

Terrorism Insurance Act, 2003

Introduction

Terrorism Insurance Act, 2003 (the Act) was passed by the Commonwealth Government on 16 June 2003. The Act affects eligible insurance contracts which were in force on, or incepted after 1 July 2003. This terrorism cover imposed by the Act is compulsory – neither the insured nor the insurer can “contract out” of the obligation.

Eligible Insurance Contracts

There are three types of eligible insurance contracts:

- Insurance contracts which provide cover for the loss of or damage to eligible property owned by the insured;
- Insurance contracts which provide business interruption cover or cover for consequential loss arising from:
 - a) Loss of or damage to eligible property owned or occupied by the insured;
 - b) The inability to use eligible property, or part thereof, that is owned by or occupied by the insured.
- Insurance contracts which cover liability of an insured where the liability arises out of the insured being the owner or occupier of eligible property.

The eligible property means the following property that is located in Australia:

- a) Buildings (including fixtures) or other structures or works on, in or under land;
- b) Tangible property that is located in, or on, property to which paragraph (a) applies; or
- c) Any other property prescribed by regulations.

The Australian Reinsurance Pool Corporation – insurer’s position

Under the Act, a new statutory authority, the Australian Reinsurance Pool Corporation (ARPC) has been set up to provide reinsurance cover to insurers for eligible terrorism losses. The ARPC is ultimately backed by a Commonwealth Government guarantee.

The reinsurance premium payable by insurers in respect of each covered under the insurer’s agreement with the ARPC will be determined by the use of postcodes. Basically, there are three tiers – Tier A, Tier B and Tier C. These tiers relate to the Central Business Districts (CBDs) of State capitals, urban areas excluding CBDs (which can broadly be classified as suburban areas), and other rural areas respectively. Reinsurance premiums will initially be 12% of premiums otherwise payable for risks in Tier A post codes, 4% and 2% for Tiers B (urban) and C (rural) respectively.

Eligible insurance contracts effected on or after 1 October 2003.

The statutory indemnity given by the ARPC to insurers in respect of protected contracts does not apply to policies that are incepted on or after 1 October 2003. In respect of eligible insurance contracts effected on or after 1 October 2003, premiums will increase but the actual costs to individual insureds may vary depending on their insurers.

Insurers will probably take into account a number of increased costs:

- Costs associated with carrying the primary retention;
- Additional internal administrative and procedural changes to computer systems and the like;
- The reinsurance premium that it will need to pay to the ARPC or to another reinsurer, and;
- If the insurer decides to carry the whole of the liability imposed by Act in its own balance sheet – the premiums payable for that coverage.
- The additional premiums charged by insurer will be subject to government charges of stamp duty, GST and, in some States, fire services levies. Accordingly, the cost of property insurance can be expected to increase in the range of 15-20% in respect of risks located within the CBDs of Melbourne and Sydney (where fire services levies still apply) and around 5% in the urban areas.

Furthermore, it should also be noted that, unless the Minister declares that there has been a terrorist incident, the relevant terrorism exclusion in the insured’s policy will continue to apply.

TERRORISM INSURANCE ACT POSTCODES BY STATE

Tier A: List of Postcodes by State

New South Wales
2000, 2009, 2060

Victoria
3000, 3005, 3006, 3008

Queensland
4000

South Australia
5000

Western Australia
6000, 6003

Tier B: List of Postcodes by State

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

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

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

Central Coast
2251, 2256-2257, 2260-
2263.

Wollongong
2500, 2502, 2505-2506,
2525-2526.

Tier C: All other Postcodes in NSW