



Premier of New South Wales  
Australia



TCO/15567

Senator G Brandis  
Chair  
Economics Legislation Committee  
The Senate  
Parliament House  
Canberra ACT 2600

Dear Senator Brandis

I write in response to the Committee's invitation to make a submission on the *Terrorism Insurance Bill 2003*.

### **The crisis and the Commonwealth response**

The Bill responds to the crisis in reinsurance following the events of September 11, 2001 and the collapse of the World Trade Centre and surrounding buildings which produced significant commercial insurance claims. As a result of reassessing the risks involved reinsurance companies left the market creating major difficulties for insurers and, consequently, for those insured in finding adequate terrorism insurance cover.

I wrote to the Prime Minister three times between November 2001 and February 2002 raising this issue (among other terrorism and insurance related issues). In April 2002 the Council of Australian Governments discussed the issue and agreed that urgent action was required in consultation with the States and Territories. This Bill is the final result a year later.

The need for businesses to have insurance against the risk of terrorism is, unfortunately, important in today's world. There is an obligation on Governments to make the insurance market work so that businesses have access to insurance at realistic cost and insurance companies can spread their risk with adequate reinsurance options.

The Commonwealth's Terrorism Insurance Bill is therefore a necessary measure and is supported by the NSW Government. NSW would like to see this Bill proceed expeditiously.

## NSW action

NSW has already had to take urgent action, without the assistance of a Commonwealth framework, to ensure the continued operation of its statutory compulsory schemes:

- For Motor Vehicle Compulsory Third Party (CTP) Insurance, NSW has been forced to exclude the risk of terrorism from CTP policies under legislation that expires at the end of 2003 (before which time, it will need to be reviewed) (*see Motor Accidents Compensation Amendment (Terrorism) Act 2002 (NSW)*).
- For the Workcover scheme, a Government-guaranteed reinsurance pool has been established as an interim measure to ensure that specialist and self insurers in the Workcover scheme have a viable means of reinsuring their terrorism risk (*see Workers Compensation Amendment (Terrorism Insurance Arrangements) Act 2002 (NSW)*).

## The Bill

I am advised that the Bill does two major things:

- It imposes an obligation on insurers to offer terrorism insurance as part of commercial property or infrastructure insurance (including that covering public liability and business interruption risks). The classes of insurance covered by this obligation can be extended (or limited) by regulation.
- It allows insurers to reinsure that risk through a \$10.3 billion pool established by the Australian Reinsurance Corporation, a government owned entity. This pool is to be funded partly by premiums collected from the participating insurers (\$300 million), partly through a line of credit (\$1 billion) and partly by a Commonwealth Government guarantee (\$9 billion).

I have previously written to the Prime Minister expressing concern about the coverage of the scheme for risks of terrorism to places of worship, especially mosques and synagogues, which in the current environment have a heightened risk of terrorist attack.

Moslem and Jewish groups in the community have approached the NSW Government concerned about the cost and availability of insurance cover for their places of worship. Such places are not commercial enterprises and as such are not the focus of the Bill. However, because of the problems faced by them, consideration should be given to including insurance for places of worship in the package.

I was pleased to receive an assurance, in a letter dated 13 February 2003 from the Prime Minister, that this is a matter which the Treasurer is considering in developing the regulations to support the operation of the Act. In this regard, it is important to note that these are community groups, without a large commercial funding base, and cannot bear unreasonable costs. I would encourage the Treasurer to ensure that premiums for these groups will be reasonable.

The Commonwealth has also indicated that it intends to discuss with the States the possibility of insurers operating under compulsory state schemes joining the pool.

In NSW, insurers in the Motor Accident and Workcover schemes could benefit from such a proposal, and it may do away with the need for special State by State arrangements. This would be welcome. NSW has already indicated to the Commonwealth Treasurer that it is interested in entering into such discussions.

As a final point, I note that the Commonwealth Government has said that the Bill provides temporary measures while the private sector is failing to provide for terrorism reinsurance. The scheme is to be regularly reviewed and, when a reinsurance market re-emerges, the Commonwealth scheme could be wound up. If this occurs it is unclear what will happen to the \$300 million collected. Clearly, States and Territories would be significantly affected by such a move and should be consulted by the Commonwealth in any review.

Thank you for the opportunity to comment on this Bill.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Bob Carr', written in a cursive style with a long horizontal stroke extending to the right.

Bob Carr  
Premier