

SOUTH AUSTRALIA

MOTOR ACCIDENT COMMISSION ACT 1992

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 1 July 1995.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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MOTOR ACCIDENT COMMISSION ACT 1992

being

State Government Insurance Commission Act 1992 No. 39 of 1992
[Assented to 21 May 1992]¹

as amended by

State Government Insurance Commission (Preparation for Restructuring) Amendment Act 1995 No. 4 of 1995
[Assented to 2 March 1995]²

SGIC (Sale) Act 1995 No. 47 of 1995 [Assented to 22 June 1995]³

¹ Came into operation 30 June 1992: *Gaz.* 25 June 1992, p. 1883.

² Came into operation 23 March 1995: *Gaz.* 23 March 1995, p. 986.

³ Came into operation 1 July 1995: *Gaz.* 29 June 1995, p. 2972.

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix I. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

An Act to reconstitute the statutory authority formerly known as the *State Government Insurance Commission* as the *Motor Accident Commission*; to redefine its functions; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Motor Accident Commission Act 1992*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. In this Act, unless the contrary intention appears—

"**board**" means the board of directors of the Commission;

"**Commission**" means the *Motor Accident Commission*;

"**Compulsory Third Party Fund**" means the Compulsory Third Party Fund established under Part 4;

"**compulsory third party insurance business**" means business relating to insurance required under Part 4 of the *Motor Vehicles Act 1959*;

"**director**" means a member of the board;

"**insurance business**" includes—

- (a) assurance, additional insurance, coinsurance, or reinsurance; and
- (b) the granting, issuing or entering into of guarantees, sureties or contracts of indemnity; and
- (c) any other activity or transaction—
 - (i) of a kind generally regarded by the insurance industry as constituting or forming part of insurance or insurance business; or
 - (ii) of a kind prescribed by regulation.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

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**PART 2
CONTINUATION OF COMMISSION**

Continuation of Commission

4. (1) The *State Government Insurance Commission* continues (without change of its corporate identity) as the *Motor Accident Commission*.

(2) The Commission—

- (a) continues as the same body corporate;
- (b) has perpetual succession and a common seal;
- (c) is capable of suing and being sued in its corporate name;
- (d) has the functions and powers assigned or conferred by or under this Act.

(3) The Commission is an instrumentality of the Crown and holds its property on behalf of the Crown.

**PART 3
BOARD OF DIRECTORS**

Board of directors

5. (1) The Commission is to have a board of directors.

(2) The board is to be the governing body of the Commission and anything done by the board in the administration of the Commission's affairs is binding on the Commission.

(3) The board is subject to direction by the Minister.

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Composition of board

6. (1) The board consists of not more than 10 and not less than 3 persons appointed by the Governor.

(2) One of the directors will be appointed by the Governor to chair the board.

(3) At least one of the directors must be a man and at least one must be a woman.

(4) A director is to be appointed for a term (not exceeding three years) specified in the instrument of appointment and is, on the expiration of a term of office, eligible for reappointment.

(5) The Governor may appoint a director to be the deputy of the director appointed to chair the board and the deputy may perform or exercise the functions and powers of that director in his or her absence.

(6) The Governor may appoint a person to be a deputy of a director (other than the director appointed to chair the board) and the deputy may act as a director in the absence of that director.

(7) The Governor may remove a director from office if—

(a) the instrument of appointment states that the director is appointed because of a specified qualification or capacity and the director ceases to hold the relevant qualification or capacity; or

(b) the director is liable to be removed from office under the terms of the director's appointment; or

(c) the director is guilty of misconduct or fails to perform official duties satisfactorily.

(8) The office of a director becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Minister; or

(d) is convicted of an indictable offence; or

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- (e) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
- (f) is removed from office under subsection (7).

(8a) All directors in office immediately before the commencement of this subsection vacate their respective offices on the commencement of this subsection.

(9) On the office of a director becoming vacant, a person may be appointed in accordance with this section to the vacant office.

