

7 GEO. V. No. 27, 1916. *Insurance Act.*

## INSURANCE.

**An Act to Authorise the Carrying on by the State of Queensland of all classes of Insurance Business not already authorised by "The Workers' Compensation Act of 1916,"† and to Regulate the carrying on of Insurance Business in Queensland by the State and other Insurers.**

7 Geo. V.  
No. 27.  
THE  
INSURANCE  
ACT OF 1916.

[ASSENTED TO 29TH DECEMBER, 1916.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

### PART I.—PRELIMINARY.

PART I.—  
PRELIMINARY.  
Short title,  
com-  
mencement,  
and Parts  
of Act.

1. (1.) This Act may be cited as "*The Insurance Act of 1916*," and shall come into operation on a day to be fixed by proclamation by the Governor in Council and published in the *Gazette*.

(2.) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY;

PART II.—THE CARRYING ON OF INSURANCE  
BUSINESS BY THE STATE;

PART III.—THE CARRYING ON OF INSURANCE  
BUSINESS BY OTHER INSURERS;

PART IV.—GENERAL.

2. (1.) No further contracts shall be made or entered into for the grant of any annuity during life or the payment of any sum of money on death under "*The Government Annuities Act of 1865*,"\* and, save and except for the purpose of carrying into effect any such existing contract, the said Act shall be repealed.

No further  
contracts  
under 29 Vic.  
No. 18.

(2.) Save as is herein expressly provided, nothing in this Act shall be construed to repeal or prejudicially affect any of the provisions of "*The Workers' Compensation Act of 1916*"† or any Act amending or in substitution for that Act.

Saving of  
8 Geo. V.  
No. 35.

\* 29 Vic. No. 18, *supra*, page 66.

† 6 Geo. V. No. 35, *supra*, page 6926.

Interpreta-  
tion.

**3.** In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

Agent.

“Agent”—A person licensed to act as the agent of one or more insurers in the transaction of marine or general insurance business;

Broker.

“Broker”—A person licensed to act as the agent of the insured in the transaction of marine or general insurance business with the Commissioner, or any insurer;

Carry on.

“Carry on”—To give cover for or accept any Queensland marine or general insurance risk or business, or to issue or renew or to be or become liable under any marine or general insurance policy, or to adjust or settle any claim under any marine or general insurance policy;

Chief repre-  
sentative.

“Chief representative”—The person who is the attorney, manager, or other principal officer in Queensland of an insurer or of an applicant for a license as an insurer;

Director.

“Director”—A person resident in Queensland appointed by an insurer to be a Director;

General  
insurance  
business  
or risk.

“General insurance business or general insurance risk”—Any insurance business or risk of whatever kind not included in the terms “Life insurance business,” “Marine insurance business,” and “Workers’ compensation insurance business”;

Insurance  
Commis-  
sioner.

“Insurance Commissioner” or “Commissioner”—The Insurance Commissioner appointed under “*The Workers’ Compensation Act of 1916*,”\* and also under and for the purposes of this Act;

Insured.

“Insured”—The person in whose name a policy is issued or for whose benefit it enures;

Insurer.

“Insurer”—A person licensed to carry on marine or general or marine and general insurance business in Queensland: the term does not include the Insurance Commissioner;

Licensed.

“Licensed”—Licensed by the Commissioner under this Act;

\* 6 Geo. V. No. 35, *supra*, page 6926.

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“Life insurance business”—The business of life assurance as referred to in “*The Life Assurance Companies Act of 1901*”<sup>\*</sup>; Life insurance business.

“Managing Agent”—An agent resident within the Supreme Court Central District of Queensland or the Supreme Court Northern District of Queensland, appointed by the insurer under power of attorney to carry on the business of the insurer in such district or any portion thereof specified in such power of attorney; Managing agent.

“Marine insurance business”—A contract of marine insurance is a contract whereby the insurer undertakes to indemnify the assured, in manner and to the extent thereby agreed, against marine losses—that is to say, the losses incident to marine adventure. Marine insurance business.

A contract of insurance may, by its express terms or by usage of trade, protect the assured against losses not being in respect of human beings on inland waters or on any land risk not being in respect of human beings ordinarily covered under a marine insurance policy.

Where a ship in course of building, or the launch of a ship, or any adventure analogous to a marine adventure, is covered by a policy in the form of a marine policy, the provisions of this Act, in so far as applicable, shall apply thereto; but, except as by this section provided, nothing in this Act shall alter or affect any rule of law applicable to any contract of insurance other than a contract of marine insurance as by this Act defined;

“Minister”—The Attorney-General or other Minister of the Crown for the time being charged with the administration of this Act; Minister.

“Person” includes bodies corporate or unincorporate as well as individuals; Person.

“Policy”—A policy of insurance whether issued by the Commissioner or by any other person covering any marine insurance risk or general insurance risk or life insurance risk, including a cover note or other contract ~~whether oral~~ *oral and* or in writing covering or purporting to cover or insure any such risk; Policy.

<sup>\*</sup> 1 Edw. VII. No. 20, *supra*, page 282.

