts of reinsurance under the scheme; and
 - (ii) the Corporation's reserves that are available to meet claims under those contracts;
- (d) observations on capital management for the purposes of the scheme;
- (e) projections for financial outcomes for the scheme, based on estimates of future claims under the Corporation's contracts of reinsurance under the scheme;
- (f) any other matters that the Corporation considers material to the current and future financial situation of the scheme.

9 Regulation 6

Repeal the regulation.