Procedures of board

7. (1) Three directors constitute a quorum for a meeting of the board and no business may be transacted at a meeting of the board unless a quorum is present.

(2) The director appointed to chair the board must chair meetings of the board at which he or she is present.

(3) If the director appointed to chair the board is absent from a meeting of the board, the meeting must be chaired—

- (a) where another director has been appointed as that director's deputy and is present at the meeting—by the deputy;
- (b) in any other case—by a director chosen by the directors present at the meeting.

(4) A decision carried by a majority of the votes cast by directors present at a meeting is a decision of the board.

(5) Each director present at a meeting of the board has one vote on any question arising for decision and, if the votes are equal, the director chairing the meeting has a casting vote in addition to a deliberative vote.

(6) A conference between directors constituting a quorum by telephone or audio-visual means is a valid meeting of the board if—

- (a) notice of the conference is given to all directors in the manner determined by the board for that purpose; and
- (b) each participating director is capable of communicating with every other participating director during the conference.

(7) A decision concurred in by directors otherwise than at a meeting of the board is a valid decision of the board if—

- (a) notice of the terms of the decision proposed to be made has been given to all directors in the manner determined by the board for that purpose; and
- (b) a number of directors not less than that required for a quorum of the board have signified their concurrence in the decision by letter, telegram, telex, facsimile transmission or other method of written communication setting out the terms of the decision.

(8) Subject to this Act, the board may determine its own procedures.

(9) The board must have accurate minutes kept of its proceedings.

Vacancies or defects in appointment of directors

8. An act of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a director.

Immunity of directors

9. (1) A director incurs no liability for anything done honestly and with reasonable care and diligence in the performance or purported performance of functions or duties under this Act.

(2) Any liability that would, but for this section, attach to a director attaches instead to the Crown.

Remuneration

10. A director is entitled to such remuneration, allowances and expenses as may be determined by the Governor, including remuneration, allowances and expenses for membership of the governing body of a subsidiary of the Commission.

Directors' duties of honesty, care and diligence, etc.

11. (1) A director must at all times act honestly in the performance of the functions of his or her office, whether within or outside the State.

Penalty: If the contravention was committed with intent to deceive or defraud the Commission, or creditors of the Commission or creditors of any other person or for any other fraudulent purpose—Division 4 fine or division 4 imprisonment, or both.

In any other case—Division 6 fine.

(2) A director must at all times exercise a reasonable degree of care and diligence in the performance of his or her functions, whether within or outside the State.

Penalty: Division 6 fine.

(3) A director or former director must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as such a director to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the Commission.

Penalty: Division 4 fine or division 4 imprisonment, or both.

(4) A director must not, whether within or outside the State, make improper use of his or her position as a director to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the Commission.

Penalty: Division 4 fine or division 4 imprisonment, or both.

(5) This section has effect in addition to, and not in derogation of, any Act or law relating to the criminal or civil liability of a member of the governing body of a corporation and does not prevent the institution of any criminal or civil proceedings in respect of such a liability.

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(6) For the purposes of section 9, a person will not be taken to have acted honestly if the act constituted or involved contravention by the person of subsection (3) or (4) of this section.

Disclosure of interest

12. (1) A director who has a direct or indirect pecuniary or personal interest in a matter decided or under consideration by the board—

- (a) must disclose the nature of the interest to the board; and
- (b) must not take part in any deliberations or decisions of the board on the matter.

Penalty: Division 5 fine or division 5 imprisonment.

(2) It is a defence to a charge of an offence against subsection (1) to prove that the defendant was not, at the time of the alleged offence, aware of his or her interest in the matter.

(3) A disclosure under this section must be recorded in the minutes of the board.

(4) If a director makes a disclosure of interest in respect of a proposed contract and does not take part in any deliberations or decisions of the board on the matter—

- (a) the contract is not liable to be avoided by the Commission on the ground of the fiduciary relationship between the director and the Commission; and
- (b) the director is not liable to account to the Commission for profits derived from the contract.

