

Queensland



ANNO UNDECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 41 of 1962

**An Act to Amend "The Motor Vehicles Insurance Acts,
1936 to 1961," in certain particulars**

[ASSENTED TO 21ST DECEMBER, 1962]

BE IT ENACTED by the Queen'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:—

1. (1) **Short title.** This Act may be cited as "*The Motor Vehicles Insurance Acts Amendment Act of 1962*".

(2) **Principal Act.** "*The Motor Vehicles Insurance Acts, 1936 to 1961,*" are in this Act referred to as the Principal Act.

(3) **Collective title.** The Principal Act and this Act may be collectively cited as "*The Motor Vehicles Insurance Acts, 1936 to 1962.*"

2. New s. 14 inserted. The Principal Act is amended by adding the following section:—

“**[14.] Claims in respect of certain insurers.** (1) This section applies to claims for damages in respect of accidental bodily injury (fatal or non-fatal) to any person caused in any State or Territory of the Commonwealth of Australia by, through or in connection with a motor vehicle—

- (a) before four o'clock in the afternoon of the thirty-first day of March, one thousand nine hundred and sixty-one, in the case of a motor vehicle insured under this Act at the material time with Standard Insurance Company Limited; or
- (b) before the twenty-first day of September, one thousand nine hundred and sixty-two, in the case of a motor vehicle insured under this Act at the material time with Seven Seas Insurance Company Limited.

(2) Subject to this section the Nominal Defendant (Queensland) shall have, to the exclusion of the insurer, the same duties, liabilities, rights and powers in respect of any claim for damages to which this section applies as the insurer would have had under this Act and the relevant contract of insurance under this Act prior to four o'clock in the afternoon of the thirty-first day of March, one thousand nine hundred and sixty-one, or, as the case may be, the twenty-first day of September, one thousand nine hundred and sixty-two, if the claim had been made to the insurer before such time or, as the case may be, date.

(3) The provisions of subsections (5) and (6) of section 4F of this Act shall apply with respect to a claim for damages to which this section applies.

(4) Where, on or after the sixteenth day of November, one thousand nine hundred and sixty-two, the parties to any claim for damages to which this section applies have settled such claim or a judgment in respect of such damages has been made by a court of competent jurisdiction with their consent or in default of appearance or delivery of a defence, the Nominal Defendant (Queensland) may, if it considers the amount of damages agreed upon or adjudged to be paid to be excessive, refuse to pay such amount.

In any such case the Nominal Defendant (Queensland) may offer to pay a lesser amount in full settlement of the legal liability, in respect of such damages, of the owner or estate of the owner of the vehicle in question.

Any claimant aggrieved by such refusal or offer may—

- (a) where the amount to which the refusal or offer relates was settled by agreement between the parties, prosecute his claim as if such settlement had never been made; or
- (b) where such amount was adjudged by a court of competent jurisdiction, continue the proceedings as if such judgment had never been made therein and for enabling such continuation such court may enter such adjournment of the proceedings and give such other directions in respect thereof (including as respects joining the Nominal Defendant (Queensland) in the proceedings) as it deems necessary or expedient.

(5) In respect of a claim for damages to which this section applies, proceedings commenced before and pending at the date of the enactment of this section shall not be continued until twenty-one days after the claimant shall have given to the Nominal Defendant (Queensland) notice thereof.

(6) In respect of a claim for damages to which this section applies, the Nominal Defendant (Queensland) may reimburse to any person any amount of such damages paid to the claimant by such person.

(7) A claimant shall notify in writing the Nominal Defendant (Queensland) of a claim for damages to which this section applies, and shall state in the notification whether or not proceedings have been instituted in any court in respect of such claim and, if so, particulars of such proceedings.

Such notice shall be given not later than the thirtieth day of June, one thousand nine hundred and sixty-three.

The Nominal Defendant (Queensland) may in writing require the claimant to furnish to it, within the time specified by it (or such extension of that time as it may allow), such information and particulars with respect to the claim as it specifies in such requisition.