PART I.—  
PRELIMINARY.*Insurance Act.*

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Prescribed.	“ Prescribed ”—Prescribed by this Act ;
Queensland risk.	“ Queensland risk ”—A subject of insurance situated in Queensland ;
Regulations.	“ Regulations ”—Regulations made under the authority of this Act ;
Reinsurance.	“ Reinsurance ”—An insurance effected with any other person of the whole or any portion of any amount covered under any policy issued by the Commissioner or an insurer ;
Salaried officer.	“ Salaried officer ”—A person remunerated by fixed salary only who is in the sole employment of an insurer or of two or more insurers having one chief representative ;
This Act.	“ This Act ”—This Act and all Proclamations, Orders in Council, and regulations made thereunder ;
Workers' compensation insurance business.	“ Workers' compensation insurance business ”— “ Accident insurance business ” as defined in “ <i>The Workers' Compensation Act of 1916.</i> ”*

PART II.—  
THECARRYING ON  
OF INSURANCE  
BUSINESS  
BY THE STATE.PART II.—THE CARRYING ON OF INSURANCE BUSINESS  
BY THE STATE.Power to  
carry on  
business.

4. Subject to this Act, the Insurance Commissioner as representing the Crown is hereby authorised and empowered to carry on all classes of insurance business not already authorised by “*The Workers' Compensation Act of 1916*”\*; and for this purpose the Insurance Commissioner shall have and may exercise all such powers, authorities, and discretions, and may do all such acts and things, as a private person carrying on insurance business in Queensland has or may exercise or do.

Disabilities.

5. The Commissioner shall not be a member of the Executive Council or of either House of Parliament, and shall not act as director or auditor or in any other capacity take part in the management of any bank, joint stock company, or other financial institution, or of any trade or business, or acquire or hold directly or indirectly any shares in any insurance company, and in any such case shall be disqualified from holding the office of Commissioner.

\* 6 Geo. V. No. 35, *supra*, page 6926.

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BY THE STATE.

6. (1.) For the purposes of this Act and for the purpose of doing all such things as are incidental or conducive to the carrying on of any or all classes of insurance business, a State Government Insurance Office shall be constituted.

State  
Government  
Insurance  
Office.

(2.) The State Accident Insurance Office constituted under "*The Workers' Compensation Act of 1916*"\* shall hereafter be called the "Workers' Compensation Department," and shall be a department of the State Government Insurance Office.

(3.) The State Government Insurance Office shall be managed and controlled by the Insurance Commissioner for the time being appointed and holding office under "*The Workers' Compensation Act of 1916*"\*; and such Insurance Commissioner shall be deemed also to be appointed under and for the purposes of this Act.

(4.) For all the purposes of this Act—

- (a) The Commissioner shall have and may exercise all the powers, privileges, rights, and remedies of the Crown;
- (b) All legal proceedings may be brought by or against the Insurance Commissioner in his official name.

(5.) The Deputy Insurance Commissioner for the time being appointed and holding office under "*The Workers' Compensation Act of 1916*"\* shall be deemed also to be appointed under and for the purposes of this Act, and shall manage and control the State Government Insurance Office during the absence and on behalf of the Insurance Commissioner, and also during the occurrence from any cause of a vacancy in the office of such Commissioner and so long as such vacancy continues.

(6.) The Governor in Council may from time to time appoint or employ—

- (a) Such actuaries, agents, inspectors, adjusters, supervisors, officers, medical practitioners, and other persons as may be necessary for the purposes of the State Government Insurance Office;
- (b) Such and so many persons as he deems necessary to act as referees for the purposes of this Act. A District Court Judge may, notwithstanding any Act to the contrary, be appointed to be and may act as such referee.

\* 6 Geo. V. No. 35, *supra*, page 6926.

Every such referee, when sitting for the purposes of this Act, shall have all the powers of and be deemed to be a Commission under “*The Official Inquiries Evidence Act of 1910.*”\*

All officers and persons appointed under and for the purposes of “*The Workers’ Compensation Act of 1916*”† shall, unless in any case the Governor in Council otherwise directs, be deemed also to be appointed under and for the purposes of this Act.

Procedure,  
&c.  
Schedule I.

7. The provisions set forth in the First Schedule to this Act shall be applicable to the business of the State Government Insurance Office (other than the Workers’ Compensation Department thereof).

Such provisions may from time to time be amended or added to by the Governor in Council by Order in Council published in the *Gazette*.

State  
Insurance  
Funds.

8. (1.) In respect of each class of insurance business undertaken and carried on by the Commissioner, a separate and distinct fund shall be created under this Act to be called, in the case of fire insurance the “State Fire Insurance Fund,” in the case of life insurance the “State Life Insurance Fund,” or in other cases the “State [*naming class*] Insurance Fund.”

All premiums and other moneys received by the Commissioner under this Act shall be paid into the proper fund.

All payments in respect of policies, together with such contributions to the General Reserve as the Governor in Council may from time to time declare, shall be payable out of the proper fund.

All payments in respect of the administration of State insurance business, and of this Act, and of the State Government Insurance Office shall be apportioned between and payable out of the State Accident Insurance Fund created under “*The Workers’ Compensation Act of 1916*”† and the divers funds created pursuant to this Act in such proportions as the Commissioner, with the approval of the Minister, from time to time declares.

The salaries, wages, and allowances of any officers or employees of the Public Service who are employed for any purpose under this Act shall, if paid out of the Consolidated Revenue, be recouped from the proper fund.

\* 1 Geo. V. No. 26, *supra*, page 748. † 6 Geo. V. No. 35, *supra*, page 6926.

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(2.) There is hereby appropriated out of the Consolidated Revenue, as and by way of grant to the State Government Insurance Office, the sum of one hundred thousand pounds. Grant of £100,000.

Such grant shall be in addition to the sum of twenty thousand pounds granted under "*The Workers' Compensation Act of 1916.*"\*

Such grant shall be apportioned between the divers funds created by this Act and the General Reserve as the Governor in Council declares.

