

# STATE GOVERNMENT INSURANCE COMMISSION ACT, 1970-1974

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## STATE GOVERNMENT INSURANCE COMMISSION ACT, 1970-1974

being

State Government Insurance Commission Act, 1970, No. 24 of 1970 [Assented to 22nd October, 1970]<sup>1</sup>;

as amended by

State Government Insurance Commission Act Amendment Act, 1974, No. 88 of 1974 [Assented to 28th November, 1974].

**An Act to authorize the establishment of a State Government Insurance Commission; to authorize such Commission to carry on the General Business of Insurance other than the business of Life Insurance; and for other purposes.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "State Government Insurance Commission Act, 1970-1974", and shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

Short title and  
commencement.  
Citation  
amended by 88,  
1974, s. 1 (3).

2. In this Act, unless the context otherwise requires—

Interpretation.

"Chairman" means Chairman of the Commission and includes the acting Chairman of the Commission:

"Commission" means the State Government Insurance Commission constituted pursuant to this Act:

"insurance" includes assurance, additional insurance, treaty and internal insurance, and re-insurance, guarantee and surety:

"member" means member of the Commission and includes an acting member of the Commission.

3. (1) For the purposes of this Act there shall be a commission which shall be known as the "State Government Insurance Commission".

The  
Commission.

(2) The Commission—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise dealing in or disposing of real and personal property;

(c) may in its name sue and be sued;

and

<sup>1</sup> Came into operation 23rd December, 1970: *Gaz.* 24th December, 1970, p. 2870.

(d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) In the exercise and discharge of its powers, duties, functions and authorities, the Commission shall, except for the purposes of section 16 of this Act, be subject to the control and directions of the Government of the State acting through the Minister; but no such direction shall be inconsistent with this Act.

(4) All courts and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to any document and shall presume that it was duly affixed.

(5) Subject to this Act, the Commission shall consist of five members appointed by the Governor, of whom one shall be nominated by the Governor as the Chairman of the Commission.

(6) No person who is a director of or who is actively engaged in the control of any company conducting the business of insurance shall be appointed or hold office as a member of the Commission.

(7) The Commission shall be constituted on the day on which the first members take office.

(8) A member shall not, as such, be subject to the Public Service Act, 1967, as amended<sup>1</sup>, but this provision shall not affect the rights, duties and obligations under that Act of any member who is otherwise subject to that Act.

(9) The office of member of the Commission may be held in conjunction with any other appointment under the Government of the State.

Terms of office  
of members of  
the  
Commission.

4. (1) Subject to this section, a member shall be appointed for a term of office of five years, except that, in the case of the first five members—

(a) the Chairman shall be appointed for a term of office of five years;

(b) one member shall be appointed for a term of four years;

(c) one member shall be appointed for a term of three years;

(d) one member shall be appointed for a term of two years;

and

(e) one member shall be appointed for a term of office of one year,

but a member appointed to fill a casual vacancy shall be appointed only for the balance of the term of office of the member in whose place he was appointed.

(2) On the expiration of his term of office as a member, a person shall be eligible for re-appointment.

Temporary  
appointments.

5. In the case of the illness, suspension or absence of any member the Governor may appoint a person to act for the member during such illness, suspension or absence, and a person so appointed shall, while so acting, be deemed to be a member of the Commission and shall have all the powers, authority, responsibilities, duties and obligations of the member for whom the person is acting.

Suspension or  
removal from  
office of  
member.

6. The Governor may, by notice in writing served on a member, suspend him from office for any period not exceeding the balance of his term of office, or remove him from office, on grounds of misconduct or incapacity to perform his duties or functions as a member.

<sup>1</sup> Now Public Service Act, 1967-1975.

## 7. The office of a member shall become vacant if—

Casual  
vacancies.

- (a) he dies;
- (b) he resigns by written notice given to the Minister;
- (c) he is removed from office by the Governor pursuant to section 6 of this Act;
- (d) he is absent without leave of the Minister from four consecutive meetings of the Commission;
- (e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;
- (f) he is convicted of any indictable offence;

or

- (g) he is convicted of any other offence involving dishonesty and receives a notice in writing from the Minister discharging him from office on the ground of that conviction.

8. (1) The common seal of the Commission shall not be affixed to any instrument except in pursuance of a resolution of the Commission, and the affixing of the seal shall be attested by the signatures of any two members.

Common seal,  
meetings and  
quorum.

(2) The procedure for the calling of meetings of the Commission and for the conduct of business at such meetings shall, subject to any directions that may be given by the Minister, be as determined by the Commission.

(3) Any three members shall constitute a quorum at any meeting of the Commission and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Commission and shall have and may exercise and discharge all the powers, duties, functions and authorities of the Commission.

