

# STATE GOVERNMENT INSURANCE COMMISSION ACT

(No. 51 of 1986)

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## ARRANGEMENT

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### PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Definitions

### PART II—STATE GOVERNMENT INSURANCE COMMISSION

*Division 1—Establishment of the Commission*

4. State Government Insurance Commission established as a body corporate
5. Board of commissioners

*Division 2—Functions and powers of the Commission*

6. Functions
7. Powers
8. Commission to act efficiently and economically
9. Delegation
10. Directions by Minister

*Division 3—Staff of the Commission*

11. Managing director
12. Appointment of staff and consultants
13. Use of staff and facilities of Departments and instrumentalities
14. Superannuation

*Division 4—Financial provisions  
relating to the Commission*

Subdivision A—Income, Expenditure and  
Property of the Commission

## Section

- 15. Moneys available to the Commission
- 16. Establishment and composition of Funds
- 17. Apportionment of income, expenditure and assets
- 18. Transfer between Funds
- 19. Temporary investment of moneys

Subdivision B—Financial Administration,  
Audit and Reporting

- 20. Application of *Financial Administration and Audit Act 1985* to the Commission
- 21. Provisions and reserves
- 22. Accounts
- 23. Financial statements

Subdivision C—Borrowing and Financial  
Accommodation

- 24. Power to borrow etc., generally
- 25. Power to make provision to pay off loans
- 26. Borrowing power, from Treasury sources
- 27. Specific State guarantees

PART III—STATE GOVERNMENT INSURANCE CORPORATION

*Division 1—Establishment of the Corporation*

- 28. State Government Insurance Corporation established as a body corporate
- 29. Board of directors

*Division 2—Function and powers of the Corporation*

- 30. Corporation to conduct insurance and related business
- 31. Powers
- 32. Corporation to act on commercial principles
- 33. Corporation to comply with insurance laws
- 34. Liability in respect or in lieu of taxation
- 35. Delegation
- 36. Directions by the Commission

*Division 3—Staff of the Corporation*

- 37. Classification, employment, conditions, and duties of staff allocated to the Corporation
- 38. Use of services and facilities of the Commission, Departments and instrumentalities

*Division 4—Financial provisions relating  
to the Corporation*

- 39. Capital of the Corporation
- 40. Temporary investment of funds
- 41. Application of *Financial Administration and Audit Act 1985* to the Corporation

PART IV—GENERAL

Section

- 42. Secrecy
- 43. Execution of documents and entry into contracts
- 44. Certain proposals or statements deemed to be made to the Commission
- 45. Regulations

PART V—REPEAL, AMENDMENTS, SAVING,  
VALIDATION AND TRANSITIONAL

- 46. Repeal and amendments
- 47. Saving, validation and transitional provisions
- 48. Oversight by Public Accounts Committee

SCHEDULE 1

PROVISIONS AS TO COMMISSIONERS

- 1. Definitions
- 2. Commissioners—terms and vacation of office
- 3. Alternate commissioners
- 4. Chairman and deputy chairman—term and vacation of office
- 5. Disclosure of pecuniary interests
- 6. Meetings
- 7. Committees
- 8. Resolution may be passed without meeting
- 9. Leave of absence
- 10. Board to determine own procedures
- 11. Protection of commissioners

SCHEDULE 2

PROVISIONS AS TO DIRECTORS

- 1. Definition
- 2. Directors—terms and vacation of office
- 3. Alternate directors
- 4. Deputy chairman—term and vacation of office
- 5. Meetings
- 6. Certain provisions of Schedule 1 to apply

SCHEDULE 3

AMENDMENTS TO ACTS

- 1. Employers' Indemnity Supplementation Fund Act 1980
- 2. Financial Administration and Audit Act 1985
- 3. Fire Brigades Act 1942
- 4. Mine Workers' Relief Act 1932
- 5. Motor Vehicle (Third Party Insurance) Act 1943
- 6. Motor Vehicle (Third Party Insurance Surcharge) Act 1962
- 7. Parliamentary Commissioner Act 1971
- 8. Real Estate and Business Agents Act 1978
- 9. Settlement Agents Act 1981
- 10. Workers' Compensation and Assistance Act 1981

**SCHEDULE 4**

**SAVING, VALIDATION AND TRANSITIONAL PROVISIONS**

**Section**

- 1. Terms used**
- 2. Transfer of assets, liabilities and records of the MVIT**
- 3. MVIT insurance policies**
- 4. Agreements, instruments, determinations and proceedings generally**
- 5. Final reports on the operations of the MVIT**
- 6. Assessment as to sufficiency of income**
- 7. Employment of current officers**
- 8. References to the MVIT in laws**
- 9. Transfer of assets, liabilities and records of the SGIO**
- 10. SGIO insurance policies and re-insurance**
- 11. Agents and brokers**
- 12. Agreements, instruments and proceedings generally**
- 13. Final reports on the operations of the SGIO**
- 14. Certain outstanding obligations to be met by the Commission**
- 15. Saving of presumption and protection**
- 16. Employment of staff of the SGIO**
- 17. References to the SGIO in laws**
- 18. Apportionment of assets and liabilities**
- 19. Interpretation Act to apply**

