EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 234

Issued by the authority of the Treasurer

Insurance Act 1973
Insurance Amendment Regulations 2010 (No. 1)

Section 132 of the *Insurance Act 1973* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Financial Sector Legislation Amendment (Prudential Refinements and Other Measures) Act 2010* (FSLA Act) amends section 62ZZM of the Act to provide that when a person's entitlement under the Financial Claims Scheme (FCS) connected to a general insurer and a protected policy is met, the person is taken to have been paid the amount by the general insurer under the terms and conditions of the policy for all purposes except those prescribed by the regulations.

Currently, section 62ZZM is more limited in relation to when a person is taken to have been paid by the general insurer under the terms and conditions of their policy. The section presently provides that such payments will only be taken to have been paid by the general insurer under the terms and conditions of the policy for the purpose of subrogation or a purpose prescribed by the regulations.

Regulation 7EA of the *Insurance Regulations 2002* (the Principal Regulations) currently prescribes two additional purposes when meeting an entitlement under the FCS is to be taken to be payment by the insurer under the policy. These two purposes are the recovery of reinsurance by the general insurer and the claiming of contribution by the general insurer in respect of double insurance.

The Regulations amend the Principal Regulations to repeal regulation 7EA of the Principal Regulations as it is redundant as a result of the above mentioned amendments made by the FSLA Act.

The Insurance Council of Australia was consulted in the preparation of the Regulations.

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

The Regulations commence on the commencement of items 1 to 83 of Schedule 2 of the *Financial Sector Legislation Amendment (Prudential Refinements and Other Measures) Act 2010* on 27 July 2010.