



# **Terrorism Insurance Regulations 2003**

**Statutory Rules No. 162, 2003**

made under the

*Terrorism Insurance Act 2003*

## **Compilation No. 6**

**Compilation date:** 1 April 2018

**Includes amendments up to:** F2017L01663

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Terrorism Insurance Regulations 2003* that shows the text of the law as amended and in force on 1 April 2018 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## 1 Name of Regulations

These Regulations are the *Terrorism Insurance Regulations 2003*.

## 3 Definitions

In these Regulations:

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

*business* has the same meaning as in the *Trade Practices Act 1974*.

*contents*, of a building or part of a building, means any of the following items in that building or that part of the building:

- (a) furniture, furnishings and carpets (whether fixed or unfixed);
- (b) household goods;
- (c) clothing and other personal effects;
- (d) a picture;
- (e) a work of art;
- (f) a fur;
- (g) a piece of jewellery;
- (h) a gold or silver article;
- (i) a document of any kind;
- (j) a collection of any kind;
- (k) swimming pools that are not fixtures;

that are items owned by the insured or by a member of the insured's family ordinarily residing with the insured.

*mainly residential building* means a building that:

- (a) has more than 80% of its floor space for use wholly or mainly for residential purposes; and
- (b) has a sum-insured value of less than \$50 million; and
- (c) is none of the following:
  - (i) a hotel, motel or boarding house;
  - (ii) a building in the course of construction;
  - (iii) a temporary building or structure or a demountable or moveable structure;
  - (iv) a caravan (whether fixed to land or not).

*residential part of a mixed-use or high-value building* means a part of a building if:

- (a) the building is not a mainly residential building; and
- (b) the part is for use wholly or mainly for residential purposes.

#### **4 Eligible property**

For paragraph (c) of the definition of *eligible property* in section 3 of the Act, tangible property that is on, in or under the seabed is prescribed.

#### **5 Eligible insurance contract—exclusions**

For subsection 7 (2) of the Act, a contract of insurance described in Schedule 1 is not an eligible insurance contract.

#### **6 Functions of Corporation**

For paragraph 10(b) of the Act, a function of the Corporation is to:

- (a) assist and support the National Insurance Affordability Initiative; and
- (b) assist and support the National Insurance Affordability Council in performing its functions as outlined in the Council's Terms of Reference.

Note: When this regulation commenced, the National Insurance Affordability Initiative was administered by the Treasury portfolio.

#### **10 Application of the *Terrorism Insurance Amendment Regulations 2017***

The amendments of these Regulations made by the *Terrorism Insurance Amendment Regulations 2017* apply in relation to contracts of insurance made, or whose term is extended, at or after the time those amendments commence.

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## Schedule 1—Exclusions

(regulation 5)

- 1 A contract that includes provisions of insurance, although the contract would not ordinarily be regarded as a contract of insurance.
- 2 A contract of insurance that provides cover (whether or not the cover is restricted) for:
  - (a) destruction or damage to a mainly residential building; or
  - (b) loss or damage to the contents of a mainly residential building; or
  - (c) any of the following:
    - (i) financial loss for fares for any form of transport or accommodation to be used in the course of a specified journey if the insured person does not start or complete the journey;
    - (ii) loss or damage to personal belongings while the insured person is on a specified journey;
    - (iii) a sickness or disease contracted, or injury sustained, by the insured person on a specified journey;
    - (iv) loss, damage or compensation for an event affecting the insured person on a specified journey that ordinarily forms a part of insurance commonly regarded as travel insurance, including loss of cash or credit cards, legal liability, hijack, kidnap or ransom; or
  - (d) loss or damage to personal property that:
    - (i) is wholly or mainly used for personal, domestic or household purposes by the insured, a relative of the insured or a person who resides with the insured; and
    - (ii) is of a kind that is ordinarily used by people for such purposes; unless the personal property is part of the contents of a residential part of a mixed-use or high-value building.
- 3 A contract of insurance that provides cover (whether or not the cover is restricted) for:
  - (a) contracting a sickness or disease or a specified sickness or disease, or sustaining an injury or a specified injury, or dying as a result of the sickness, disease or injury; or
  - (b) the death, sickness, disease, injury or unemployment of the insured person if the amount of the liability of the insurer under the contract is worked out by reference to a liability of the insured person under a specified agreement to which the insured person is a party.
- 4 A contract of insurance:
  - (a) that provides cover to farm business, including:
    - (i) producing crops or livestock, including produce derived from the crops or livestock; or
    - (ii) the interests of an owner, lessor, lessee or hirer of property used to produce crops or livestock; and