(4) If the Chairman is not present at any meeting of the Commission, the members present at that meeting shall elect one of their number to be the Chairman for that meeting and the person so elected shall preside at such meeting and exercise the powers and perform the duties of the duly appointed Chairman.

(5) A decision carried by a majority of the votes cast by the members present at a meeting of the Commission shall be the decision of the Commission.

9. (1) The Chairman shall preside at all meetings of the Commission at which he is present and shall, in the event of an equality of votes, have, in addition to a deliberative vote, a second or casting vote.

Chairman.

(2) The Chairman shall cause accurate minutes to be kept of the proceedings at all meetings of the Commission.

10. No act, proceeding or determination of the Commission shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member.

Validity of acts  
of Commission.

11. A member of the Commission shall be paid out of the funds of the Commission such fees or other remuneration as may from time to time be fixed by the Governor and shall be entitled to receive out of such funds such travelling and other expenses as are from time to time approved by the Minister.

Remuneration  
of members.

Powers and  
functions of  
Commission.

12. (1) Subject to this Act and the directions of the Minister not inconsistent with this Act, the Commission is hereby authorized and empowered—

- (a) to undertake and carry on in the State the general business of insurance, including any class or form of insurance which is, at the commencement of this Act, being undertaken or carried on in the State by any person engaged in the business of insurance or which may be considered necessary or desirable but not including the business of life insurance;
- (b) to undertake and carry on in the State such general business of insurance or any class or form of insurance (not including the business of life insurance or any class or form thereof) according to the practice, usage, form and procedure which is, for the time being, followed by other persons engaged in the like business or to undertake and carry on such business in such manner and form and according to such procedure as may be considered necessary or desirable;
- (c) to employ and terminate the services of officers, servants and agents;
- (d) to delegate to any officer of the Commission any of the powers, duties, functions and authorities of the Commission;
- (e) with the approval of the Treasurer, to borrow money and to give security for the repayment of any loan;

and

- (f) to do or cause to be done such other things as are necessary or convenient for or incidental to the administration of this Act or the affairs of the Commission or to give effect to the objects of this Act.

(2) The powers and authorities conferred by subsection (1) of this section shall be in addition to any other power or authority conferred on the Commission by this Act or any other Act.

(3) The Commission shall be capable of becoming an approved insurer in accordance with and for the purposes of the Motor Vehicles Act, 1959, as amended<sup>1</sup>.

(4) The Commission may, or, if so required by the Minister, shall, at any time, revoke any delegation made pursuant to paragraph (d) of subsection (1) of this section.

(5) The Commission may, with the approval of the Minister and the consent of the Minister controlling any department of the public service of the State, and, on such terms as may be mutually agreed upon, make use of the services of any of the officers or employees of that department.

(6) A person whose services are employed by the Commission shall not, for that reason alone, be subject to the Public Service Act, 1967, as amended<sup>2</sup>, but this provision shall not affect the rights, privileges, duties and obligations under that Act of any such person who is otherwise subject to that Act.

<sup>1</sup> Now Motor Vehicles Act, 1959-1975.

<sup>2</sup> Now Public Service Act, 1967-1975.

13. Contracts on behalf of the Commission may be made, varied or discharged as follows:—

Execution of contracts.

- (a) any contract which, if made between private persons, would be by law required to be in writing under seal, may be made, varied or discharged in the name and on behalf of the Commission, in writing under the common seal of the Commission;
- (b) any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made, varied, or discharged in the name and on behalf of the Commission, in writing signed by any person acting under the express or implied authority of the Commission;
- (c) any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing, may be made, varied or discharged by parol, in the name and on behalf of the Commission, by any person acting under the express or implied authority of the Commission,

and all contracts made according to the provisions contained in this section shall be effectual in law, and shall be binding upon the Commission and on all other parties thereto, their heirs, executors or administrators as the case may be: But nothing in this section shall invalidate any contract executed on behalf of the Commission by any duly appointed attorney of the Commission if the contract would be valid if executed by the attorney on his own behalf.

14. All real and personal property of the Commission shall be held by the Commission for and on behalf of the Crown.

Commission to hold property on behalf of Crown.

15. (1) Every policy or contract of insurance or indemnity issued or entered into within the authority of this Act is hereby guaranteed by the Government of the State and any liability arising under such guarantee shall, without further or other appropriation than this section, be paid out of Consolidated Revenue.

Guarantee by State.

(2) Any amount paid out of Consolidated Revenue pursuant to subsection (1) of this section shall be deemed to be an advance to the Commission and shall be and remain a charge on the funds of the Commission to be recouped when funds are available.

16. The Commission may invest the moneys in the funds established under and for the purposes of this Act—

Power to invest.

- (a) in any investments from time to time approved of by the Treasurer;
  - (b) in temporary deposits with the Treasurer upon such terms and conditions as the Treasurer may determine;
- and
- (c) with the approval of the Treasurer in real property.