Delegation

13. (1) The board may delegate any of its powers or functions.

(2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.

(3) A delegation—

- (a) may be made subject to conditions and limitations specified in the instrument of delegation; and
- (b) is revocable at will and does not derogate from the power of the delegator to act in any matter.

(4) A delegate must not act in any matter pursuant to the delegation in which the delegate has a direct or indirect pecuniary or personal interest.

Penalty: Division 5 fine or division 5 imprisonment.

(5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.

(6) In subsection (4)—

"delegate" includes a member of a body, or of the governing body of a company or other entity, to which any powers or functions of the board have been delegated.

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**PART 4
OPERATIONS OF COMMISSION**

Functions and objectives of Commission

14. (1) The functions of the Commission are—

- (a) to carry on insurance business of any kind;
- (b) to invest, re-invest or otherwise use or employ the funds of the Commission;
- (c) to perform any functions conferred on or delegated to the Commission by or under this or any other Act;
- (d) to perform any functions of a kind prescribed by regulation;
- (e) to perform any functions that are necessary or convenient for or incidental to the performance of functions referred to above.

(2) The Commission may perform its functions within or outside the State.

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Powers of Commission

15. Subject to any limitations imposed by or under this Act, the Commission has all the powers of a natural person.

Common seal and execution of documents

16. (1) A document is duly executed by the Commission if—

- (a) the common seal of the Commission is affixed to the document in accordance with this section; or
- (b) the document is signed on behalf of the Commission by a person or persons in accordance with authority conferred under this section.

(2) The common seal of the Commission must not be affixed to a document except in pursuance of a decision of the board, and the affixing of the seal must be attested by the signatures of two directors.

(3) The Commission may, by instrument under its common seal, authorise a director, an employee of the Commission (whether nominated by name or by office or title) or any other person to execute documents on behalf of the Commission subject to conditions and limitations (if any) specified in the instrument of authority.

(4) Without limiting subsection (3), an authority may be given so as to authorise two or more persons to execute documents jointly on behalf of the Commission.

Validity of transactions of Commission

17. (1) Subject to subsection (2), a transaction to which the Commission is a party or apparently a party (whether made or apparently made under the Commission's common seal or by a person with authority to bind the Commission) is not invalid because of—

- (a) any deficiency of power on the part of the Commission;
 - (b) any procedural irregularity on the part of the board or any director, employee or agent of the Commission;
 - (c) any procedural irregularity affecting the appointment of a director, employee or agent of the Commission.
- (2) This section does not validate a transaction in favour of a party—
- (a) who enters into the transaction with actual knowledge of the deficiency or irregularity; or
 - (b) who has a connection or relationship with the Commission such that the person ought to know of the deficiency or irregularity.

Commission's charter

18. (1) The Minister must, in consultation with the board, prepare a charter for the Commission.

(2) The charter must deal with the following matters:

- (a) the nature and scope of the activities to be undertaken, including—
 - (i) the nature and scope of the investment activities to be undertaken in respect of money of the Compulsory Third Party Fund and other money held by the Commission;
 - (ii) the nature and scope of any activities or transactions outside the State;
 - (iii) the nature and scope of the activities or transactions that may be undertaken by subsidiaries of the Commission, by other companies or entities related to the Commission or by the Commission in partnership or under any arrangement for sharing of profits, co-operation or joint venture with another person; and
- (b) all requirements of the Minister or the Treasurer as to—
 - (i) the Commission's obligations to report on its operations;
 - (ii) the form and contents of the Commission's accounts and financial statements;
 - (iii) any financial, accounting or internal auditing practices or procedures to be observed by the Commission.

(3) The charter may—

- (a) limit the functions or powers of the Commission otherwise provided by this Act;
- (b) deal with any other matter not specifically referred to in subsection (2).

