

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

INSURANCE LEGISLATION AMENDMENT BILL 1988

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1987-88

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 3 November 1988

(Treasurer)

A BILL

FOR

An Act to amend the law relating to insurance

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

5 **1** This Act may be cited as the *Insurance Legislation Amendment Act 1988*.

Commencement

10 **2. (1)** The following provisions commence on the twenty-eighth day after the day on which this Act receives the Royal Assent:
 Parts I and IV, section 19, subsection 20 (1), sections 22 and 23, paragraphs 24 (b), (c) and (d), subsection 24 (2), paragraph 31 (b),

subsection 32 (1), sections 33, 34, 36, 39, 40, 41, 42 and 43, paragraph 44 (c) and section 45.

(2) The remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

PART II—AMENDMENT OF THE INSURANCE ACT 1973

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Principal Act

3. In this Part, “Principal Act” means the *Insurance Act 1973*¹.

4. (1) After Part IV of the Principal Act the following Part is inserted:

“PART IVA—ANNUAL SUPERVISORY FEE

Annual supervisory fee

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“49A. (1) A body corporate authorised under this Act to carry on insurance business is liable to pay such fee as is prescribed in respect of the general supervisory services provided by the Commissioner under this Act during each period in respect of which the company is required to lodge accounts under subsection 44 (1).

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“(2) Lloyd’s is liable to pay such fee as is prescribed in respect of the general supervisory services provided by the Commissioner under this Act during each period in respect of which Lloyd’s is required to lodge accounts under clause 3 of the Schedule.

“(3) The regulations may make provision for and in relation to the fee and, in particular, may make provision for or in relation to any of the following:

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(a) the time and manner of payment;

(b) exemptions;

(c) the refund (or other application) of overpayments;

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(d) additional amounts payable as penalties for late payment;

(e) recovery of amounts owing.”.

(2) The amendment made by subsection (1) applies to a period ending on or after 1 July 1988.

Repeal of section 113

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5. Section 113 of the Principal Act is repealed.

Offences

6. Section 128 of the Principal Act is amended:

(a) by omitting from subsection (1) “, 109 (3) or 113 (3)” and substituting “or 109 (3)”;

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(b) by omitting from paragraph (1) (b) “, 105 (15) or 113 (3)” and substituting “or 105 (15)”.

PART III—AMENDMENT OF THE INSURANCE (AGENTS AND BROKERS) ACT 1984

Principal Act

5 7. In this Part, “Principal Act” means the *Insurance (Agents and Brokers) Act 1984*².

Interpretation

8. Section 9 of the Principal Act is amended by inserting the following definitions:

“‘accounting period’ means:

- 10 (a) in relation to a corporation—the period in respect of which any profit and loss account of the corporation laid before it in general meeting is made up, whether that period is a year or not;
- 15 (b) in relation to a person (other than a corporation) in relation to whom an accounting period is applicable as a year of income for the purposes of the *Income Tax Assessment Act 1936*—that accounting period; and
- (c) in any other case—a period of 12 months commencing on 1 July;

20 ‘approved auditor’ means a person included in a class of persons specified in regulations made for the purposes of this definition;

‘foreign agency agreement’, in relation to a person, means an agreement that authorises the person, as agent for an unauthorised foreign insurer, to arrange contracts of general insurance;

25 ‘foreign insurance agent’ means a person who carries on the business of arranging contracts of general insurance, whether in Australia or elsewhere, as agent for an unauthorised foreign insurer;

‘registered foreign insurance agent’ means a person who is for the time being registered under Part IIIA;

30 ‘unauthorised foreign insurer’ means an insurer who:

- (a) does not have an authority under the *Insurance Act 1973* to carry on insurance business;
- (b) is not a person who, because of section 5 of that Act, is not required to have such an authority; and
- 35 (c) carries on insurance business outside Australia and the external Territories to which the *Insurance Act 1973* extends;”.

9. After section 9 of the Principal Act the following section is inserted in Part I:

40 **Meaning of references to arranging contracts etc. with unauthorised foreign insurers**

“9A. A reference in this Act to a person arranging a contract as agent for an unauthorised foreign insurer or arranging a contract with an unauthorised foreign insurer includes a reference to the person arranging a

contract as agent for, or arranging a contract with, 2 or more insurers including one or more unauthorised foreign insurers.”