- (b) that does not provide cover for business interruption (insurance known as increased cost of working cover provided by the farm property cover of a farm insurance (or farm pack) policy is not taken to be cover for business interruption).
- 5 A contract of insurance underwritten by the Commonwealth.
- 5A A contract of insurance underwritten by the government of the Australian Capital Territory or the Northern Territory that is not a contract of insurance provided by a body owned by the government of the Territory.
- 6 A contract of insurance to the extent that it provides cover to the Commonwealth.
- 8 A contract of insurance to the extent that it provides cover to:
  - (a) the Crown in right of a State, the Australian Capital Territory or the Northern Territory; or
  - (b) a Minister of the government of a State, the Australian Capital Territory or the Northern Territory (in the capacity of a Minister); or
  - (c) a Department of the government of a State, the Australian Capital Territory or the Northern Territory.
- 9 A contract of insurance in which a registered health benefits organisation provides cover in relation to its business as a registered organisation within the meaning of Part VI of the *National Health Act 1953*.
- 10 A contract of professional indemnity insurance.
- 11 A contract of insurance, including mortgage insurance, in which the insurer agrees to indemnify the insured against loss in relation to failure by a debtor to pay a debt due to the insured, but not against any other loss.
- 12 A life policy within the meaning of section 9 of the *Life Insurance Act 1995*.
- 13 A superannuation contract, for an individual or a group, including a superannuation policy within the meaning of the *Life Insurance Act 1995*.
- 14 A contract of insurance entered into by the Export Finance and Insurance Corporation under the *Export Finance and Insurance Corporation Act 1991*.
- 15 A contract of insurance commonly known as a trade credit or trade indemnity policy.
- 16 A contract of insurance commonly known as a product liability insurance contract, to the extent that it does not also provide cover for public liability.
- 17 A contract of insurance in which the insurer:
  - (a) indemnifies a business undertaking against loss resulting from a breakdown of, or malfunction in, machinery (including electronic equipment) or plant of the business undertaking, including:
    - (i) loss in relation to the repair or replacement of the machinery or plant;
    - or