(4) The Minister must, in consultation with the board, review the charter—

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- (a) on the commencement of this subsection; and
 - (b) at the end of each financial year.
- (5) The Minister may, in consultation with the board, amend the charter at any time.
- (6) The charter or any amendment to the charter comes into force and is binding on the Commission on a day determined by the Minister and specified in the charter or amendment.
- (7) On the charter or an amendment to the charter coming into force, the Minister must—
- (a) within six sitting days, cause a copy of the charter, or the charter in its amended form, to be laid before both Houses of Parliament; and
 - (b) within 14 days (unless such a copy is sooner laid before both Houses of Parliament under paragraph (a)), cause a copy of the charter, or the charter in its amended form, to be presented to the Economic and Finance Committee of the Parliament.

Advances by Treasurer

19. (1) The Treasurer may advance money to the Commission (by way of grant or loan) on terms and conditions determined by the Treasurer in consultation with the board.

(2) An amount advanced to the Commission under subsection (1) will be paid out of the Consolidated Account which is appropriated by this section to the necessary extent.

Borrowing and security for loans

20. Except as approved by the Treasurer, the Commission may not borrow money or give security for the repayment of a loan.

Guarantee

21. (1) The liabilities of the Commission are guaranteed by the Treasurer.

(2) A liability of the Treasurer arising by virtue of a guarantee under subsection (1) will be satisfied out of the Consolidated Account which is appropriated by this section to the necessary extent.

(3) The Treasurer may, from time to time, after consultation with the board, fix charges to be paid by the Commission in respect of the guarantee provided under this section and determine the times and manner of their payment.

Compliance with insurance laws

22. Subject to the regulations, the Commission must—

- (a) supply to the Minister such annual accounts and statements as it would be required to supply—
 - (i) under section 44 of the *Insurance Act 1973* of the Commonwealth, as in force from time to time; and
 - (ii) under Divisions 4, 5 and 6 of Part III of the *Life Insurance Act 1945* of the Commonwealth, as in force from time to time,

if it were an insurer (incorporated in Australia) carrying on business in the State; and

- (b) comply with all requirements imposed on insurers carrying on business in the State by or under an Act of the Commonwealth for the disclosure of information to existing, prospective or former policy holders; and
- (c) comply with any other requirement imposed on insurers carrying on business in the State by or under an Act of the Commonwealth that is declared by regulation to be a requirement that applies to the Commission.

Tax and other liabilities of Commission

23. (1) The Commission is liable to all such rates, duties, taxes and imposts and has all such other liabilities and duties as would apply under the law of the State if the Commission were not constituted by this Act and were not an instrumentality of the Crown.

(2) The Commission is liable to pay to the Treasurer, for the credit of the Consolidated Account, such amounts as the Treasurer from time to time determines to be equivalent to income tax and any other taxes or imposts that the Commission does not pay to the Commonwealth but would be liable to pay under the law of the Commonwealth if it were constituted and organised in such manner as the Treasurer determines to be appropriate for the purposes of this subsection as a public company or group of public companies carrying on the business carried on by the Commission.

(3) Amounts determined by the Treasurer to be payable under subsection (2) must be paid by the Commission at the times and in the manner determined by the Treasurer.

Restraint of trade or commerce

24. (1) The Commission must not, without the approval of the Minister, make a contract or arrangement or enter into an understanding in restraint of trade or commerce.

(2) The Commission must not, without the approval of the Minister—

- (a) supply any service;
- (b) charge a price for any service;
- (c) give or allow a discount, allowance, rebate or credit in relation to the supply of any service,

on the condition, or subject to a contract, arrangement or understanding, that the person to whom the Commission supplies the service will not, or will to a limited extent only, obtain services of a similar kind from a competitor of the Commission.

(3) The Commission must not discriminate between purchasers of like services in relation to—

- (a) the price charged by the Commission for those services;
- (b) any discounts, allowances, rebates or credits given in relation to the supply of those services;
- (c) the method of payments for those services,

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if the nature of that discrimination is likely to have the effect of substantially lessening competition in the market for services of a similar kind.

(4) Where the Minister gives an approval under subsection (1) or subsection (2), the Minister must forthwith publish in the *Gazette* notice of that approval setting out with reasonable particularity the matter approved of and the reasons for the approval.