Registration of brokers

10. (1) Section 21 of the Principal Act is amended:

(a) by inserting after paragraph (1) (a) the following paragraph: 5

“(aa) the applicant has furnished to the Commissioner a copy of each foreign agency agreement (if any) that authorises the applicant to arrange contracts as agent for an insurer;”;

(b) by inserting in paragraph (1) (b) “, being accounts audited by an approved auditor” after “Commissioner” (last occurring). 10

(2) The amendment made by paragraph (1) (b) applies to accounts furnished to the Commissioner after the commencement of that paragraph.

Inspection of documents

11. Section 23 of the Principal Act is amended:

(a) by omitting “and” from the end of paragraph (c); 15

(b) by omitting paragraph (d) and substituting the following paragraphs:

“(d) inspect any document furnished to the Commissioner under paragraph 21 (1) (aa);

(e) inspect any document lodged with the Commissioner under section 25A or 25B; and 20

(f) make a copy of, or take extracts from, anything that the person is entitled to inspect under any of the preceding paragraphs.”

12. After section 25 of the Principal Act the following sections are inserted: 25

Annual return

“25A. (1) A person who:

(a) has been a registered insurance broker at any time during a particular accounting period of the person; and

(b) during that period, arranged any contract of general insurance with an unauthorised foreign insurer (whether as agent for the insurer or as agent for the intending insured); 30

shall lodge with the Commissioner a return with respect to the person’s activities as an insurance intermediary during that period (not including any part of the period when the person was not registered). 35

Penalty:

(c) in the case of a natural person—\$1,000; or

(d) in the case of a corporation—\$5,000.

“(2) The return:

(a) shall be in the prescribed form; 40

- (b) shall contain such information as is required by the form;
- (c) shall be accompanied by a report of an approved auditor in accordance with the regulations; and
- (d) shall be lodged within 4 months after the end of the accounting period to which it relates.

“(3) Subsection 25 (2) does not apply for the purposes of this section.

Notification of foreign agency agreements

“25B. (1) Where:

- (a) a foreign agency agreement is entered into in relation to a registered insurance broker; or
- (b) a foreign agency agreement in relation to a registered insurance broker (whether entered into before or after the commencement of this section) is altered or terminated;

the broker shall, within 21 days after the agreement is entered into or the alteration or termination occurs:

- (c) in the case of the entering into, or the alteration of, an agreement—lodge with the Commissioner a copy of the agreement or of the alteration, as the case may be; or
- (d) in the case of the termination of an agreement—notify the Commissioner in writing of the termination.

Penalty:

- (e) in the case of a natural person—\$1,000; or
- (f) in the case of a corporation—\$5,000.

“(2) Subsection 25 (2) does not apply for the purposes of this section.”.

(2) Section 25A of the Principal Act as amended by this Act applies to an accounting period that commences at or after the commencement of this section.

13. After Part III of the Principal Act the following Part is inserted:

“PART IIIA—REGISTRATION OF FOREIGN INSURANCE AGENTS

Interpretation

“31A. If this Act is extended to an external Territory, a reference in a provision of this Part to the commencement of this Part shall, for the purposes of the application of that provision in that Territory, be construed as a reference to the commencement of the day on which this Act was extended to that Territory or the commencement of this Part, whichever is the later.

Foreign insurance agents not to carry on business unless registered

“31B. (1) A person (whether an individual or a corporation) shall not, after the expiration of 6 months after the commencement of this Part, carry on business as a foreign insurance agent, whether alone or in partnership, unless:

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(a) both of the following conditions are satisfied:

- (i) the person is a registered insurance broker;
- (ii) if there are liabilities prescribed for the purposes of this subparagraph—there is in force a contract of insurance accepted by the Commissioner under which the person is indemnified to the extent required by the regulations in respect of the prescribed liabilities arising out of or in the course of the person’s business as an insurance intermediary; or

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(b) both of the following conditions are satisfied:

15

- (i) the person is a registered foreign insurance agent;
- (ii) if there are liabilities prescribed for the purposes of this subparagraph—there is in force a contract of insurance accepted by the Commissioner under which the person is indemnified to the extent required by the regulations in respect of the prescribed liabilities arising out of or in the course of the person’s business as an insurance intermediary.