9. (1.) Every policy issued by the Commissioner under this Act shall be issued on behalf of and is hereby guaranteed by the Government of Queensland. Policies guaranteed by State.

(2.) Such sum as the Treasurer may at any time certify to be required to secure any payment legally payable under and pursuant to a policy issued by the Commissioner under this Act, so far only as the same cannot be paid out of the proper fund or General Reserve, is hereby appropriated out of the Consolidated Revenue. Payment out of Consolidated Revenue if necessary.

Any sum so appropriated shall be deemed to be an advance to that fund, and shall remain a charge thereon, to be recouped when moneys are available. Recoup from proper fund.

PART III.—THE CARRYING ON OF INSURANCE BUSINESS BY OTHER INSURERS.

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BUSINESS  
BY OTHER  
INSURERS.

10. (1.) Save as next hereinafter provided, no person other than the Commissioner shall carry on marine or general insurance business in Queensland unless or until he has obtained a license so to do from the Commissioner: Provided that every person who is carrying on marine or general insurance business in Queensland at the commencement of this Act shall be allowed a period of three months after the commencement of this Act for the purpose of obtaining such license. Insurers to be licensed.

Any person other than the Commissioner who carries on marine or general insurance business in Queensland without holding a subsisting license as aforesaid shall be liable to a penalty of two thousand pounds, and in addition to a penalty of five hundred pounds for each day on which business is so carried on; and such penalties shall be recoverable at the suit of the Commissioner by action in any court of competent jurisdiction.

\* 6 Geo. V. No. 35, *supra*, page 6926.

(2.) No person who is not resident in Queensland shall be entitled to obtain such license under this Act unless or until he has appointed some person who is resident in Queensland under power of attorney to deal with all matters arising between himself and the Commissioner under this Act, and has lodged with the Commissioner a notice in writing of the name and address of such attorney.

Form of  
application.

Sch. II, f. 1.

11. (1.) Every application for a license to carry on marine or general insurance or marine and general insurance business in Queensland shall be made by lodging with the Commissioner an application in writing in form No. 1 of the Second Schedule to this Act, and shall be accompanied by the following documents certified under the hand of the applicant or of the applicant's chief representative in Queensland:—

- (a) Duplicate receipt under the hand of the Treasurer, stating the amount deposited with the Treasurer by the applicant;
- (b) Copy of memorandum and articles of association of the applicant (if any);
- (c) Copy of applicant's last balance-sheet, or, if no balance-sheet has been issued, copy of the prospectus issued by the applicant at the time of incorporation (if any).

Deposit of  
£10,000.

(2.) The applicant shall deposit with the Treasurer a sum of money, which shall be determined as follows:—

Where the income of the applicant from marine and general insurance premiums in Queensland after deducting local reinsurances during the twelve months next preceding the date of the application—

Does not exceed £10,000	..	..	£5,000
Exceeds £10,000	..	..	£10,000

In cases where a first deposit of five thousand pounds only has been made, the applicant shall make a return to the Treasurer in each year, on such day as may be appointed by the Treasurer, of his income from marine and general insurance premiums in Queensland after deducting local reinsurances during the twelve months preceding; and if and when such premium income, after such deductions, has increased so as to exceed ten thousand pounds, the applicant shall increase his deposit with the Treasurer to the sum of ten thousand pounds.

In the event of the Governor in Council granting in his absolute discretion any approval under section seven



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of "*The Workers' Compensation Act of 1916*,"\* the prescribed amounts deposited under such Act shall be received as part of the deposit made by the insurer for the purposes of this section, and, conversely, any money deposited under the provisions of this Act shall be reckoned as a deposit or portion of a deposit under the provisions of "*The Workers' Compensation Act of 1916*."\*

In the case of companies transacting only marine insurance in Queensland, the deposit shall be one thousand pounds unless or until the annual premium income amounts to the sum of one thousand pounds, when the provisions hereinbefore mentioned shall apply.

(3.) On compliance with this section, the Commissioner shall grant to such applicant and the applicant shall be entitled to receive and hold a license, in form No. 2 of the Second Schedule to this Act, to carry on in Queensland marine or marine and general insurance business.

Issue of  
license.

Sch. II, fi 2.

12. (1.) Any amount deposited with the Treasurer by the insurer shall be invested and reinvested from time to time, as occasion requires, in debentures of the Government of Queensland having a currency not exceeding five years, and bearing interest at four and a-half per centum per annum free of income tax, in the name of the Treasurer in trust for the insurer.

Investment  
of deposit.

(2.) The interest on all such securities shall be paid to the insurer.

(3.) The investment and redemption shall be at par.

(4.) The deposit shall be charged with the payment and satisfaction of all final judgments given against the insurer in respect of marine or general insurance policies issued in Queensland which are not otherwise satisfied.

(5.) In the event of the insurer ceasing to carry on marine or general insurance business in Queensland, such insurer (on satisfying the Treasurer that all liabilities arising under marine or general insurance policies issued in Queensland have been discharged) shall be entitled, at the expiration of three months after the date of so satisfying the Treasurer, to have transferred to such insurer any securities for the time being held by the Treasurer on such insurer's account under this Act.

\* 6 Geo. V. No. 35, *supra*, page 6926.

13. (1.) Every insurer shall have a registered office in Queensland, and shall have a chief representative in charge of such office.

(2.) Notice in writing of the situation of the registered office and the name of the chief representative in charge thereof shall be lodged with the Commissioner for registration.