Special fund for compulsory third party insurance

25. (1) The Commission must establish a Compulsory Third Party Fund to be maintained as a separate fund for the Commission's compulsory third party insurance business.

(2) However, the Commission is not required to maintain the Compulsory Third Party Fund if the Commission ceases to be the sole insurer providing policies of insurance under Part 4 of the *Motor Vehicles Act 1959*.

(3) While maintaining the Compulsory Third Party Fund, the Commission must attempt to achieve prudent annual surpluses so far as that is possible having regard to the premium levels fixed under the *Motor Vehicles Act 1959*.

(4) The Fund is to consist of—

- (a) all income of the Commission derived from compulsory third party insurance business; and
- (b) all income of the Commission derived from or attributable to investment of money from the Fund; and
- (c) all amounts paid to the Commission by the Treasurer for payment into the Fund; and
- (d) any other amount that the Commission pays to the Fund.

(5) The Fund may be applied only—

- (a) in payments made for the purposes of the compulsory third party insurance business; and
- (b) in investments authorised under this Act; and
- (c) in payment of the proportion of the Commission's costs determined by the Commission to be referable to its compulsory third party insurance business; and
- (d) in making payments that the Treasurer requires to be made from the Fund under this Act.

(6) The Commission must, in managing its investment of money from the Fund, give due consideration to investment opportunities in or for the benefit of South Australia.

(7) Subject to this Act, money must not be lent or transferred from the Fund to another fund or account of the Commission.

- (8) However, this section does not prevent the Commission—
- (a) from managing the investment of the Fund by combining the money or investments of the Fund with other money or investments of the Commission;
 - (b) from keeping money of the Fund in a single bank account together with other money of the Commission and, in the course of operation of the account—
 - (i) from allowing the Fund to be in temporary deficit; or
 - (ii) from allowing the Fund to be temporarily debited to meet payments required to be made for business of the Commission other than the business for which the Fund is established.

Requirement by Treasurer for payment from surplus

26. (1) Where it appears from the audited accounts of the Commission that a surplus has been achieved by the Commission in respect of a financial year, the Commission must, if the Treasurer so requires, pay to the Treasurer or, as the Treasurer directs, otherwise deal with such part of the surplus as the Treasurer determines in consultation with the board.

(2) Where it appears from the audited accounts of the Commission that a surplus exists in the Compulsory Third Party Fund, the Commission must, if the Treasurer so requires, pay to the Treasurer or, as the Treasurer directs, otherwise deal with such part of the surplus as the Treasurer determines in consultation with the board.

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Accounts and audit

28. (1) The board must cause proper accounts to be kept of the Commission's financial affairs and financial statements to be prepared in respect of each financial year.

(2) The accounts and financial statements must comply with the requirements of the Treasurer contained in the Commission's charter.

(3) The Auditor-General may at any time, and must in respect of each financial year, audit the accounts and financial statements of the Commission.

Annual report

29. (1) The board must, on or before 30 September in each year, deliver to the Minister a report on the operations of the Commission during the preceding financial year.

- (2) The report must—
- (a) incorporate the audited accounts and financial statements for the financial year; and
 - (b) incorporate the Commission's charter as for the time being in force and set out any amendments to the charter made during the financial year; and
 - (c) set out any directions given to the board by the Minister that are not contained in the Commission's charter; and

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- (d) set out details of any approval given by the Treasurer during the financial year in respect of any borrowing by the Commission or any security given by the Commission for the repayment of a loan; and
 - (e) set out details of any approval given by the Minister during the financial year in respect of a contract, arrangement or understanding in restraint of trade or commerce or any other transaction referred to in section 24.
- (3) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after his or her receipt of the report.

**PART 5
MISCELLANEOUS**

Staff of the Commission

29A. (1) The Commission's employees are not Public Service employees.

(2) However, the Commission may, with the approval of the Minister administering an administrative unit of the Public Service, on terms mutually arranged, make use of the services of persons employed in the administrative unit.