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Penalty:

(c) in the case of a natural person—\$5,000 or imprisonment for 2 years, or both; or

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(d) in the case of a corporation—\$25,000.

“(2) The Commissioner may, by notice in writing served on the registered insurance broker or registered foreign insurance agent concerned, declare that a contract specified in the notice is no longer acceptable for the purposes of subparagraph (1) (a) (ii) or (b) (ii).

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“(3) A notice served under subsection (2) has effect on a day specified in the notice, being a day not less than 21 days after service of the notice.

Applications for registration

“31C. (1) A person who wants to be registered under this Part may apply to the Commissioner accordingly.

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“(2) The application shall be in accordance with the prescribed form.

“(3) Regulations made for the purposes of subsection (2) may include the requirement to provide:

- (a) information for statistical purposes; and
- (b) information that is, or may be, required to be furnished to the Commissioner under any other provision of this Act or the regulations.

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“(4) A person shall not, with intent to deceive:

- (a) make a false or misleading statement in, or omit material matter from, a prescribed form furnished to the Commissioner; or
- (b) furnish to the Commissioner, in connection with an application under this section, information that is false or misleading in a material particular.

Penalty for contravention of this subsection:

- (c) in the case of a natural person—\$5,000 or imprisonment for 2 years, or both; or
- (d) in the case of a corporation—\$25,000.

Registration of foreign insurance agents

“31D. (1) Subject to this section, where an application is made to the Commissioner under section 31C, the Commissioner shall register the applicant, and give the applicant a certificate of registration, if:

- (a) the Commissioner is satisfied that the contract requirements of subparagraph 31B (1) (b) (ii) (if applicable) are satisfied in respect of the applicant;
- (b) the applicant has paid such fee as is prescribed; and
- (c) the applicant has furnished to the Commissioner a copy of each foreign agency agreement that authorises the applicant to arrange contracts as agent for an insurer.

“(2) The Commissioner may refuse to register the applicant if, to the knowledge of the Commissioner, the applicant, or a director, employee or agent of the applicant, has been convicted of an offence as referred to in subsection 31H (1).

“(3) Registration of a person under this section has effect for a period of one year.

“(4) If:

- (a) a registered foreign insurance agent applies to the Commissioner for cancellation of registration under this section; and
- (b) the Commissioner is satisfied that the person is no longer carrying on business as a foreign insurance agent;

the Commissioner may cancel the registration.

“(5) Where the Commissioner:

- (a) registers an applicant under this section; or
- (b) cancels the registration of a registered foreign insurance agent under this section;

the Commissioner shall cause notice of the registration or cancellation to be published in the *Gazette*.

Register to be kept

“31E. (1) For the purposes of this Act, the Commissioner shall cause to be kept a Register of Foreign Insurance Agents.

“(2) Subject to this Act and to any regulations, the Register shall be kept in such form and manner as the Commissioner directs.

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Inspection of documents

“31F. A person may, on application made in accordance with the regulations and on payment of the prescribed fee (if any):

- (a) inspect the Register of Foreign Insurance Agents;
- (b) inspect a contract of insurance referred to in subparagraph 31B (1) (a) (ii) or (b) (ii), or a copy of such a contract, that is lodged with the Commissioner;
- (c) inspect any document furnished to the Commissioner under paragraph 31D (1) (c);
- (d) inspect any document lodged with the Commissioner under section 31J or 31K; and
- (e) make a copy of, or take extracts from, anything that the person is entitled to inspect under any of the preceding paragraphs.

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Delay in registration or renewal

“31G. (1) Where:

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- (a) an application for registration under section 31C is made before the expiration of 6 months after the commencement of this Part to the Commissioner by a person who was carrying on business as a foreign insurance agent at the commencement of this Part; and
- (b) the Commissioner has not refused to register the applicant;

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the person is not guilty of an offence under section 31B by so carrying on business as a foreign insurance agent after the expiration of that period of 6 months.

