

MOTOR VEHICLE (THIRD PARTY INSURANCE).

3° Elizabeth II., No. XXXVI.

No. 36 of 1954.

AN ACT to amend the Motor Vehicle (Third Party Insurance) Act, 1943-1951.

[Assented to 3rd December, 1954.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation

1. (1) This Act may be cited as the *Motor Vehicle (Third Party Insurance) Act Amendment Act, 1954*.

(2) In this Act the Motor Vehicle (Third Party Insurance) Act, 1943-1951,

Approved for
reprint
23/8/1954.

Act No. 32 of 1943 as reprinted with amendments to and including Act No. 40 of 1951 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Motor Vehicle (Third Party Insurance) Act, 1943-1954.

2. Section three P of the principal Act is ^{S. 3P} amended—

- (a) by substituting for the words, “may come into its hands” in lines two and three of subsection (2), the words, “the Trust receives”;
- (b) by repealing and re-enacting subsection (5) as follows:—

(5) (a) The Trust shall dispose of the surplus, if any, which remains to the credit of each such account after all such claims have been finalised, as follows:—

- (i) Firstly, in payment, apportioned in accordance with the provisions of paragraph (b) of this subsection, of the whole or any part of the losses debited in respect of any previous year or years against those who were participating approved insurers both in the year when the surplus occurred and in the year in respect to which the loss was debited.
- (ii) Secondly, in paying to those who were participating approved insurers in the year in which the surplus occurs, an amount by way of dividend limited as provided in subparagraph (iv) of this paragraph.
- (iii) Thirdly, in paying to those who were participating approved insurers both in the year in which the surplus occurs and in any other year, an amount by way of dividend limited as provided in subparagraph (iv) of this paragraph.

(iv) The total of all amounts which the Trust is required to pay pursuant to subparagraphs (ii) and (iii) of this paragraph in respect to any one year, is limited to a sum not exceeding the equivalent of five per centum per annum of the total premiums referred to in paragraph (c) of subsection (4) of this section for that year.

(v) The Trust shall pay the balance of any surplus to the General Reserve Account referred to in paragraph (c) of subsection (7) of this section.

(b) The Trust shall apportion any payment or credit pursuant to paragraph (a) of this subsection amongst the participating approved insurers entitled thereto in proportion to the interest of each of them in the Fund for the year in respect to which the loss or dividend is being paid.

(c) The Trust may from time to time make distributions in anticipation of any surplus. ;

(c) by repealing and re-enacting subsection (6) as follows:—

(6) The deficit, if any, to the debit of each such account which remains after all such claims have been finalised, shall become the liability of the participating approved insurers during the year to which such account relates in proportion to the interest of each of them in the Fund during that year, and the Trust may recover from each participating approved insurer such proportionate amount at any time deemed expedient to the Trust, and in respect of such recovery the provisions of subsection (5) of section three N of this Act shall apply. ; and

(d) by adding the following subsection:—

(7) (a) The Trust has, and is deemed always to have had, power from time to time to invest any moneys in its hands in any investment authorised by the Trustees Act, 1900, or in other manner approved by the Minister on the recommendation of the Trust.

(b) Any interest or profits obtained by the Trust as a result of any such investment shall not be deemed interest or profit in respect to a particular year or account but shall be apportioned by the Trust between the annual accounts referred to in subsection (4) of this section in such manner as the Trust shall determine.

(c) The Trust shall open, and credit in, a General Reserve Account the amounts of balances of surpluses mentioned in subparagraph (v) of paragraph (a) of subsection (5) of this section.

(d) Where the General Reserve Account is in credit, the Trust may, with the approval of the Minister, in determining under subsection (5) of section three R of this Act, rates for premiums to be charged in any year, reduce any rate which it would have determined for that year irrespective of the credit, to such rate, as having regard to the credit, the Trust considers fit.

(e) If the amount received by the Trust from premiums, whether charged or not charged at a reduced rate, in respect of any year, is insufficient to meet the liabilities of the Trust in respect of that year, the Trust may pay the amount of the deficiency from money represented in the credit.