Regulations

30. The Governor may make such regulations as are contemplated by this Act or necessary or expedient for the purposes of this Act.

PART 6
RESTRUCTURING OF SGIC GROUP UNDERTAKING

Definitions

31. (1) In this Part—

"**authorised project**"—*see section 33(1)*;

"**SGIC Group**" means the Commission and the subsidiaries of the Commission;

"**SGIC Group undertaking**" means the undertaking of the Commission and of its subsidiaries, or any part of that undertaking;

"**subsidiary**", of the Commission, means—

- (a) a body that is a subsidiary of the Commission according to Division 6 of Part 1.2 of the *Corporations Law* as modified in its application by subsection (2); or
- (b) any other body or entity of which the Commission is the parent entity according to Division 4A of Part 3.6 of the *Corporations Law*.

(2) In applying Division 6 of Part 1.2 of the *Corporations Law* to determine whether a body is a subsidiary of the Commission—

- (a) the reference in section 46(a)(iii) of that Law to one-half of the issued share capital of a body is to be taken to be a reference to one-quarter of the issued share capital of the body; and
- (b) shares held, or powers exercisable by, the Commission or any other body are not to be taken to be held or exercisable in a fiduciary capacity by reason of the fact that the Commission is an instrumentality of the Crown and holds its property on behalf of the Crown.

(3) In applying Division 4A of Part 3.6 of the *Corporations Law* to determine whether the Commission is the parent entity of some other body or entity, the Commission is to be taken to be a company to which that Division applies.

Territorial application of this Part

32. (1) This Part applies both within and outside the State.

(2) This Part applies outside the State to the full extent of the extra-territorial legislative capacity of the Parliament.

Restructuring and disposal

33. (1) The following action (collectively referred to as the "**authorised project**") is authorised:

- (a) determination of the most appropriate means of disposing of the SGIC Group undertaking and, in particular, whether the SGIC Group undertaking should be restructured by vesting the undertaking in a separate body corporate or separate bodies corporate in preparation for disposal;

- (b) examination of the SGIC Group undertaking with a view to its restructuring and disposal;
- (ba) the disposal, or preparation for disposal, or shares in, or assets and liabilities of, any company under the control of the Crown to which any part of the SGIC Group undertaking is transferred;
- (c) any other action that the Treasurer authorises, after consultation with the board, in preparation for restructuring and disposal of the SGIC Group undertaking.

(2) The authorised project is to be carried out by—

- (a) persons employed by the Crown and assigned to work on the project; and
- (b) officers of the Commission assigned to work on the project; and
- (c) other persons whose services are engaged by the Crown or the Commission for the purpose of carrying out the project; and
- (d) any other person approved by the Treasurer whose participation or assistance is, in the opinion of the Treasurer, reasonably required for the purposes of the project.

(3) The Treasurer (or the Treasurer's delegate) may, despite any other law, authorise prospective purchasers and their agents to have access to information in the possession or control of the Commission or its subsidiaries that should, in the Treasurer's opinion (or the delegate's opinion), be made available to the prospective purchasers for the purposes of the authorised project.

(4) The directors and staff of the Commission and its subsidiaries must, despite any other law, instrument, contract or undertaking—

- (a) allow persons engaged on the authorised project access to information in the possession or control of the Commission or a subsidiary that is reasonably required for, or in connection with, the carrying out of the authorised project; and
- (b) do whatever is necessary to facilitate the provision of the information to persons entitled to access to the information under subsection (3); and
- (c) provide other co-operation, assistance and facilities that may be reasonably required for, or in connection with, the carrying out of the authorised project.

(5) A person who is in a position to grant or refuse access to information to which this section relates may deny access to a person who seeks access to the information unless the person produces a certificate issued by the Treasurer (or the Treasurer's delegate) certifying that the person is entitled to access to information under this section and the basis of the entitlement.

Protection for disclosure and use of information, etc.