“(2) Where:

- (a) an application by a registered foreign insurance agent for renewal of registration under section 31C is made to the Commissioner before the expiration of the period of registration; and
- (b) the Commissioner has not renewed, or refused to renew the registration;

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then, in spite of the expiration of the period of the registration, the agent shall be deemed, for the purposes of this Act and the regulations, to be registered until the Commissioner renews, or refuses to renew, the agent’s registration.

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“(3) Subsection (1) ceases to apply to a person in relation to carrying on business as a foreign insurance agent if the Commissioner has, by notice in writing to the person, required the person to comply, after such period as is specified in the notice, in relation to that business, with such of the

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provisions of this Act that are applicable to registered foreign insurance agents as are so specified and the person has failed to comply with any of those provisions as required by the notice.

5 “(4) The Commissioner may, by writing signed by the Commissioner, exempt a person to whom subsection (1) or (2) applies from the requirement to comply, in relation to carrying on business as a foreign insurance agent, with such provisions of this Act (not being provisions with which the person is required to comply in relation to the business concerned because of a notice under subsection (3)) as are specified in the instrument of exemption.

10 **Suspension or cancellation of registration**

15 “31H. (1) The Commissioner may suspend for such period as the Commissioner considers to be appropriate, or cancel, the registration of a person under this Part if the person, or a director, employee or agent of the person, has, whether before or after the registration took place and whether before or after the commencement of this Part, been convicted of an offence:

- (a) against or arising under this Act or any law, whether of the Commonwealth, of a State or Territory, or of some other country, in respect of conduct relating to insurance; or
- (b) in respect of dishonest conduct;

20 being an offence that, in the opinion of the Commissioner, renders the person unfit to carry on business as a foreign insurance agent.

“(2) While the registration of a person under this Part is suspended, the person shall be deemed not to be registered under this Part.

25 “(3) Notwithstanding subsection (2), a person whose registration is suspended may carry on such of the person’s business as a foreign insurance agent as the Commissioner, by writing signed by the Commissioner, specifies, for such time and subject to such conditions (if any) as the Commissioner, by writing signed by the Commissioner, specifies.

30 “(4) A person shall not carry on business as a foreign insurance agent after the time specified under subsection (3) or fail to comply with a condition under that subsection that is applicable to the person.

Penalty:

- (a) in the case of a natural person—\$5,000 or imprisonment for 2 years, or both; or
- 35 (b) in the case of a corporation—\$25,000.

40 “(5) Where the Commissioner cancels the registration of a person, the Commissioner may, by writing signed by the Commissioner, specify a period during which the person is to be disqualified from registration and, where a period is so specified in relation to a person, the person is disqualified from registration during that period.

“(6) A person shall not be registered under this Part while the person’s registration is suspended or while the person is disqualified from registration.

“(7) Where the Commissioner suspends or cancels under this section the registration of a person under this Part, the Commissioner shall cause notice of the suspension or cancellation to be published in the *Gazette*.

Annual return

“31J. (1) A person who: 5

- (a) has been a registered foreign insurance agent at any time during a particular accounting period of the person; and
- (b) during that period, arranged any contract of general insurance as agent for an unauthorised foreign insurer;

shall lodge with the Commissioner a return with respect to the person’s activities as an insurance intermediary during that period (not including any part of the period when the person was not registered). 10

Penalty:

- (c) in the case of a natural person—\$1,000; or
- (d) in the case of a corporation—\$5,000. 15

“(2) The return:

- (a) shall be in the prescribed form;
- (b) shall contain such information as is required by the form;
- (c) shall be accompanied by a report of an approved auditor in accordance with the regulations; and 20
- (d) shall be lodged within 4 months after the end of the accounting period to which it relates.

“(3) Subsection 31H (2) does not apply for the purposes of this section.

Notification of foreign agency agreements

“31K. (1) Where: 25

- (a) a foreign agency agreement is entered into in relation to a registered foreign insurance agent; or
- (b) a foreign agency agreement in relation to a registered foreign insurance agent (whether entered into before or after the commencement of this section) is altered or terminated; 30

the agent shall, within 21 days after the agreement is entered into or the alteration or termination occurs:

- (c) in the case of the entering into, or the alteration of, an agreement—lodge with the Commissioner a copy of the agreement or of the alteration, as the case may be; or 35
- (d) in the case of the termination of an agreement—notify the Commissioner in writing of the termination.

