

TERRITORY INSURANCE OFFICE AMENDMENT BILL 2005
EXPLANATORY STATEMENT

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Unlike its privately owned competitors, the Territory insurance Office (TIO) is not subject to the national regulatory regime administered by the Australian Prudential Regulation Authority (APRA). Instead, the Office reports against prudential standards prescribed in regulations under the *Territory Insurance Office Act*.

Under the provisions of Act, TIO's customers also receive a Government guarantee on their deposits and insurance contracts.

The draft Bill seeks to implement a strengthened prudential supervision regime for TIO, which will adopt prudential standards applied by APRA. The Bill provides the authority for the Treasurer TIO to approve such standards by way of a Ministerial Determination in order to provide administrative flexibility to respond to ongoing changes in regulatory and industry practice.

The amendments also provide for the levying of fees equivalent to the benefits that TIO receives from the Government guarantee on its operations and to recover the costs of prudential supervision under the new framework.

NOTES ON CLAUSES

Clause 1. Short title.

This clause provides the way that the legislation may be cited.

Clause 2. Principle Act

This clause specifies that the purpose of the Act is to amend the *Territory Insurance Office Act*.

Clause 3. New Section 30A

This clause introduces a new section 30A into the *Territory Insurance Office Act*. Customers holding deposits or contracts of insurance with the Territory Insurance Office (TIO) benefit from a legislative guarantee under section 30 of the *Territory Insurance Office Act*. This Government guarantee gives TIO a benefit compared to its competitors. To ensure competitive neutrality with these competitors, it is appropriate that TIO be charged a fee for the legislative guarantee. The new section 30A will facilitate this by requiring TIO to pay to Government an amount each year, determined by the Treasurer to be the value of the guarantee.

Clause 4. New Sections 33A and 33B

This clause introduces new sections 33A and 33B into the *Territory Insurance Office Act*. TIO is subject to a range of existing prudential standards issued as regulations under the *Territory Insurance Office Act*. These new sections 33A and 33B introduce a new and more comprehensive process for applying prudential standards to TIO.

Whereas previous prudential standards were issued as regulations, subsection 33A(1) provides for the standards to be issued as Determinations by the Treasurer. This reflects the need for the standards to be dynamic and responsive to changes in both the national regulatory environment and changes in the financial services and insurance industries.

Clause 4. New Sections 33A and 33B

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Sub-sections 33A(2)-(4) contain provisions to ensure appropriate consultation and transparency. Specifically, the Treasurer is required to consult TIO before making any Determinations, and any Determinations cannot be effective unless first notified in the Gazette.

Finally, sub-sections 33A(5)-(8) allow Determinations to adopt instruments of another jurisdiction. In particular, this framework could be used to adopt standards issued by the national regulator, the Australian Prudential Regulation Authority (APRA) and apply them to TIO.

Section 33B provides for TIO to be charged fees for prudential supervision. This mirrors the arrangements in the private sector where prudential supervision is undertaken on a user pays basis.

Clause 5. Section 34 (Regulations)

This clause repeals that part of section 34 of the Principal Act that allows the Minister to issue regulations relating to prudential supervision. This reflects the fact that prudential standards will now be issued as Determinations by the Treasurer.

Clause 6. New Part VI

This clause introduces a new Part VI into the *Territory Insurance Office Act* setting out the repeal and transitional matters associated with the amending legislation. It provides that the existing prudential regulations will be repealed, but will still apply for the financial year beginning 1 July 2005. It provides that the guarantee fees and the prudential supervision fees introduced by the amending legislation will first apply to the financial year commencing 1 July 2006. Finally, it updates the references to the Consolidated Revenue Account within the Act to the Central Holding Authority.