3. Section seven of the principal Act is amended—

- (a) by adding after the word “that” in line nine of subsection (3) the words, “he made due search and inquiry to ascertain the identity of the vehicle, and that”;

S. 7
amended.

- (b) by adding before the word, "The" in line one of subsection (5) the words, "Where any of the matters mentioned in subsection (4) of this section has arisen or occurred in respect of a policy of insurance,";
- (c) by adding after the word, "severally" in line five of subsection (5) the words, ", and from the owner where the insured person liable in respect of any such accident is not the owner of the motor vehicle concerned and at the time of the accident the owner was guilty of any of the matters mentioned in subsection (4) of this section,";
- (d) substituting for the passage commencing with the word, "would" in line thirteen, and ending with the word, "section" in line fifteen, of subsection (5) the words, "have been recovered from or paid by the Trust by reason of the policy in respect to which a matter mentioned in subsection (4) of this section has arisen or occurred".

S. 8
amended.

4. Section eight of the principal Act is amended—
- (a) by adding after the proviso to subsection (1) the following further proviso:—

Provided further that when such first mentioned judgment was obtained within the State, this subsection shall not apply unless, before the action on which such first mentioned judgment was obtained came on for hearing, the Trust knew that such action had been commenced. ; and

- (b) by repealing subsection (6).

S. 10
amended.

5. Section ten of the principal Act is amended—
- (a) by adding after the word, "person" in line one of subsection (3) the words, "and the owner and the driver of an uninsured motor vehicle";
 - (b) by adding after the word, "person" in line one of subsection (5) the words, "and the owner and the driver of an uninsured motor vehicle";

- (c) by substituting for the words, "any claim in respect of which he is insured with the Trust" in lines nine and ten of subsection (5), the words, "which the Trust is, or may become, liable under the provisions of this Act";
- (d) by substituting for the words, "an insured" in line two of subsection (6) the word, "any"; and
- (e) by adding after the word, "section" in line three of subsection (6), the words, ", or, if two or more persons have so failed, from them jointly and severally,".

6. Section eleven of the principal Act is amended— S. 11
amended.

- (a) by adding after the word, "person" in line two of subsection (1) the words, "and the owner and the driver of an uninsured vehicle";
- (b) by adding after the words, "the insured person" in line three of subsection (1), the words, "or the owner or the driver of an uninsured vehicle, as the case may be,";
- (c) by adding after the word, "person" in line one of subsection (2), the words, "and the owner and the driver of an uninsured vehicle";
- (d) by substituting for the words, "the insured person" in line four of subsection (2) the word, "he"; and
- (e) by substituting for the words, "behalf of the insured person" in the last two lines of subsection (2), the words, "his behalf".

7. Section twenty of the principal Act is amended S. 20
amended. by adding before the word, "shall" in line four of subsection (2), the words, ", and every person who during that period drives the vehicle whether with or without the consent of the owner".

S. 21
amended.

8. Subsection (1) of section twenty-one of the principal Act is repealed and re-enacted as follows:—

(1) (a) Where a policy of insurance complying with the requirements of this Act, and a license under the Traffic Act, have been issued in respect of a motor vehicle, and both would, but for this subsection, expire by effluxion of time on the same expiry day, if the provisions of paragraph (b) of this subsection apply, the operation of the policy is extended by, and in accordance with, those provisions.

(b) If a new policy complying with the requirements of this Act is issued in respect of the motor vehicle within the period of fifteen days of the expiry day of the policy mentioned in paragraph (a) of this subsection, the operation of the policy mentioned in that paragraph, is, by this paragraph, and notwithstanding any provisions to the contrary of the policy mentioned in that paragraph, extended until the new policy is issued.

Cf. s. 4 (8)
(a) ante,
and s. 10 (5)
of the Traffic
Act.

(c) If however, the new policy is not issued until after the expiration of that period of fifteen days, the motor vehicle is, notwithstanding any provision to the contrary of paragraph (a) of subsection (8) of section four of this Act, or of subsection (5) of section ten of the Traffic Act, an uninsured vehicle until the new policy is issued.