34. (1) In this section—

"authorised action" means—

- (a) the disclosure or use of information in the possession or control of—

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- (i) the Commission or a subsidiary of the Commission; or
- (ii) a current or former member of the board of directors or staff of the Commission or a subsidiary of the Commission; or
- (iii) a person involved in the authorised project,
as reasonably required for, or in connection with, the carrying out of the authorised project; or

(b) anything done or allowed under this Part.

(2) No authorised action—

- (a) constitutes a breach of, or default under, an Act or other law; or
- (b) constitutes a breach of, or default under a contract, agreement, understanding or undertaking; or
- (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity, by custom, or in any other way); or
- (d) constitutes a civil or criminal wrong; or
- (e) terminates an agreement or obligation, or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or
- (f) releases a surety or other obligee wholly or in part from an obligation.

Evidentiary provision

35. (1) In legal proceedings, a certificate of the Treasurer (or the Treasurer's delegate) certifying that action described in the certificate forms part of the authorised project, or that a person named in the certificate was at a particular time engaged on the authorised project, must be accepted as proof of the matter so certified in the absence of proof to the contrary.

(2) An apparently genuine document purporting to be a certificate under subsection (1) must be accepted as such in the absence of proof to the contrary.

SCHEDULE

Repeal, Transitional Provisions and Validation

- (1) The *State Government Insurance Commission Act 1970* is repealed.
- (2) Each member of the Commission in office immediately before the commencement of this Act will, subject to this Act, continue in office as a member of the board of directors of the Commission under this Act for the balance of the term for which the member was appointed.
- (3) The person holding the office of Chairman of the Commission immediately before the commencement of this Act will be taken to have been appointed under this Act to chair the board of directors of the Commission.
- (4) All transfers of money or investments made by the Commission before the commencement of this Act between separate funds kept by the Commission for different classes of insurance are to be taken to have been made lawfully.
- (5) The assets and liabilities of the Commission in respect of its compulsory third party insurance business and its life insurance business as recorded in the Commission's accounting records immediately before the commencement of this Act are to be treated as assets and liabilities of the Compulsory Third Party Fund and Life Fund respectively for the purposes of the establishment of those funds under this Act.

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APPENDIX 1

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

Long title:	substituted by 47, 1995, Sched. 1 cl. (a)
Section 1:	substituted by 47, 1995, Sched. 1 cl. (b)
Section 3:	substituted by 47, 1995, Sched. 1 cl. (c)
Section 4(1):	substituted by 47, 1995, Sched. 1 cl. (d)
Section 5(4):	repealed by 47, 1995, Sched. 1 cl. (e)
Section 6(1):	substituted by 47, 1995, Sched. 1 cl. (f)
Section 6(3):	substituted by 47, 1995, Sched. 1 cl. (g)
Section 6(7):	substituted by 47, 1995, Sched. 1 cl. (h)
Section 6(8a):	inserted by 47, 1995, Sched. 1 cl. (i)
Section 7(1):	amended by 47, 1995, Sched. 1 cl. (j)
Section 14(3):	repealed by 47, 1995, Sched. 1 cl. (k)
Section 18(2):	amended by 47, 1995, Sched. 1 cl. (l)
Section 18(4):	substituted by 47, 1995, Sched. 1 cl. (m)
Section 25:	substituted by 47, 1995, Sched. 1 cl. (n)
Section 26(2):	amended by 47, 1995, Sched. 1 cl. (o)
Section 27:	repealed by 47, 1995, Sched. 1 cl. (p)
Section 29A:	inserted by 47, 1995, Sched. 1 cl. (q)

Part 6 comprising ss. 31 - 35 and heading inserted by 4, 1995, s.

3

Section 33(1):	amended by 47, 1995, Sched. 1 cl. (s)
Section 33(3) and (4):	substituted by 47, 1995, Sched. 1 cl. (r)
Section 33(5):	inserted by 47, 1995, Sched. 1 cl. (r)
Section 35:	substituted by 47, 1995, Sched. 1 cl. (t)

APPENDIX 2

DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25