Penalty:

- (e) in the case of a natural person—\$1,000; or
- (f) in the case of a corporation—\$5,000. 40

“(2) Subsection 31H (2) does not apply for the purposes of this section.”.

Insurance intermediary to notify insured if insurer is an unauthorised foreign insurer

14. Section 34 of the Principal Act is amended:

5 (a) by omitting subsections (1) and (2) and substituting the following subsections:

“(1) Where:

(a) a contract of general insurance is arranged or effected by an insurance intermediary;

10 (b) the insurer, or any of the insurers, under the contract is an unauthorised foreign insurer; and

(c) the insurance intermediary did not obtain an acknowledgment in the prescribed form from the appropriate person, given in the prescribed manner and within the required time;

15 the insurance intermediary is guilty of an offence punishable, on conviction:

(d) in the case of a natural person—by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both; or

(e) in the case of a corporation—by a fine not exceeding \$5,000.

20 “(2) In subsection (1):

‘appropriate person’ means:

(a) if the regulations provide for the acknowledgment to be given by a person on behalf of the insured—that person; or

25 (b) in any other case—the insured;

‘required time’ means:

(a) if it is practicable for the acknowledgment to be obtained before the contract is arranged or effected—the time when the contract is arranged or effected; or

30 (b) in any other case—as soon as reasonably practicable after the contract is arranged or effected.”;

(b) by omitting subsection (3);

(c) by omitting the penalty at the end of the section.

Accounts and audit

35 15. Section 44 of the Principal Act is amended by adding at the end “or registered foreign insurance agents”.

Certain particulars to be included in reports

16. Section 45 of the Principal Act is amended:

40 (a) by inserting in paragraph (a) “foreign insurance agents,” before “life insurance brokers”;

(b) by inserting in paragraph (b) “or 31H” after “25”.

**PART IV—AMENDMENT OF THE LIFE INSURANCE
AMENDMENT ACT 1977**

Principal Act

17. In this Part, “Principal Act” means the *Life Insurance Amendment Act 1977*³.

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Repeal of sections 6 and 7

18. Sections 6 and 7 of the Principal Act are repealed.

PART V—AMENDMENT OF THE LIFE INSURANCE ACT 1945

Principal Act

19. In this Part, “Principal Act” means the *Life Insurance Act 1945*⁴.

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Interpretation

20. (1) Section 4 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“‘books’ includes any register or other record of information or any accounts or accounting records, however compiled, retrieved or stored, and also includes any document;

‘minor’ means a person who has not attained the age of 18 years;”.

(2) Section 4 of the Principal Act is amended by inserting in subsection (1) the following definition:

“‘appointed actuary’ means a person appointed in accordance with section 47A;”.

Actuaries

21. Section 4A of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) A reference in this Act to an actuary shall, unless the contrary intention appears, be read as a reference to:

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(a) an appointed actuary; or

(b) a person who is ordinarily resident in Australia and:

(i) is a Fellow of the Institute of Actuaries of Australia; or

(ii) is a person in respect of whom there is in force an approval by the Commissioner under subsection (3).”.

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Annual report and returns

22. (1) Section 11 of the Principal Act is amended by omitting from subsection (1) “within 5 months after 31 December in each year” and substituting “within 3 months after each year ending on 30 June”.

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(2) The report and printed copies or summaries for the year ending on 30 June 1989 shall deal also with the period from 1 January 1988 to 30 June 1988.

Repeal of section 13

23. (1) Section 13 of the Principal Act is repealed.

5 (2) Notwithstanding the repeal of section 13 of the Principal Act effected by subsection (1) of this section, where the parties to a policy have agreed, before the commencement of this section, to submit a dispute or difference to the Commissioner, that section of that Act continues to apply in relation to that policy as if that repeal had not been effected.

Application for registration

24. (1) Section 17 of the Principal Act is amended:

- 10 (a) by omitting from paragraph (2) (c) “actuary (if any)” and substituting “appointed actuary”;
- (b) by omitting from paragraph (2) (e) “in the case of a foreign company,”;
- 15 (c) by omitting “and” from the end of paragraph (2) (e); and
- (d) by adding at the end of subsection (2) the following paragraphs:
- “ (g) the statutory funds established, or to be established, by the company; and
- (h) such other information (if any) as is prescribed.”.