Para. (a) substituted by 88, 1974, s. 2.

17. (1) Whilst any Act relating to income tax shall not apply to the Commission, the Commission shall from time to time pay to the Treasurer such sums as the Treasurer deems to be the equivalent of the amounts which would be payable by the Commission if the Commission in respect of its insurance business were liable as an insurance company for payment of income tax and other taxes under the provisions of any Act or Commonwealth Act.

Contributions in lieu of taxation, etc.

(2) The Commission shall take out an annual licence in accordance with the provisions of subsection (1) of section 33 of the Stamp Duties Act, 1923, as amended<sup>1</sup>, and shall pay the duty thereon in the same manner as other persons engaged in the business of insurance in the State and the Commission shall pay the duty applicable to all other instruments and transactions in accordance with the provisions of that Act in the same manner as other persons engaged in the business of insurance in the State.

(3) The provisions of the Fire Brigades Act, 1936, as amended<sup>2</sup>, the Bush Fires Act, 1960, as amended<sup>3</sup>, the Volunteer Fire Fighters Fund Act, 1949, as amended<sup>4</sup>, the Hospitals Act, 1934, as amended<sup>5</sup> and the Hire-Purchase Agreements Act, 1960, as amended<sup>6</sup>, shall apply to and in relation to the Commission in the same manner and to the same extent as they apply to and in relation to other persons engaged in the business of insurance in the State.

Profits to be paid into reserve and Consolidated Revenue.

18. Where at the end of any financial year a profit is disclosed in the accounts of the Commission such portion of such profit as the Chairman, the Under-Treasurer and the Auditor-General deem advisable shall be carried to a reserve and any balance shall be paid into Consolidated Revenue to the extent directed by the Governor.

Accounts and audit.

19. (1) The Commission shall at all times keep proper books of account and records in such manner and form as are approved by the Treasurer showing at all times a true and accurate account of the affairs of the Commission.

(2) The Auditor-General shall, whenever he deems it necessary, inspect and examine the property of the Commission and audit the books and accounts of the Commission and, as soon as practicable after the end of each financial year, shall make a report to the Minister on the state of the affairs of the Commission as at the end of that year.

(3) The Auditor-General shall have and may exercise, in respect of the moneys and accounts of the Commission and the persons dealing with the Commission, the same powers as are vested by the Audit Act, 1921, as amended<sup>7</sup>, in the Auditor-General in respect of public moneys and the public accounts.

(4) The Minister shall cause every annual report of the Auditor-General made in accordance with subsection (2) of this section to be tabled in each House of Parliament within fourteen days after it is received by the Minister, if Parliament is then in session, or, if Parliament is not in session, within fourteen days after the commencement of the next session of Parliament.

Funds.

20. (1) There shall be such separate and distinct funds for each class or combination of classes of insurance business undertaken and carried on by the Commission as the Minister after consultation with the Commission may determine.

(2) All premiums and other moneys received by the Commission under this Act shall be paid into the proper fund.

(3) All payments in respect of contracts of insurance made by the Commission shall be paid out of the proper fund.

<sup>1</sup> Now Stamp Duties Act, 1923-1975.

<sup>2</sup> Now Fire Brigades Act, 1936-1974.

<sup>3</sup> Now Bush Fires Act, 1960-1972.

<sup>4</sup> Now Volunteer Fire Fighters Fund Act, 1949-1975.

<sup>5</sup> Now Hospitals Act, 1934-1971.

<sup>6</sup> The Hire-Purchase Agreements Act, 1960, and its amendments, have been repealed by the Consumer Transactions Act, 1972 (now Consumer Transactions Act, 1972-1973).

<sup>7</sup> Now Audit Act, 1921-1975.

(4) All payments in respect of salaries, allowances, remuneration and other outgoings expended or incurred in the general management of the Commission and the conduct of its business and in the administration of this Act shall be apportioned between and payable out of the several funds established under this Act in such proportions as the Commission, with the approval of the Minister, from time to time determines and such payments shall include the recoupment to Consolidated Revenue of any payments made therefrom in respect of salaries, allowances or other remuneration payable to any officers or employees of the Public Service or of the Crown during and in relation to their employment by, and in relation to the business of, the Commission.

(5) Until there are sufficient moneys in the several funds established under this Act to meet the expenses of administering the affairs of the Commission, the Treasurer may, from time to time, make to the Commission, from moneys appropriated by Parliament for the purpose, such advances on such terms and conditions as he thinks fit.

21. The Governor may make such regulations as he considers necessary or expedient for the purpose of giving effect to the provisions and objects of this Act and without limiting the generality of the foregoing provisions for prescribing or providing for all matters which may or ought to be prescribed or provided for giving effect to the provisions and objects of this Act and fixing a penalty not exceeding Two hundred dollars for the breach of any regulation. Regulations.

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