(3.) Whenever any change takes place in the situation of the registered office or in the name of the chief representative, notice in writing of the change shall be lodged with the Commissioner.

(4.) A notice to an insurer or process in any legal proceedings against an insurer may be served upon the insurer by leaving it at the insurer's registered office.

Maximum  
rates of  
premium.

14. Except as hereinafter provided, neither the Commissioner nor any insurer shall issue or renew any policy covering any general insurance risk in Queensland at any rate exceeding eighty per centum of the gross rate fixed for such risk by the regulations of the Fire, Marine, or Accident Underwriters' Association of Queensland actually current on the first day of July, one thousand nine hundred and sixteen.

Endorse-  
ment of  
policy.

15. Every acceptance notice, interim receipt, policy, renewal notice, and renewal receipt issued by an insurer at a rate higher than as aforesaid shall have the following notification plainly written or printed thereon in red ink:—  
“By special agreement with the Insured, this Policy is issued (or renewed) at a premium £                      in excess of the maximum premium fixed for such risk by “*The Insurance Act of 1916.*” ”

Returns.

16. (1.) Every insurer shall furnish to the Commissioner such returns for the purposes of this section as the Commissioner may, in writing, require relating to any class of general insurance business carried on by the insurer in Queensland.

(2.) Information furnished in pursuance of this section shall be used by the Commissioner for statistical purposes only, and shall, together with similar information with regard to the State Government Insurance Office (which information the Commissioner is hereby authorised and required to furnish to the representative of the insurers), be available for such insurers, but shall not otherwise be published or divulged except for

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the purpose of indicating the aggregate figures returned by all insurers making such returns and the results deduced therefrom.

(3.) Rates shall be deduced by the Commissioner and a representative of the insurers from such returns, and shall be made the basis for the computation of standard rates of premium for the several classes of risk. Such rates shall first be computed on the first day of January, in the year one thousand nine hundred and nineteen, and shall thereafter be revised by the Commissioner and a representative of the insurers as indicated hereunder at such intervals, not being less than three years, as the Minister shall direct; and when so computed shall be the standard rates in accordance with this Act and be charged by the Commissioner in respect to every policy issued or renewed covering any general insurance risk in Queensland.

(4.) No insurer shall be required to furnish returns covering any period prior to the date of the commencement of this Act; but, when computing the standard rates hereinbefore referred to, the Commissioner and a representative of the insurers may take into consideration any such returns voluntarily furnished to them by the Commissioner or by any insurer.

(5.) The Commissioner shall confer with a representative of the insurers with regard to the computation and each revision of the aforesaid standard rates. In the event of a difference of opinion between them, the matter in difference shall be referred to a competent actuary appointed by the Governor in Council, whose decision on the matter shall be final.

(6.) The representative of the insurers shall be such person as shall be designated in writing and addressed to the Commissioner, signed by or on behalf of the majority of the insurers.

17. (1.) Except as hereinafter provided, no insurer nor any other person except the Commissioner shall pay or offer or promise to pay, whether to one or more persons, any commission in excess of ten pounds per centum in the aggregate. Such commission, except when paid by the Commissioner, shall be paid only to persons licensed to receive the same as brokers or agents.

(2.) An insurer may pay to a director a fixed fee for his services not less than fifty pounds nor more than one hundred pounds per annum.

(3.) An insurer may pay to one managing agent for the Northern District of Queensland and to one managing agent for the Central District of Queensland an additional commission of five per centum on the premiums collected by him from agents or policy-holders of the insurer in the district under his control.

(4.) A professional adviser of an insurer, such as a solicitor, auditor, medical officer, or the like, may be remunerated for services rendered in accordance with the custom of the profession to which he belongs, but, unless licensed as an agent, may not receive from an insurer any commission on insurance premiums.

(5.) No person shall receive any commission from any insurer or any other person except the Commissioner in any capacity whatsoever other than as a salaried officer unless he has been licensed to act in such capacity.

(6.) Any person not licensed as aforesaid who accepts any commission from an insurer or any other person except the Commissioner shall be liable to a penalty not exceeding one hundred pounds.

(7.) In this section the term "commission" means and includes commission, brokerage, rebate, discount, or other allowance or remuneration whatsoever, whether direct or indirect, on or in respect of any marine or general insurance premium.

(8.) Nothing in this Act shall be construed to limit the salary or other emoluments or the retiring allowance of the chief representative of an insurer.

(9.) No person licensed under the next succeeding section hereof shall be entitled to a renewal of such license unless he shall make a statutory declaration in the prescribed form, when applying for such renewal, that he has duly observed the provisions of this section during the period covered by the declaration.

(10.) For the purposes of any employment by or on behalf of the Commissioner, any officer of the public service shall be deemed to have been duly licensed under this section and also clause three of Schedule I. hereof.

Licensing  
brokers.

18. (1.) Every person desiring to be licensed as a broker shall make application to the Commissioner in the form prescribed, and shall pay such fee as may be prescribed not exceeding ten pounds per annum. The Commissioner shall not be bound to grant any application for a broker's license unless he is satisfied that the applicant is competent to perform the duties of a broker.

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Licensing  
agents.

(2.) Every person desiring to be licensed as an agent shall make application to the Commissioner in the form prescribed, and shall pay such fee as may be prescribed not exceeding five shillings per annum for each agency held.

(3.) Every insurer shall, on the thirty-first day of December in each year, make a return to the Commissioner of the names and addresses of all directors and managing agents actually in appointment by such insurer at the date of the return, together with the name and address of every person who has acted as a director or managing agent of the insurer during the twelve months last preceding the date of such return.