20 (2) The amendments made by a paragraph of subsection (1) apply in relation to applications made after the commencement of the paragraph concerned.

25. After section 21 of the Principal Act the following section is inserted:

Company not to be registered unless it has an appointed actuary

25 “21A. A company shall not be registered unless it has an appointed actuary.”.

Investment of statutory funds

26. Section 39 of the Principal Act is amended by omitting from subsection (7) “a form approved by him” and substituting “the prescribed form”.

30 27. After Division 4 of Part III of the Principal Act the following Division is inserted:

“Division 4A—Appointed Actuaries

Appointment etc. of actuary

35 “47A. (1) A company may appoint a person to be the appointed actuary of the company if, and only if, the person is ordinarily resident in Australia and:

- (a) the person is a Fellow of the Institute of Actuaries of Australia of not less than 5 years standing; or

(b) there is in force an approval of the person by the Commissioner under subsection (4).

“(2) The appointment shall be in writing.

“(3) A company is not entitled to appoint a person to be the appointed actuary of the company if the appointment would result in there being more than one appointed actuary of the company at a particular time. 5

“(4) The Commissioner may, at the request of the company concerned, approve a person in writing for the purposes of paragraph (1) (b) if the Commissioner is satisfied that the person has actuarial qualifications and experience that fit the person to perform the functions of an appointed actuary. 10

“(5) A person ceases to be the appointed actuary of a company if:

- (a) the person dies;
- (b) the person ceases to be eligible for appointment as an appointed actuary; 15
- (c) the company, in writing, accepts the written resignation of the person; or
- (d) the company terminates the appointment by notice in writing to the person.

Registered company required to appoint actuary 20

“47B. (1) A company that is registered under this Act as at the commencement of this Division shall, not later than 3 months after that commencement, appoint a person under section 47A to be the appointed actuary of the company.

“(2) A company that is registered under this Act shall, within 6 weeks after a person ceases to be the appointed actuary of the company, appoint a person under section 47A to be the appointed actuary of the company. 25

Penalty: \$5,000.

Registered company to notify appointment

“47C. A company registered under this Act shall, within 14 days after appointing a person to be the appointed actuary of the company, give notice in writing to the Commissioner setting out: 30

- (a) the name of the appointee;
- (b) the date of birth of the appointee;
- (c) details of the relevant qualifications and work experience of the appointee; 35
- (d) the date of the appointment; and
- (e) such other information (if any) as is prescribed.

Penalty: \$2,000.

Registered company to notify if appointed actuary ceases to act

“47D. A company registered under this Act shall, within 14 days after a person ceases to be the appointed actuary of the company, give notice in writing to the Commissioner of the date on which the person so ceased.

5 Penalty: \$2,000.”.

Actuarial reports, abstracts and statements of life insurance business

28. (1) Section 48 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) “an actuary” and substituting “the appointed actuary”;
- 10 (b) by inserting in paragraph (1) (b) “appointed” before “actuary”;
- (c) by inserting in subsection (2) “appointed” before “actuary”.

(2) The amendments made by subsection (1) apply in relation to investigations commencing after the commencement of this section.

Provisions as to valuations

15 29. (1) Section 49 of the Principal Act is amended by inserting in subsection (4) “appointed” before “actuary”.

(2) The amendment made by subsection (1) applies in relation to a valuation as follows:

- 20 (a) in the case of a valuation made as part of an investigation under subsection 48 (1) of the Principal Act—if the investigation commenced after the commencement of this section;
- (b) in any other case—if the valuation was made after the commencement of this section.

Payments of dividends and bonuses from statutory funds

25 30. (1) Section 50 of the Principal Act is amended by omitting from subsection (2) “an actuary” and substituting “the appointed actuary”.

(2) The amendment made by subsection (1) does not apply in relation to a payment, allocation or transfer approved before the commencement of this section.

30 **Accounts, balance-sheets etc. to be signed and lodged with Commissioner**

31. Section 52 of the Principal Act is amended:

(a) by inserting after subsection (2A) the following subsections:

35 “(2B) Where any document that is required by this section to be lodged with the Commissioner was required to be prepared by the appointed actuary of the company concerned, the company shall cause to be lodged with that document a statement, in accordance with the prescribed form, of the pecuniary interests of the actuary in respect of the company that are required by the form to be included in the form.

