

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing

Competition and Consumer Act 2010

Competition and Consumer (Price Monitoring—General Insurance Policies) Direction 2022

Subsection 95ZE(1) of the *Competition and Consumer Act 2010* (the Act) provides that the Minister may give the Australian Competition and Consumer Commission (ACCC) a written direction to monitor prices, costs and profits relating to the supply of goods or services by persons in an industry, and to give the Minister reports on the monitoring.

Subsection 95ZH(1) of the Act provides that the Minister may also give the ACCC a written direction to give special consideration to matters in exercising the ACCC's powers and performing the ACCC's functions under Part VIIA of the Act.

The purpose of the *Competition and Consumer (Price Monitoring—General Insurance Policies) Direction 2022* (the Direction) is to require the ACCC to monitor the prices, costs and profits relating to the supply of goods or services by persons in the general insurances industry and auxiliary insurance industry, from 1 January 2022.

The Direction gives effect to the Government's decision that the ACCC monitor the prices, costs and profits relating to the supply of insurance cover in respect of the destruction of, or damage to, a home building, contents of a residential building, a strata title residence, and certain commercial premises and contents of those commercial premises, before and after the introduction of a cyclone and related flood damage reinsurance pool.

The Government has announced that it intends to extend the reinsurance pool to cover certain marine insurance contracts from 1 July 2023. The Direction will be amended to ensure that the ACCC also monitors the prices, costs and profits relating to the supply of those marine insurance contracts when they are included in the scheme.

The Direction also requires the ACCC to give special consideration to monitoring the prices, costs and profits relating to the supply of covered insurance policies, as defined by the Direction, and to not monitor prices, costs and profits relating to the supply of insurance cover unrelated to the covered insurance policies.

The Direction further requires the ACCC to report to the Minister on the monitoring, every calendar year for the period of 1 January 2022 to 30 June 2026.

The Direction has been developed in consultation with the ACCC.

Details of the Direction are set out in Attachment A.

The Direction is a legislative instrument for the purposes of the *Legislation Act 2003*.

Section 9 of the *Legislation (Exemptions and Other Matters) Regulations 2015* (the Regulations) exempts an instrument that is a direction by a Minister to any person or body from disallowance, and as such this Direction is not subject to disallowance.

In addition, section 11 of the Regulations exempts an instrument that is a direction by a Minister to any person or body from sunseting.

This Direction is consistent with the intention of the above exemptions which recognise that this Direction is given under a specific power provided for in the Act, designed to be used by the Minister and intended to remain in place until revoked by the Minister. This also ensures commercial certainty for the relevant industries and certainty for the ACCC in undertaking this Direction. In addition, while the Direction itself does not sunset, the reporting has a defined end date of 30 June 2026.

The Direction commenced on day after this instrument was registered on the Federal Register or Legislation.

A statement of Compatibility with Human Rights is at Attachment B.

Details of the *Competition and Consumer (Price Monitoring—General Insurance Policies) Direction 2022*

Section 1 – Name of the Regulations

This section provides that the name of the Direction is the *Competition and Consumer (Price Monitoring—General Insurance Policies) Direction 2022* (the Direction).

Section 2 – Commencement

The Direction commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Direction is made under the *Competition and Consumer Act 2010* (the Act).

Section 4 – Definitions

Section 4 provides definitions of expressions used in the Direction.

The industries referred to in section 5 are defined by reference to the *Australian and New Standard Industrial Classification 2006* (ANZSIC) published by the Australian Bureau of Statistics (1292.0). ANZSIC is used as a standard means of classifying business units into industry sectors.

The references to ANZSIC are as that document was revised and in force at the time the Direction commenced. At the time the Direction was registered, this document was freely available on the Australian Bureau of Statistics' website (<http://www.abs.gov.au>).

Section 5 - Object

Section 5 states the object of the instrument, which is to direct the ACCC to monitor prices, costs and profits relating to the supply of insurance cover in respect of the destruction of, or damage to, a home building, contents of a residential building, a strata title residence, and certain commercial premises and contents of those commercial premises, before and after the introduction of a cyclone and related flood damage reinsurance pool.

Section 6 – Commission to monitor prices

Section 6 directs the ACCC to monitor prices, costs and profits relating to the supply of goods or services by persons in specified industries. These industries are involved in the supply of insurance services.

The ACCC is required to monitor prices, costs and profits of the following industries:

- the general insurance industry; and
- the auxiliary insurance industry.

Section 6 also directs the ACCC to give the Minister a report on the monitoring at least once each calendar year during the period 1 January 2022 to 30 June 2026.

Section 6 also notes that this direction does not apply to an exempt supply, or the supply of a good or service by a State or Territory authority, as these are excluded from monitoring by section 95ZG of the Act.

This direction is given under subsection 95ZE(1) of the Act.

Section 7 – Direction to give special consideration to specified matters

Section 7 directs the ACCC to give special consideration to the object of the Direction when exercising its powers and performing its functions under the Act as required by the direction in section 6.

Section 7 also directs the ACCC to give special consideration to monitoring the prices, costs and profits relating to the covered insurance policies, defined under Section 4 as insurance cover in respect of the destruction of, or damage to, a home building; contents of a residential building; a strata title residence; and commercial premises, and the contents of those commercial premises, if the sums insured do not exceed \$5 million.

Section 7 also directs the ACCC to not monitor the prices, costs and profits relating to insurance cover unrelated to the supply of the above covered insurance policies.

This direction is given because persons in the industries specified in section 6 may also supply other goods and services that are not necessarily relevant to the core object of the Direction.

This direction is given under subsection 95ZH(1) of the Act.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Competition and Consumer (Price Monitoring—General Insurance Policies) Direction 2022

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Competition and Consumer (Price Monitoring—General Insurance Policies) Direction 2022* (the Direction) is to require the Australian Competition and Consumer Commission (ACCC) to monitor the prices, costs and profits relating to the supply of goods or services by persons in specified industries. These industries are involved in the supply of general insurance services and auxiliary insurance services.

The Direction gives effect to the Government’s decision that ACCC monitor prices, costs and profits relating to the supply of insurance cover in respect of the destruction of, or damage to, a home building, contents of a residential building, a strata title residence, and certain commercial premises and contents of those commercial premises, before and after the introduction of a cyclone and related flood damage reinsurance pool.

The Direction also requires the ACCC to give special consideration to monitoring the prices, costs and profits relating to the supply of the covered insurance policies, defined under Section 4 as insurance cover in respect of the destruction of, or damage to, a home building; contents of a residential building; a strata title residence; and commercial premises, and the contents of those commercial premises, if the sums insured do not exceed \$5 million. The Direction requires the ACCC to not monitor the prices, costs and profits unrelated to those covered insurance policies.

The Direction also requires the ACCC to provide the Minister with a report on the monitoring at least every calendar year from the period of 1 January 2022 to 30 June 2026.

Human rights implications

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.