Names and  
addresses of  
directors and  
managing  
agents.

(4.) The Commissioner is hereby empowered to grant all such licenses, and, subject to subsection one hereof, in the case of brokers, shall grant them on lodgment of an application in the prescribed form and on payment of the prescribed fee. Subject to this Act, all such licenses shall be for the year ending the thirty-first day of December, but shall be renewable for a like period.

**19.** (1.) If the Commissioner is satisfied that an insurer is unable to pay his debts, he may give to the insurer written notice of his intention to cancel the license of such insurer, giving his reasons for his decision.

Cancellation  
of licenses.

(2.) If the Commissioner is satisfied that any person licensed by him has failed to comply with any material provision of this Act, or is persistently acting in breach of any provision of this Act, he may give notice to such person of his intention to cancel the license of such person, giving his reasons for his decision.

(3.) The decision of the Commissioner to cancel any license granted by him under this Act shall not be carried into effect until the time for lodging an appeal against his decision has expired nor while any appeal against such decision is pending.

(4.) An appeal from any decision given by the Commissioner relating to insurers, agents, brokers, managing agents, or directors under any of the provisions of this Act shall lie to a police magistrate.

Such appeal shall be instituted by notice of appeal filed with a police magistrate in accordance with the regulations within thirty days after receipt of such written notice from the Commissioner.

If the police magistrate finds that any of the grounds for the decision given by the Commissioner are established, he shall decide whether such decision given by the Commissioner is to be varied or rescinded, and such decision shall be varied or rescinded accordingly.

(5.) Either party to the proceedings before such police magistrate may appeal from his decision to the Full Court, and such appeal shall be by way of rehearing.

Such appeal shall be made by way of special case in manner provided by "*The Justices Acts, 1886 to 1909*,"\* with respect to appeals from the decisions of justices, and the provisions of those Acts relating to such appeals shall, *mutatis mutandis*, apply to appeals under this subsection.

Subject to the regulations, the costs of appeal shall be in the discretion of the Court.

(6.) Any notification of the cancellation of any license under this Act shall be published by the Commissioner in the *Gazette*, and any notification so published shall be *prima facie* evidence that the license has been cancelled.

No person shall carry on general insurance business in Queensland after his license in that behalf has been cancelled, unless or until a fresh license as an insurer under this Act has been granted to him.

No person whose license has been cancelled shall thereafter, unless or until a fresh license so to do has been granted to him, under this Act do any act or perform any function whatsoever for which a license is required under this Act.

(7.) The Commissioner may refuse to license under this Act, in any capacity whatever, any person whose license issued under this Act has been at any time cancelled, subject to a right of appeal in such person in manner provided in this section.

Accounts.

20. (1.) Every insurer shall furnish to the Commissioner, in the prescribed form, within three months after the expiration of each financial year, a profit and loss account relating to the insurer's business in Queensland.

(2.) Every such account shall be certified by the chief representative of the insurer in the prescribed form.

\* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

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(3.) The chief representative of the insurer in Queensland shall lodge with each such account a statutory declaration in the prescribed form that the provisions of this Act have been fully complied with by the insurer during the period covered by the account.

(4.) The insurer shall duly make answer to any comments or inquiries directed to the insurer by the Commissioner regarding such accounts or any of them.

(5.) The Commissioner shall publish in his annual report, in such form as he thinks proper, an abstract of all such accounts received by him during the year.

(6.) Every insurer shall, if so required by the Commissioner, produce to a practising public accountant nominated by the Commissioner in writing, at all reasonable times, any books, accounts, or documents of the insurer, and shall permit such accountant to inspect them and to take extracts from them relating to any breach or alleged breach of this Act.

Information so obtained shall be disclosed only to the Commissioner or to the court.

**21** No insurer shall issue or use in Queensland any prospectus, proposal form, or policy of general insurance unless or until a copy of the form thereof has first been lodged with the Commissioner. Issue of forms.

**22.** (1.) Subject to any contract or agreement existing at the commencement of this Act, no insurer shall reinsure, whether by treaty or otherwise, any portion of any Queensland risk accepted by him with any person not licensed under this Act, unless or until the Commissioner has signified his inability to accept the whole or any portion of the amount to be reinsured, except by treaty. Reinsurance business.

(2.) Reinsurance business transacted within Queensland between insurers or between insurers and the Commissioner shall be transacted at the rate actually charged to the insured as shown on the policy or renewal receipt; and the commission thereon allowed by the person accepting to the person ceding such reinsurance shall not exceed fifteen per centum.

**23.** No insurer nor the Commissioner shall refuse to allow additional insurance with the Commissioner or any insurer in respect of any Queensland general insurance risk: Coinurance.

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Provided that this section shall not be held to prohibit the cancellation of a policy by any person for prudential reasons, provided such person allows the insured a return premium, in respect of the unexpired term of the policy, calculated *pro rata* as to time and without reference to any customary short period ratings.

Saving  
policies.

24. Failure on the part of any person to comply with any provision of this Act shall in no way invalidate any policy issued by that person.

Action  
against  
foreign  
insurers.

25. A holder of a policy issued in Queensland after the commencement of this Act by a person not resident within Queensland shall, notwithstanding anything in the policy to the contrary, be entitled to sue such person in respect of the policy in a court of competent jurisdiction within Queensland; and no stipulation in the policy nor any agreement relating to the policy, which deprives or is intended to deprive the policy-holder of the benefit of this section, shall be of any force or effect.