“(2C) If the company lodges a statement for the purposes of subsection (2B) that the company believes, on reasonable grounds, to comply with the requirements of that subsection, the company shall be taken to have complied with that subsection even if the statement does not comply with the requirements of that subsection.”;

- (b) by inserting in subsection (3) “record,” after “abstract” (last occurring).

32. (1) Before section 54 of the Principal Act the following section is inserted in Division 7 of Part III:

Interpretation

“53A. In this Division:

‘officer’, in relation to a company, means a person who is, or has been, an officer of the company and includes a person who is or has been:

- (a) a director, secretary or employee of the company;
- (c) a person acting as actuary for the company;
- (d) an auditor or agent of the company; or
- (e) a shareholder of the company.”.

(2) Section 53A of the Principal Act is amended by inserting after paragraph (a) of the definition of “officer” the following paragraph:

“(b) the appointed actuary of the company;”.

Power to require production of books

33. Section 54A of the Principal Act is amended by omitting subsection (4).

Power to obtain information

34. Section 56 of the Principal Act is amended by omitting paragraph (1) (b) and substituting the following paragraph:

“(b) may examine on oath or affirmation, in relation to the company’s business:

- (i) an officer of the company; or
- (ii) any person who is, or has at any time been, the owner of a policy issued by the company or the personal representative of the owner; and”.

35. (1) After Division 9 of Part III of the Principal Act the following Division is inserted:

“Division 10—Annual Supervisory Fee

Annual supervisory fee

“76A. (1) A company is liable to pay such fee as is prescribed in respect of the general supervisory services provided by the Commissioner under this Act during each period in respect of which the company is required to lodge accounts under paragraph 52 (2) (a).

“(2) The regulations may make provision for and in relation to the fee and, in particular, may make provision for or in relation to any of the following:

- (a) the time and manner of payment;
- 5 (b) exemptions;
- (c) the refund (or other application) of overpayments;
- (d) additional amounts payable as penalties for late payment;
- (e) recovery of amounts owing.”.

10 (2) The amendment made by subsection (1) applies to a period ending on or after 1 July 1988.

Certain forms to be submitted for approval

36. Section 77 of the Principal Act is amended by omitting from subsection (2) “contains anything” and substituting “is”.

Premium rates

15 37. (1) Section 78 of the Principal Act is amended:

- (a) by omitting from subsection (1) “an actuary” and substituting “the appointed actuary”;
- (b) by omitting from subsection (2) “an actuary” and substituting “the appointed actuary”;
- 20 (c) by omitting from subsection (2) “the actuary” (wherever occurring) and substituting “the appointed actuary”;
- (d) by inserting in subsection (3) “appointed” before “actuary”;
- (e) by omitting from subsection (4) “An actuary” and substituting “The appointed actuary”.

25 (2) The amendment made by paragraph (1) (a) (and the amendment made by paragraph (1) (e), insofar as that amendment relates to an approval under subsection 78 (1) of the Principal Act) does not apply in relation to a rate approved before the commencement of this section.

30 (3) The amendments made by paragraphs (1) (b), (c) and (d) (and the amendment made by paragraph (1) (e), insofar as that amendment relates to an approval under subsection 78 (3) of the Principal Act) do not apply in relation to a requirement made before the commencement of this section.

Commissions or rebates in respect of policies

35 38. Section 79 of the Principal Act is amended by omitting “the approval of an actuary” and substituting “the approval of the appointed actuary”.

Repeal of sections 80, 81 and 82

39. Sections 80, 81 and 82 of the Principal Act are repealed.

Minors

40. Section 85 of the Principal Act is amended:

- (a) by omitting from subsections (1) and (3) “his parent” and substituting “a parent of the minor”;
- (b) by omitting from subsection (2) “of full age” and substituting “not a minor”.

