

Motor Vehicles Insurance Acts Amendment Act. 8 GEO. VI. No. 11.

TEXTILE PRODUCTS.

See HEALTH.

TRADE DESCRIPTIONS—(TEXTILE PRODUCTS)

See HEALTH.

TRAFFIC.

Motor Vehicles Insurance Acts Amendment Act of 1944.

8 GEO. VI.
No. 11.
THE
MOTOR
VEHICLES
INSURANCE
ACTS
AMENDMENT
ACT OF
1944.

An Act to Amend "The Motor Vehicles Insurance Acts, 1936 to 1943," in certain particulars.

[ASSENTED TO 1ST DECEMBER, 1944.]

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

Short title
and
construction.

1. (1.) This Act may be cited as "*The Motor Vehicles Insurance Acts Amendment Act of 1944*," and shall be read as one with *"*The Motor Vehicles Insurance Acts, 1936 to 1943*," herein referred to as the Principal Act.

Collective
title.

(2.) The Principal Act and this Act may be collectively cited as "*The Motor Vehicles Insurance Acts, 1936 to 1944*."

Amendment
of s. 3.

2. Section three of the Principal Act is amended as follows:—

(a) In subsection one thereof the words "other than a person—

(a) Living with the owner as a member of his family; or

(b) In the service of the owner; or

(c) Being conveyed in, or entering or alighting from, such motor vehicle"

are repealed.

(b) In subsection two thereof the words and brackets "(not being a person excepted by subsection one of this section)" are repealed.

* 1 E. 8 No. 31 and amending Acts, v. 9, pp. 527 *et seq.*

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(c) In subsection three thereof the words “not less than the sum of seven hundred and fifty pounds” are repealed and the word “unlimited” is inserted in lieu of such repealed words.

3. The following section, numbered 4A, is inserted New s. 4A inserted. after section four of the Principal Act, namely:—

“[4A.] (1.) Where accidental bodily injury (fatal or non-fatal) to any person has been caused by, through, or in connection with a motor vehicle insured under this Act but the owner of such motor vehicle cannot be served with process, any person who could have obtained a judgment in respect of such accidental bodily injury so caused against such owner if he had been served with process may recover by action against the insurer (whether the Insurance Commissioner or a licensed insurer) the amount of the judgment which he could have so recovered against such owner: Liability of insurers.

Provided that he cannot so recover unless he proves that he gave to the insurer notice of the claim and a short statement of the grounds thereof as soon as possible after he knew that the owner of the motor vehicle concerned could not be served with process, or that such notice was given within such time as would prevent the possibility of the insurer being prejudiced by want of such notice.

(2.) It shall be no defence by the Insurance Commissioner or a licensed insurer to an action against him under this section that he is not liable under a policy of insurance by reason of the fact that—

- (a) The policy was obtained by any mis-statement or non-disclosure whether fraudulent, material or otherwise; or
- (b) The owner of the motor vehicle has committed any breach of any term, condition or warranty of a policy or any provision of this Act; or
- (c) The owner of the motor vehicle has failed to comply with any condition of the policy as to what the insured person should do or should not do after the event giving rise to liability.

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(3.) The Insurance Commissioner or a licensed insurer may, in addition to any other right or remedy he may have, recover from the owner of a motor vehicle liable in respect of any such accidental bodily injury, and if two or more persons were so liable from these persons jointly and severally—

(a) Such part of any judgment so obtained against the Insurance Commissioner or such licensed insurer ; or

(b) Such sums as the Insurance Commissioner or such licensed insurer has paid in payment, settlement or compromise of the claim or judgment against the owner of the motor vehicle or the Insurance Commissioner or, as the case may be, such licensed insurer ; and

(c) Such costs and expenses

as would not have been recovered from or incurred or paid by the Insurance Commissioner or such licensed insurer but for the last preceding subsection of this section and that amount may be recovered either in a separate action or by third party procedure in the action against the Insurance Commissioner or such licensed insurer by the person who obtained the judgment :

Provided that if the owner of the motor vehicle concerned has made any written request to the Insurance Commissioner or the licensed insurer that he should settle or compromise up to any specified sum or should pay or should contest the claim, and if the Insurance Commissioner or the licensed insurer acts unreasonably in failing to comply with such request then the Insurance Commissioner or the licensed insurer shall not recover more than the amount of the liability which the Insurance Commissioner or the licensed insurer would have paid or incurred if he had not so acted unreasonably.

(4.) This section shall have retrospective operation and effect so as to apply—

(a) To accidental bodily injury (fatal or non-fatal) to any person caused, before the date of the passing of **“The Motor Vehicles Insurance Acts Amendment Act of 1944,”* by, through or in connection with a motor vehicle insured

* This Act.

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under this Act the owner of which has not been and cannot be served with process on account of absence with or with any service forming part of His Majesty's Naval, Military, or Air Forces, including service as medical practitioner, or nurse or masseuse or otherwise,

but this section shall not apply retrospectively—

- (b) So as to make the Insurance Commissioner or any licensed insurer liable for more than seven hundred and fifty pounds in respect of injury (fatal or non-fatal) to any one person whatsoever and howsoever arising out of any one accident or series of accidents arising out of any one event which happened prior to the date of the passing of **The Motor Vehicles Insurance Acts Amendment Act of 1944.*” ”

4. The following section, numbered 4B, is inserted New s. 4B inserted. after section 4A of the Principal Act as previously inserted by this Act, namely :—

“ [4B.] (1.) No person shall directly or indirectly Prohibition against soliciting for authority to make claims and commence actions, &c. for personal gain—

- (a) Solicit instructions or authority to act on behalf of any other person in respect of the making or commencement of any claim or action for damages for accidental bodily injury (fatal or non-fatal) to any person caused by, through or in connection with a motor vehicle or in respect of the negotiation, compromise or settlement of such claim or action ; or
- (b) On behalf of any other person make or commence or cause to be made or commenced any claim or action for such damages aforesaid or negotiate, settle or compromise any such claim or action when made or commenced.

(2.) Paragraph (b) of subsection one of this section shall not apply to any barrister or solicitor properly acting in the course of his profession.

* This Act.

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(3.) Any agreement to pay any person who contravenes any of the provisions of subsection one of this section any money for work done or services rendered in respect of the matters referred to in the said subsection one shall be void, and any money so paid shall be recoverable by action brought in any court of competent jurisdiction by the person who has paid it."

TUBERCULOSIS IN STOCK.

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**UNEMPLOYED WORKERS INSURANCE—
SUSPENSION.**

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VALUATION OF LAND.

See LAND.

VEGETABLE AND ANIMAL PESTS.

See LAND.

VERMIN PROOF FENCES.

See LAND.

**WAR SERVICE—PREFERENCE IN
EMPLOYMENT.**

See LABOUR.

WATER SUPPLY AND SEWERAGE.

See MINING.

WHEAT POOL.

See BANKING.

WIRE AND WIRE-NETTING.

See BANKING.

WOOL.

See HEALTH.

WORKERS' COMPENSATION.

See LABOUR.