PART IV.—  
GENERAL.

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Fire  
inquiries.

26. (1.) In any case where any property in Queensland is destroyed or damaged by or in consequence of fire, if the loss exceeds fifty pounds, an inquiry into the origin, causes, and circumstances of such fire shall be held by a police magistrate or other justice appointed by the Minister for that purpose.

(2.) If a charge is made against any person at such inquiry, such person shall have an opportunity of placing his defence before the police magistrate or justice.

(3.) The police magistrate or justice, after completing the inquiry, shall make a report to the Minister containing a full statement of his decision and findings, and of his opinion thereon, accompanied by such reports of or extracts from the evidence and such observations thereon as he thinks fit.

Offences.

27. (1.) Any person who is guilty of a breach of or fails to comply with any of the provisions of this Act shall be guilty of an offence, and, if no penalty is expressly provided, shall be liable to a penalty not exceeding one hundred pounds.

(2.) Save as by this Act is otherwise provided, all penalties for any contravention of this Act shall be



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recoverable by complaint in a summary way under “*The Justices Acts, 1886 to 1909.*”\*

Any such complaint may be instituted by the Commissioner within six months after the fact of the commission of the offence against or failure of compliance with this Act came to the knowledge of the Commissioner.

(3.) All fees received by the Commissioner or payable by him and all penalties recoverable by the Commissioner or payable by him under this Act shall be paid to the credit of a special account of the State Government Insurance Office, out of which shall be paid all expenses incurred by the Commissioner in administering the Act and in computing and revising the standard rates, and such other expenses as the Commissioner and the Auditor-General shall certify to be properly chargeable thereto. Any balance shall be carried to the Consolidated Revenue.

28. (1.) The Governor in Council may from time to time make regulations, provisions, or Orders in Council made in pursuance of section seven of this Act, providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act. Regulations.

(2.) The regulations, provisions, or Orders in Council may fix a penalty, not exceeding in any case twenty pounds, for any breach thereof.

(3.) All such regulations, provisions, or Orders in Council shall be published in the *Gazette*, and thereupon, subject to subsection four hereof, shall be of the same effect as if they were contained in this Act.

Such regulations, provisions, or Orders in Council and any amendment thereof shall be laid before both Houses of Parliament within fourteen sitting days after such publication, if Parliament is in session, and if not then within fourteen sitting days after the commencement of the next session.

(4.) If either House of Parliament passes a resolution disallowing any such regulation, provision, or Order in Council or amendment thereof, of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation, provision, or Order in Council or amendment thereof has been laid before it, such regulation, provision, or Order in Council or

\* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

amendment thereof shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

(5.) For the purpose of this Act, the term "sitting days" shall mean days on which the House actually sits for the despatch of business :

Provided always that if such regulations, provisions, Orders in Council, and amendments thereof, if any, are not duly laid before Parliament as hereinbefore prescribed they shall thereupon cease to have any force, effect, or operation whatsoever.

Powers  
of Com-  
missioner  
and insurers.

**29.** None of the provisions of this Act, nor of the Schedules thereto, nor any regulations, provisions, or Orders in Council issued in pursuance of this Act, shall be construed or deemed to confer greater or less rights or privileges on the Commissioner for the purpose of carrying on all classes or any class of insurance business under this Act than are conferred upon insurers.

### SCHEDULE I.

#### PROVISIONS RELATING TO THE BUSINESS OF STATE INSURANCE.

Judicial  
notice.

1. The appointment of the Insurance Commissioner and of his deputy and their signatures shall be judicially noticed.

Delegation  
by Commis-  
sioner.

2. The Commissioner may from time to time, by writing under his hand, delegate to the Deputy Insurance Commissioner, or to any officer appointed to assist him, any of the powers, functions, or duties imposed or conferred on the Commissioner by this Act.

Branches  
and  
agencies.

3. (1.) The Commissioner may from time to time, subject to the provisions of and for the purposes of this Act, establish branches of the State Government Insurance Office or of any department thereof at any place in Queensland, and establish agencies of the State Government Insurance Office at any place within or outside Queensland, and may close any branch or agency.

Agents.

(2.) The Commissioner may appoint any duly licensed person to act as his agent, and may pay such agent a commission not exceeding ten per centum of the premium on marine and general insurance.

At the request of the Commissioner, any clerk of petty sessions and any other State officer shall act as such agent within his district, and with, under, and subject to such powers, conditions, and limitations as are contained in such appointment.

Every such agent, not being a clerk of petty sessions or other State officer, shall, if required by the Commissioner, give such security for the due performance of his duties as the Commissioner thinks proper and sufficient. Every such agent shall pay such fee to the Commissioner as may be prescribed for agents of insurers under this Act.

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4. Every member on the staff of the Commissioner shall be Secrecy. bound to secrecy by declaration in the prescribed form.

5. The Commissioner may enter into insurance contracts either Making of at the State Government Insurance Office or at branch offices or contracts. agencies throughout Queensland, and either by himself or through the medium of such officers or agents as he from time to time appoints for that purpose.

6. Where the Commissioner is authorised to enter into any con- Mode of tract or exercise any power, such authority may be exercised as making follows :— contracts or exercising

Any contract which if made between private persons, or any powers. power which if exercised by private persons—

Firstly, must be by deed or in writing under seal ;

Secondly, must be in writing signed by the parties thereto or the persons executing the power ;

Thirdly, may be made or exercised orally without writing :

When entered into or exercised by the Commissioner :—

In the first case, shall be in writing under his seal, and signed by or on behalf of the Commissioner ;

In the second case, shall be in writing, signed by or on behalf of the Commissioner ;

In the third case, may be made or exercised orally, without writing, by or on behalf of the Commissioner.