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- (ii) any further loss resulting from the breakdown or malfunction; but
- (b) does not indemnify the business undertaking for any other kind of loss.
- 18 A contract of insurance (whether or not the cover is restricted or extended):
- (a) for a motor vehicle (other than moveable machinery or equipment, used in mining or construction activities, that would not ordinarily be registered to travel by road); and
- (b) for:
- (i) loss of, or damage to, the motor vehicle; or
- (ii) liability for loss of, or damage to, property caused by or resulting from impact of the motor vehicle with some other thing; or
- (iii) liability for compensation for the death of, or injury to, a person resulting from the use of the motor vehicle and not covered by compulsory third party insurance.
- 19 A contract of marine insurance within the meaning of section 7 of the *Marine Insurance Act 1909*.
- 20 A contract of insurance for goods (including any form of legal tender) in the ordinary course of transit, including goods that are stored temporarily in the course of the transit.
- 21 A contract of insurance for pleasure craft within the meaning of subsection 9A (2) of the *Insurance Contracts Act 1984*.
- 22 A contract of insurance entered into for a law (including a law of a State or Territory) about:
- (a) workers' compensation; or
- (b) compensation for the death of a person, or for the injury to a person, arising out of the use of a motor vehicle, commonly known as compulsory third party insurance.
- 23 A contract of aviation insurance, being:
- (a) a contract of insurance (whether or not the cover is limited or restricted) for loss of, damage to or liability arising in connection with aircraft; or
- (b) an aviation liability indemnity contract within the meaning of subsection 37(2) of the *Insurance Contracts Regulations 2017*; or
- (c) a contract of insurance to which Part IVA of the *Civil Aviation (Carriers' Liability) Act 1959* applies.
- 24 Any contract of insurance to the extent to which it provides cover for nuclear energy risks.
- 25 A contract of insurance, commonly known as salary continuance insurance, that provides the beneficiary with an income while he or she remains unable to work in his or her usual occupation.
- 26 A contract of insurance (whether or not the cover is limited or restricted) for loss of, damage to or liability arising in connection with any of the following:
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- (a) prime movers (other than prime movers, used in mining or construction activities, that would not ordinarily be registered to travel by road);
  - (b) trailers (other than trailers, used in mining or construction activities, that would not ordinarily be registered to travel by road);
  - (c) rail and tram rolling stock.
- 27 A financial product, to which paragraph 763A (1) (b) of the *Corporations Act 2001* applies, commonly known as any of the following:
- (a) credit wrap product;
  - (b) residual value bond;
  - (c) shortfall bond;
  - (d) rental bond;
  - (e) payment bond;
  - (f) credit default derivative;
  - (g) credit enhancement derivative;
  - (h) performance guarantee.
- 28 A contract of insurance that provides cover for liability of a person in his or her capacity as a director or officer of a corporation, including any related contract of insurance which provides cover for a corporation in respect of its liability to indemnify a person in his or her capacity as a director or officer of that corporation.
- 29 A contract of insurance that provides cover for liability arising from employment practices.
- 30 A contract of insurance that indemnifies a trustee or a trust fund in relation to a loss or liability incurred by the trustee in the course of carrying out the trustee's functions in relation to the trust.
- 31 A contract for bankers' blanket bond insurance.
- 32 A contract of insurance to the extent that it provides cover for loss arising from computer crime.
- 33 A contract of insurance that provides cover only for loss arising from fraud or dishonesty.
- 34 A contract of insurance that provides cover for blood stock.
- 35 A contract of insurance that provides cover only for loss arising from statutory liability.
- 36 A contract of insurance, commonly known as group journey cover, that is taken out by an employer for a work-bound employee who is not covered by a workers' compensation scheme.
- 37 A contract of insurance that does not include a terrorism exclusion within the meaning given by section 8 of the Act.
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38 A contract of insurance that provides cover only for loss or liability arising from terrorism.

39 A contract of insurance that:

- (a) would otherwise be an eligible insurance contract; and
- (b) is in effect on 1 July 2003 or comes into effect after 30 June 2003 and before 1 October 2003; and
- (c) has a period of insurance of longer than 12 months; and
- (d) is not a project-specific contract that has a policy period for the duration of the project.

40 A contract of insurance commonly known as:

- (a) home owners' warranty insurance; or
- (b) builders' warranty insurance.

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

Number and year	Registration	Commencement	Application, saving and transitional provisions
2003 No. 162	26 June 2003	1 July 2003	
2003 No. 244	25 Sept 2003	r 1–3 and Sch 1: 25 Sept 2003 Remainder: 16 Oct 2003	—
2007 No. 107	27 April 2007 (F2007L01095)	1 July 2007 (s 2)	—
193, 2013	26 July 2013 (F2013L01441)	26 July 2013 (s 2)	—

Name	Registration	Commencement	Application, saving and transitional provisions
Terrorism Insurance Amendment Regulations 2017	14 Mar 2017 (F2017L00207)	1 July 2017 (s 2(1) item 1)	—
Insurance Contracts and Other Laws (Repeal and Consequential Amendments) Regulations 2017	19 Dec 2017 (F2017L01663)	Sch 1 (item 3): 1 Apr 2018 (s 2(1) item 1)	—

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

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<b>Provision affected</b>	<b>How affected</b>
r 2 .....	rep LA s 48D
r 3 .....	am F2017L00207
r 6 .....	ad No 193, 2013
r 10 .....	ad F2017L00207
Schedule 1 .....	am 2003 No 244; 2007 No 107; F2017L00207; F2017L01663

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