

# Terrorism Insurance Act 2003 Update



September 2003

**As you would be aware, following the events of September 11, most commercial insurers in Australia excluded terrorism-related claims, leaving most insured's without cover.**

**As a result of this, the Federal Government introduced the Terrorism Insurance Bill.**

**Subsequently the Terrorism Insurance Act 2003 commenced operation on 1 July 2003.**

**Premium charges come into effect on 1 October 2003.**

**The purpose of this newsletter is to explain to you the details and intended effects of the new Act.**

## **In summary:**

- § Under the new Act, if a terrorist incident occurs, any policy exclusion which seeks to exclude liability for terrorism is deemed to have no effect.
- § The Act imposes an obligation on insurers to provide terrorism cover in respect of *eligible insurance contracts* (see A under) on *eligible property* (see B under) in Australia.
- § Various Insurance Contracts are excluded from the Act (see C page 2).
- § Whether or not a terrorist act has occurred, will be determined and declared by the Federal Treasurer after consultation with the Attorney General.
- § For terrorism covered policies renewing on or after 1 October 2003, Australian insurers can reinsure their exposure with the Australian Reinsurance Pool Corporation (ARPC).
- § Whilst terrorism coverage is effective as from 1 July 2003, insurers will not be charging premiums until 1 October 2003, and then only for risks expiring from this date. (see E page 2)
- § For risks that were current at 1 October 2003, no premium payment will be required until the time of renewal whereupon the insurers will calculate the additional charge as part of their overall premium. These policies are referred to in the Act as "Protected Contracts".

## **TERRORISM ACT 2003 – FACTS AND DEFINITIONS**

### **A. ELIGIBLE INSURANCE CONTRACTS**

- (1) Those that provide cover for loss/damage to eligible property.
- (2) Which provide business interruption cover.
- (3) Which cover liability where liability arises out of ownership or occupation of eligible property.

### **B. ELIGIBLE PROPERTY**

- (1) Buildings including fixtures
- (2) Tangible property located in, or on, property to which (A) applies.
- (3) Any other property prescribed by the Regulations.

Roads, tunnels, dams and pipelines would fall within the definition of "Eligible Property".

## **C. VARIOUS INSURANCE CONTRACTS EXCLUDED FROM THE ACT**

The following are examples of those not included:

- § Reinsurance contracts.
- § Contracts of insurance underwritten by the commonwealth government or contracts of insurance under which the commonwealth is an insured.
- § Contracts of insurance entered into in the course of state insurance or territory insurance - for instance, Compulsory Third Party.
- § Contracts of insurance entered into by registered health benefit organisations as an insurer - for instance, health insurance.
- § Professional indemnity liability policies, product liability policies (to the extent that they do not provide cover for public liability), directors and officers liability policies.
- § Credit insurance.
- § Life insurance.
- § Contracts that are prescribed by section 34 of the insurance contracts act 1984 (cth) - for instance: motor, home, buildings, home contents, sickness and accident, travel.
- § Marine insurance.
- § Workers compensation.
- § Aviation insurance.
- § Any contract of insurance to the extent that it provides cover in respect of nuclear energy risks.
- § A contract of insurance that provides cover to farm business - unless the contract also provides cover for business interruption losses (insurance for increased cost of working is not taken as cover for the business interruption).

Note: the above list is NOT exhaustive. Please refer to the Regulations for the exact list . Further amendments to this list could be made.

## **D. THE AUSTRALIAN REINSURANCE POOL CORPORATION (ARPC)**

A new statutory authority has been created to reduce the risk for insurers.

Insurers can choose to reinsure with ARPC, make their own alternative reinsurance arrangements or assume the risk themselves.

For those policies that are active on 1 July 2003 or which start between 1 July and 1 October 2003, insurers are fully indemnified for claims and claims settlement costs by the ARPC .

## **E. ADDITIONAL PREMIUMS PAYABLE BY PROPERTY OWNERS**

For risks effected on, or renewed on, or after 1 October 2003 insurers will pass on reinsurance costs and additional administrative and procedural costs to property owners.

For those insurers who elect to reinsure with ARPC, there is a table of minimum and maximum rates which will apply to capital cities, urban areas and other areas. The Act allows the ARPC to increase these initial rates by a maximum of 300% in the event of a significant claim on the scheme. Rates will be based on post codes (see below), however, broadly speaking will be categorised as:

- § CBD Property - 12 %
- § Urban - 4%
- § Other - 2%

Insurers who elect not to reinsure with the ARPC and make alternative arrangements may have a different approach.

Additional premiums so generated, will also be subject to government charges of stamp duty, GST and in some States, fire service levies.

It is not currently intended that additional premiums will be collected to cover public liability exposure at this stage.

## F. TERMS OF COVERAGE

It is important to note that the scope of the compulsory terrorism cover remains subject to the terms, limits, conditions, exclusions and deductibles/excesses of the policy held by the insured.