7. Before commencing to transact any class of insurance business, Minimum the Commissioner shall declare, by notification in the *Gazette*, the rate to be minimum rates which he proposes to charge for business of that class. notified in *Gazette*.

The minimum net rates to be charged by the Commissioner during the period ending thirty-first December, one thousand nine hundred and twenty, for marine and general insurance risks shall not be less than eighty per centum of the gross rates fixed for such risks by the regulations of the Fire, Marine, or Accident Underwriters' Association of Queensland actually current on the first day of July, one thousand nine hundred and sixteen.

The Commissioner may allow such discounts as may be fixed from time to time by the Commissioner and a representative of the insurers or the actuary selected by the Auditor-General, as the case may be, in accordance with the provisions of section sixteen of this Act, for fire-proof construction, the use of approved fire appliances, and other means of reducing risk as he may from time to time declare by notification in the *Gazette*.

The Commissioner may refuse to enter into an insurance contract Power to with any person in any case where he is of opinion that there are refuse insurance, sufficient grounds for so refusing. &c.

8. No legal proceeding by or against the Commissioner shall Judge who abate or be dismissed on the ground of interest in the judge or is policy- magistrate hearing the same, by reason merely that such judge or holder not magistrate is the holder of or otherwise interested in any policy granted interested. by the Commissioner.

Certain  
payments  
appro-  
priated.

9. All payments—

- (a) Of land tax or income tax whether under the laws of the State or the Commonwealth, and of rates and taxes from time to time due or payable on or in respect of real property vested in the Crown for the purposes of the State Government Insurance Office ; or
- (b) Under contracts under this Act for annuities, insurances, endowments, or for loans ;
- (c) For the purchase of land or buildings, or any expenditure thereon ;
- (d) For the purchase of furniture, fixtures, fittings, or plant deemed necessary by the Commissioner for the conduct of the State Government Insurance Office, or any expenditure thereon ;
- (e) For expenses deemed necessary by the Commissioner for the administration of this Act and the management of the State Government Insurance Office ;

shall be payable out of the proper funds of the State Government Insurance Office under the authority of this Act, without any further or other appropriation by Parliament.

Powers of  
Minister.

10. The Minister shall at all times have full access to all the books, accounts, and papers of the State Government Insurance Office ; it shall be the duty of the Commissioner to furnish him with all such returns and information as he from time to time requires.

All moneys  
to be  
property  
of Crown.

11. All moneys in any fund of the State Government Insurance Office, or payable into that office by any person, and also all debts and other moneys for the time being owing to the Commissioner by any person, whether on account of premiums or on any account whatsoever, and whether the same are accrued due or not, are hereby declared to be the property of the Crown and recoverable accordingly by the Commissioner as from debtors to the Crown.

Declaration  
of powers of  
the Crown  
with respect  
to property.

12. (1.) All real and personal property of any kind (including all money and securities for money) already vested in His Majesty, or that may hereafter be purchased, acquired, or held in any manner for the purposes of the State Government Insurance Office, shall be held by the Commissioner under this Act, and shall be and be deemed to be vested in the Commissioner on behalf of His Majesty according to the nature of the estate and interest therein respectively.

(2.) The Commissioner, on behalf of His Majesty, shall, with respect to such real and personal property, and any estate or interest therein, have the power—

- (i.) To sell, lease, exchange, or make partition ;
- (ii.) To accept or make surrender of leases ;
- (iii.) To assign, reconvey, or discharge mortgages, securities, or other obligations, either wholly or in part ;
- (iv.) To enter into, modify, or alter any contract or agreement with any person for all or any of the purposes of this Act ; and
- (v.) Generally to exercise all other rights, powers, functions, and authorities thereover.

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(3.) With respect to property mortgaged to His Majesty, the Commissioner, on behalf of His Majesty, shall have the same right to become the purchaser thereof, or of any part thereof, as is given to any ordinary mortgagee by any statute or law in force authorising mortgagees to bid for and become the purchasers of property mortgaged to such mortgagees.

(4.) Any property so acquired may from time to time be sold or disposed of by public auction or private contract, altogether or in lots, and upon such terms and conditions in all respects as the Commissioner, with the approval of the Minister, thinks proper.

(5.) All rights, powers, functions, and authorities given to or vested in His Majesty by this Act, or under any instrument taken or purported to be taken under the authority thereof, in respect of such real and personal property, shall and may be lawfully exercised by the Commissioner on behalf of His Majesty as fully and effectually as the same might or could be exercised by His Majesty; and every instrument executed by the Commissioner, and every act or thing done by the Governor in Council under or for the purposes of this Act, shall have the same force and effect as if the same instrument were executed by or such act or thing done by His Majesty :

Provided that in so far as relates to the sale of real property the powers conferred by this paragraph on the Commissioner shall be exercised only in respect of real property on a sale under the power of sale contained or implied in a mortgage to His Majesty.

13. (1.) The Commissioner may, subject to the provisions of <sup>Reinsurance</sup> this Act, enter into contracts with insurers and with persons or com- <sup>contracts,</sup> panies resident outside Queensland for the reinsurance of risks &c. accepted by him in Queensland.