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Unclaimed moneys

41. (1) Section 106 of the Principal Act is amended:

- (a) by omitting from subsection (8) “\$20” and substituting “the statutory threshold”;
- (b) by omitting “Secretary to the Department of the Treasury” from the definition of “authorized officer” in subsection (10) and substituting “Commissioner”;
- (c) by inserting in subsection (10) the following definition:

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“‘statutory threshold’ means \$200 or such higher amount as is prescribed;”.

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(2) The amendment made by paragraph (1) (a) applies in relation to statements of unclaimed moneys as at 31 December 1988 and in relation to statements of unclaimed moneys as at a later date.

Interpretation

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42. (1) Section 114 of the Principal Act is amended by omitting from subsection (1) “21” and substituting “18”.

(2) The amendment made by subsection (1) does not apply to policies effected before the commencement of this section.

Lost policies

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43. Section 119 of the Principal Act is amended:

- (a) by omitting from subsection (4) “one month’s” and substituting “10 days’”;
- (b) by inserting after subsection (8) the following subsection:

“(8A) Where:

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(a) the owner of a policy or a person claiming the benefit of section 103 or 103A in respect of a policy:

(i) claims that the policy is lost or has been destroyed; and

(ii) makes a claim under the policy, or makes any other request or claim in respect of the policy, that would result in the termination of the policy; and

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(b) the company liable under the policy:

(i) satisfies the claim or complies with the request referred to in subparagraph (a) (ii); and

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(ii) records details of its action in the appropriate register of policies;
the original policy is void.”.

Review of certain decisions

5 **44.** Section 138 of the Principal Act is amended:

(a) by omitting “or” from the end of paragraph (a) of the definition of “person affected by a reviewable decision” in subsection (1);

10 (b) by adding at the end of the definition of “person affected by a reviewable decision” in subsection (1) the following word and paragraph:

“or (c) in the case of a refusal under subsection 47A (4) to approve a person, or a revocation of an approval given in respect of a person under that subsection—that person;”;

15 (c) by omitting paragraph (a) of the definition of “reviewable decision” in subsection (1);

(d) by inserting after paragraph (f) of the definition of “reviewable decision” in subsection (1) the following paragraph:

20 “(fa) a refusal to give an approval under subsection 47A (4), or a revocation of an approval given under that subsection;”.

Service of notices

45. Section 146 of the Principal Act is amended:

25 (a) by omitting from paragraph (1) (a) “usual or last known place of abode or business” and substituting “address last known to the Commissioner”;

(b) by omitting subsection (2) and substituting the following subsection:

“(2) In this section:

‘address’ means any premises or place (including a post office box or bag service) to which postal articles may be addressed;

30 ‘company’ includes a body corporate that has ceased to carry on life insurance business in Australia.”.

Amendment of Second Schedule

46. (1) Clause 5 of Part I of the Second Schedule to the Principal Act is amended:

35 (a) by omitting “an actuary” and substituting “the appointed actuary of the company concerned”;

(b) by omitting “the actuary” (wherever occurring) and substituting “the appointed actuary”.

40 (2) The amendments made by subsection (1) apply in relation to investigations commencing after the commencement of this section.

Amendment of Third Schedule

47. (1) Clause 4 of Part I of the Third Schedule to the Principal Act is amended by inserting “appointed” before “actuary”.

(2) The amendment made by subsection (1) applies in relation to investigations commencing after the commencement of this section.

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NOTES

1. No. 76, 1973, as amended. For previous amendments, see No. 216, 1973; No. 157, 1976; No. 31, 1977; Nos. 92 and 177, 1981; No. 26, 1982; Nos. 54 and 129, 1983; No. 72, 1984; No. 187, 1985; No. 168, 1986; No. 99, 1987; and No. 38, 1988.
2. No. 75, 1984, as amended. For previous amendments, see Nos. 76 and 168, 1986; No. 99, 1987; and No. 38, 1988.
3. No. 32, 1977.
4. No. 28, 1945, as amended. For previous amendments, see Nos. 65 and 80, 1950; No. 94, 1953; No. 3, 1958; No. 93, 1959; No. 29, 1961; No. 145, 1965; Nos. 78 and 216, 1973; No. 32, 1977; No. 177, 1978; Nos. 92 and 176, 1981; No. 143, 1983; No. 74, 1984; No. 65, 1985; No. 99, 1987; and No. 38, 1988.