Accordingly:

- § If an aggregate limit or sub-limit specified in the policy applies to a particular loss, it will govern the maximum amount payable under the policy.
- § Any deductible or excess applicable to the policy will continue to apply.
- § Other conditions and exclusions may also operate so that the loss is either not recoverable or part of the loss is not recoverable. For example, if bridges and tunnels are excluded under the policy, then notwithstanding the compulsory terrorism cover, this exclusion would still apply.

Unless and until the Government declares that there has been a terrorist incident, the relevant terrorism exclusion will continue to apply to each insured's policy.

## G. UNAUTHORISED FOREIGN INSURERS

All insurers, irrespective of their location in the world, are required to provide terrorism cover as provided by the Act.

Whilst the Act is intended to bind all concerned, there may be some uncertainty as to enforceability against certain overseas insurers.

Lloyd's underwriters are Australian authorised insurers.

There are implications for Captive insurers. Please contact us for information if necessary.

The foregoing is a summary of some of the important features of the new Act.

Should you require more information please contact your Account Manager at Willis.

Further information can also be obtained by visiting the website of the Australian Reinsurance Pool Corporation - [www.arpc.treasury.gov.au](http://www.arpc.treasury.gov.au).

*This Update has been prepared by Willis Australia Limited and intended to provide general information. It should not be used as a substitute for specific advice. Please note that whilst we have taken all reasonable care in ensuring the accuracy of the information, Willis Australia Limited do not accept any responsibility for any reliance on such information.*



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## Specialist National Practices



**Aerospace**

**Business Risk**  
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**Construction Risks**

**Cyber Risks**

**Insolvency and Financial Risks**

**Professional Risks**

**Utility Risks**

## Other Group Companies

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# Terrorism Insurance Act 2003

## List of Postcodes by State/Territory



### TIER A

#### **New South Wales**

2000, 2009, 2060

#### **Queensland**

4000

#### **South Australia**

5000

#### **Victoria**

3000, 3005, 3006, 3008

#### **Western Australia**

6000, 6003

### TIER B

#### **Australian Capital Territory**

##### **Canberra**

2600-2607, 2609, 2612, 2614-2615, 2617, 2900, 2902-2906, 2911, 2913-2914

#### **New South Wales**

##### **Central Coast**

2251, 2256-2257, 2260-2263

##### **Newcastle**

2280, 2282, 2284-2285, 2287, 2289-2293, 2296-2300, 2302-2308

##### **Sydney**

2006-2008, 2010-2011, 2015-2050, 2061-2077, 2079, 2085-2090, 2092-2097, 2099-2104, 2106-2107, 2109-2123, 2125-2148, 2150-2155, 2160-2168, 2170, 2174, 2176-2177, 2190-2200, 2203-2214, 2216-2232, 2234, 2558-2559, 2564-2567, 2747, 2750, 2760-2764, 2766-2768, 2770, 2773-2774

##### **Wollongong**

2500, 2502, 2505-2506, 2525-2526

#### **Northern Territory**

##### **Darwin**

0800, 0810, 0812, 0820

#### **Queensland**

##### **Brisbane**

4005-4014, 4017-4022, 4029-4032, 4034-4037, 4051, 4053-4054, 4059-4061, 4064-4068, 4072-4078, 4101-4125, 4127-4133, 4151-4161, 4163-4165, 4169-4174, 4178-4179, 4205, 4207-4209, 4300-4301, 4303-4305, 4500-4506, 4508-4509

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## List of Postcodes by State/Territory



### **Gold Coast**

4210, 4212, 4214-4221, 4224-4227, 4229-4230

### **Sunshine Coast**

4551, 4556-4558, 4564, 4566-4567, 4572-4573, 4575

### **Townsville**

4810, 4812-4814

## **Victoria**

### **Geelong**

3214-3215, 3218-3220

### **Melbourne**

3002-3004, 3010-3013, 3015-3016, 3018-3023, 3025-3026, 3028, 3031-3034, 3038-3058, 3060-3062, 3065-3068, 3070-3075, 3078-3079, 3081-3088, 3093-3095, 3101-3109, 3111, 3113-3114, 3121-3138, 3140-3156, 3158, 3161-3163, 3165-3175, 3177-3202, 3204-3207, 3765, 3767, 3785-3787, 3796, 3800, 3802-3803, 3805, 3910-3911, 3930-3931, 3934, 3976, 3989

## **Western Australia**

### **Perth**

6004-6012, 6014-6030, 6050-6064, 6066, 6070, 6090, 6100-6108, 6147-6160, 6162-6164

## **South Australia**

### **Adelaide**

5006-5025, 5031-5035, 5037-5052, 5061-5070, 5072-5076, 5081-5098, 5106-5109, 5111-5113, 5127, 5158-5162, 5164-5169, 5950

## **Tasmania**

### **Hobart**

7000, 7004-7005, 7007-7011, 7015, 7018-7019, 7053

## **TIER C**

All other postcodes