(2.) Subject to this Act, the Commissioner shall have power from time to time to enter into, perform, and enforce any contracts which may by him be lawfully entered into by or with any person for the insurance or reinsurance of insurable property of all kinds situated in Queensland, or of any insurable interest, and generally to do whatever he deems necessary in connection with or incident to such business, including the reinsurance of risks taken under this Act.

14. The provisions of sections eighteen to twenty-six, both in- <sup>Application</sup> clusive, and of sections thirty-eight to forty-four, both inclusive, of <sup>of Life</sup> "The Life Assurance Companies Act of 1901," so far as the same are <sup>Assurance</sup> applicable, shall extend and apply to all contracts or policies of life <sup>Companies</sup> insurance made or granted by the Commissioner under this Act as if <sup>Act.</sup> he were a company within the meaning of that Act.

15. The provisions of any Act now or hereafter in force <sup>Taxation</sup> affecting insurance companies and rendering them liable to assessment, <sup>laws to</sup> stamp duty, fire brigade charges, or State taxation shall extend and <sup>apply to</sup> apply to the Commissioner and the business conducted by him by <sup>Commis-</sup> virtue of this Act. <sup>sioner.</sup>

16. (1.) Claims under policies issued by the Commissioner shall <sup>Settlement</sup> be allowed or rejected in the first instance by the Commissioner; but <sup>of claims.</sup> the Commissioner on receipt of any such claim may, or any person claiming thereunder who objects to the ruling thereon of the Commissioner may, by notice in writing, require the matter to be heard and

determined by a referee, and the application shall in such case be heard and determined by such referee in accordance with the regulations. The Commissioner may in any case, if he thinks fit, before any dispute is submitted to a referee, require a deposit of money as security for the costs of the reference, to such amount and upon such terms as may be prescribed.

The decision of the referee shall, subject to the next succeeding subsection, be final; subject to the regulations, the costs of the proceedings shall be in his discretion.

(2.) Either party to the proceedings before such referee may appeal from his decision on any point of law.

Such appeal shall be made to the Supreme Court by way of special case in manner provided by "*The Justices Acts, 1886 to 1909*,"\* with respect to appeals from the decisions of justices, and the provisions of those Acts relating to such appeals shall, *mutatis mutandis*, apply to appeals under this section.

Subject to the regulations, the costs of appeal shall be in the discretion of the Court.

**Investments.** 17. The Commissioner may invest any portion of the funds of the State Government Insurance Office in any of the investments in which, under "*The Trustees and Executors Act of 1897*,"† or any Act amending the same, trustees are authorised to invest trust funds, and also in any class of investment from time to time approved, for the purposes of this Act, by the Governor in Council by Order in Council published in the *Gazette*.

**Annual balance-sheets.** 18. (1.) The Commissioner shall, in the month of August in each year, prepare and transmit to the Minister balance-sheets and statements of accounts, setting forth a true statement of the financial position and the transactions of the State Government Insurance Office in its divers departments for the preceding financial year, audited by the Auditor-General; and a copy of such balance-sheets and statements shall be laid before each House of Parliament as soon as practicable.

The Auditor-General shall have, in respect of such balance-sheets and statements, all the powers conferred upon him by any Act relating to the auditing of the public accounts.

(2.) Each such balance-sheet and statement shall—

- (a) Show a profit and loss account;
- (b) Be in the form prescribed by the Auditor-General;
- (c) Show separately what sums (if any) have been paid or set aside for or towards interest, reserves, outstanding claims, and unearned premiums.

**Surplus profits.** 19. (1.) As soon as conveniently may be after the thirtieth day of June in each year, the Commissioner shall report to the Minister what, if any, in his opinion, are the net surplus profits of the State Government Insurance Office. The Minister, if he thinks fit, may obtain an opinion from a competent actuary as to such recommendations or any of them.

\* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

† 61 Vic. No. 10, *supra*, page 3507.

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(2.) Such report and opinion, if any, shall be laid before the Governor in Council, and any sum recommended for division in such report may be divided amongst holders of current policies in accordance with the scheme approved by the Governor in Council.

(3.) The aforesaid report of the Commissioner and opinion, if any, of the actuary shall be presented to Parliament.

Report  
to be  
presented to  
Parliament.

## SCHEDULE II.

## FORM No. 1.

“*The Insurance Act of 1916.*”

APPLICATION FOR A LICENSE TO CARRY ON MARINE OR GENERAL  
INSURANCE BUSINESS.

1. Name of applicant.
2. Address of applicant's chief office in Queensland.
3. Name of applicant's chief representative in Queensland.
4. Date when applicant commenced or proposes to commence to carry on marine or general insurance business in Queensland.
5. The class of business for which the applicant desires the license.

I, the undersigned, on behalf of the \_\_\_\_\_, hereby make application for a license to the \_\_\_\_\_ to carry on marine [or general or marine and general] insurance business in Queensland.

I enclose herewith—

- (a) A duplicate of a receipt from the Treasurer of Queensland relating to the deposit of £ \_\_\_\_\_ on such application;
- (b) Copy of memorandum and articles of association of the applicant (if any);
- (c) Copy of applicant's last balance-sheet, or copy of the prospectus issued by applicant at the time of incorporation (if any).

Dated at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

*Signature of applicant or applicant's chief  
representative in Queensland.*

To the Insurance Commissioner, Brisbane.

## FORM No. 2.

“*The Insurance Act of 1916.*”

Subject to the provisions of the above-mentioned Act, the \_\_\_\_\_ company, whose registered office in Queensland is at \_\_\_\_\_, is licensed to carry on in Queensland marine [or general or marine and general] insurance business from this date.

As witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

The Insurance Commissioner.