# STATE GOVERNMENT INSURANCE COMMISSION ACT

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No. 51 of 1986

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**AN ACT** to establish the State Government Insurance Commission and the State Government Insurance Corporation, to provide for the constitution, functions and powers of those bodies, to repeal the *State Government Insurance Office Act 1938*, to amend certain other Acts, and for related purposes.

[Assented to 5 August 1986]

**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:—

## PART I — PRELIMINARY

### Short title

1. This Act may be cited as the *State Government Insurance Commission Act 1986*.

## **Commencement**

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

## **Definitions**

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

“board of commissioners” means the governing body of the Commission provided for by section 5 (1);

“board of directors” means the governing body of the Corporation provided for by section 29 (1);

“borrow” includes—

- (a) reborrow;
- (b) obtain credit; and
- (c) arrange for financial accommodation;

“business undertaking” includes any person, corporation, trust, joint venture, government agency or other entity engaging or intending to engage in economic activity;

“Commission” means the State Government Insurance Commission established by this Act;

“commissioner” means—

- (a) a person appointed to the board of commissioners under section 5 (1) (a), including the chairman and the deputy chairman of the board of commissioners; or
- (b) the managing director;

“Corporation” means the State Government Insurance Corporation established by this Act;

“debt paper” means inscribed stock, bonds, debentures, debentures with coupons annexed or any other bearer securities, or instrument evidencing indebtedness;

“director of the Corporation” means—

- (a) the managing director; or
- (b) a person appointed to the board of directors under section 29 (1) (b), including the deputy chairman of the board of directors;

“Fund” means a fund established under section 16;

“insurance” includes assurance, co-insurance, re-insurance, guarantee and surety;

“insurer” means a corporation carrying on business under the *Insurance Act 1973* or the *Life Insurance Act 1945* of the Commonwealth or under each of those Acts;

“managing director” means the chief executive officer of the Commission appointed under section 11;

“policy” includes contract;

“Treasurer” means the Treasurer of the State.

## PART II—STATE GOVERNMENT INSURANCE COMMISSION

### *Division 1—Establishment of the Commission*

#### **State Government Insurance Commission established as a body corporate**

4. (1) There is hereby established a body to be called the State Government Insurance Commission.

(2) The Commission is a body corporate with perpetual succession and a common seal and is capable of—

- (a) acquiring, holding, managing, leasing and disposing of real and personal property;
- (b) suing and being sued; and
- (c) doing and suffering all such acts and things as corporations may lawfully do and suffer.

(3) The Commission is an agent of the Crown in right of the State and enjoys the status, immunities and privileges of the Crown except as otherwise prescribed.

(4) The Commission is not, and shall not become, part of the Public Service under the *Public Service Act 1978*.

**Board of commissioners**

5. (1) The Commission shall have a board of commissioners comprising—

- (a) 6 persons appointed as commissioners by the Governor on the nomination of the Minister; and
- (b) the managing director who shall be a commissioner *ex officio*.

(2) One of the commissioners referred to in subsection (1) (a) shall be appointed by the Governor on the nomination of the Minister to be chairman of the board of commissioners and another of those commissioners shall be so appointed to be deputy chairman of the board of commissioners.

(3) The board of commissioners is the governing body of the Commission with authority, in the name of the Commission, to exercise and perform the powers, functions and duties conferred or imposed on the Commission under this Act.

(4) Schedule 1 shall have effect with respect to the board of commissioners and the commissioners and with respect to the acts, proceedings and determinations of the board of commissioners.

(5) A commissioner referred to in subsection (1) (a) shall be paid out of the funds of the Commission such remuneration and travelling and other allowances as are determined in the case of that commissioner by the Minister on the recommendation of the Public Service Board.

*Division 2—Functions and powers of the Commission*

**Functions**

6. The functions of the Commission are—

- (a) to issue, or cause to be issued, and undertake liability under policies of insurance as required by the *Motor Vehicle (Third Party Insurance) Act 1943*;
- (b) to issue and undertake liability under policies of insurance as required by—

- (i) section 154 (6); or

- (ii) section 163,

of the *Workers' Compensation and Assistance Act 1981*;

- (c) subject to section 7 (5), to manage and administer self insurance arrangements on behalf of departments, authorities or instrumentalities of the Government;
- (d) to provide services and facilities to the Corporation to enable it to carry on insurance business and supervise the carrying on of insurance business by the Corporation;
- (e) to acquire and hold shares in the Corporation in accordance with section 39;
- (f) to provide advice to the Government on matters relating to insurance; and
- (g) to do such other acts and things or engage in such other activities as it is authorized or required to do or engage in under any written law.