Unless the claimant complies in every respect with the requirements of this subsection the Nominal Defendant (Queensland) may refuse to pay the claim.

(8) Notwithstanding anything in any other Act or law, where in respect of the contract of insurance in relation to a claim for damages to which this section applies there is or has been in existence a re-insurance or any treaty agreement or other agreement, the Nominal Defendant (Queensland) shall have and be vested with, to the exclusion of the Company, and be entitled to exercise in its name or in the name of Standard Insurance Company Limited or the liquidator thereof, or in the name of the Seven Seas Insurance Company Limited, as the case may be, the rights under such re-insurance or treaty agreement or other agreement which such company (or in the case of Standard Insurance Company Limited, the liquidator thereof) has or had under the laws of this State.

Payment to the Nominal Defendant (Queensland) of any moneys recoverable by it under this subsection shall satisfy in full the liability of the payer to pay those moneys to any other person whomsoever.

(9) In respect to any claim for damages to which this section applies paid by the Nominal Defendant (Queensland) it shall be a creditor of and have the same rights against Standard Insurance Company Limited or, as the case may be, Seven Seas Insurance Company Limited, as if the amount of such payment were a debt due and payable and unpaid to it by the company.

For the purposes of this subsection the amount paid shall be reduced by any sum recovered under subsection (8) of this section, or under regulation twelve of the regulations under this Act.

(10) The liquidator and every officer of Standard Insurance Company Limited and the receiver and every director or officer of Seven Seas Insurance Company Limited shall give to the Nominal Defendant (Queensland) all such information and shall produce to it all such books and other records as it may from time to time require concerning any claim for damages to which this section applies.

(11) The aggregate of all claims for damages to which this section applies (including costs in respect of such claims) paid by the Nominal Defendant (Queensland) shall not exceed sixty thousand pounds plus the total of the sums recovered by it under subsection (8) of this section and under regulation twelve of the regulations under this Act.

Accordingly the Nominal Defendant (Queensland) shall not be liable to make in respect of any claim for damages to which this section applies any payment which would increase such aggregate beyond the limits specified under this subsection."

3. **New s. 15 inserted.** The Principal Act is amended by adding, after section fourteen as previously inserted by this Act, the following section:—

"[15.] Club Motor Insurance Agency Pty. Limited. (1) Notwithstanding the provisions (other than this section) of this Act, in the case of a contract of insurance under this Act with two or more licensed insurers effected through the agency of Club Motor Insurance Agency Pty. Limited (herein called the "Company"), it shall be sufficient compliance with the requirements of this Act and of the contract of insurance if—

- (a) any notice of accident or series of accidents;
- (b) any notice of claim or short statement of the grounds thereof;
- (c) any copy of the writ of summons, summons, notice, order, counter-claim, or other process whatsoever; or
- (d) any judgment, declaration, or other document or writing whatsoever, or copy thereof,

required to be or which may be given to or served upon such licensed insurers, is given to or served upon the Company and the same shall thereupon and thereby for the purposes of this Act be deemed to be given to or served upon such licensed insurers.

(2) Where pursuant to this Act, any writ of summons, summons, notice, order, counter-claim or other process whatsoever is given to or served upon the Company, the Company shall have the right of such licensed insurers under this Act to elect to be joined and to be joined with the person against whom the claim in question is made as though the Company were such licensed insurers.

(3) Any action which may be brought against the licensed insurers under section 4A of this Act may be brought against the Company as though the Company were such licensed insurers and in such case the Company shall be subject to the liabilities and have the rights and powers of the licensed insurers.

(4) Where, pursuant to this section, judgment is awarded against the Company such judgment shall be deemed to have been awarded against the licensed insurers and the Company severally and shall be enforceable accordingly.

(5) This section applies in respect of proceedings instituted before and pending at the date of the enactment of this section as well as to proceedings instituted thereafter.”