## **Powers**

7. (1) The Commission has power to do, in the State or elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of subsection (1), the powers of the Commission referred to in that subsection include power—

- (a) with the approval of the Treasurer, to borrow moneys in accordance with this Act and give or arrange security for such borrowings;
- (b) to lend moneys and provide credit;
- (c) with the approval of the Treasurer and subject to such terms and conditions as the Treasurer may approve, to open, maintain and operate accounts in the name of the Commission with such bank or banks as the Treasurer may approve for the purposes of section 16 (7) and for such other purposes as the Treasurer may approve;
- (d) to issue, draw, make, accept, endorse, and discount bills of exchange and promissory notes;
- (e) to improve, develop or alter property;
- (f) to form or establish, or participate in the formation or establishment of, any business undertaking;

- (g) to subscribe for, invest in or otherwise acquire, and to dispose of, shares in, or debentures or other securities of, a business undertaking;
- (h) to enter into a partnership or an arrangement for sharing of profits;
- (i) to underwrite issues of shares in, or debentures or other securities of, any business undertaking;
- (j) to appoint or engage agents, brokers and attorneys;
- (k) to exercise any right conferred upon the Commission to appoint a director of, or hold office in, a business undertaking;
- (l) to establish advisory groups and act on the advice of such groups;
- (m) to act as agent for other persons;
- (n) to do and suffer in relation to insurance policies that it has issued or caused to be issued, all such acts and things as an insurer may do and suffer in the course of carrying on business;
- (o) to initiate, or participate in, and promote programmes and schemes for the prevention of accidental death and personal injury; and
- (p) to do anything incidental to any of its powers.

(3) For the purposes of section 6 (b) the Commission shall be deemed to be an incorporated insurance office approved under section 161 of the *Workers' Compensation and Assistance Act 1981* by the Minister to whom the administration of that Act is committed by the Governor.

(4) Without limiting the generality of subsection (1) or (2) the Commission has power to arrange re-insurance of risks.

(5) Without limiting the generality of subsection (6), the Commission shall ensure that the re-insurance of risks arising from its function under section 6 (c) is open to competitive bids within the insurance industry and is not directed preferentially to the Corporation.

(6) In the performance of its functions the Commission shall not do any act or thing so as to confer an unfair commercial advantage on the Corporation.

### **Commission to act efficiently and economically**

8. The Commission shall perform its functions and exercise its powers in an efficient and economic manner and shall use its best endeavours to ensure that its revenue is sufficient to meet its expenditure.

### **Delegation**

9. The board of commissioners, in the name and on behalf of the Commission, may, by instrument in writing approved by resolution, delegate to a commissioner, to a committee of the board of commissioners, to the Corporation or to an officer or employee of the Commission all or any of the powers or duties of the Commission, except this power of delegation.

### **Directions by Minister**

10. The Minister may give directions to the Commission with respect to its functions, powers and duties, either generally or with respect to a particular matter, and the Commission shall give effect to those directions.

### *Division 3—Staff of the Commission*

#### **Managing director**

11. (1) There shall be an office of managing director of the Commission.

(2) The managing director shall be the chief executive officer of the Commission and shall, subject to the control of the board, administer the day to day operations of the Commission.

(3) The managing director shall be appointed by the Governor on the nomination of the Minister.

(4) Subject to subsections (6) and (7) the managing director shall hold office for such period, not exceeding 5 years, as is specified in the instrument appointing him and is eligible for reappointment.

(5) Subject to the *Salaries and Allowances Act 1975*, the remuneration and allowances payable to, and the conditions of service of, the managing director shall be such as are determined by the Minister on the recommendation of the Public Service Board.

(6) The managing director may resign his office by notice in writing delivered to the Minister.

(7) The managing director may be removed from office by the Governor for any reason mentioned in clause 2 (4) of Schedule 1.

(8) The Minister may appoint a person to act in place of the managing director during any period when he is absent or unable to carry out his duties.

### **Appointment of staff and consultants**

**12.** (1) The Commission may appoint such officers and employees, either full time or part time, as the board considers necessary to enable the Commission and the Corporation to carry out their respective functions.

(2) Subject to any relevant order, award or agreement under the *Industrial Relations Act 1979*, the Commission may determine the remuneration and other terms and conditions of service of its officers and employees.

(3) The Commission may from time to time classify the positions to be held by officers and employees of the Commission and define the duties to be performed by the respective holders of those positions.

(4) The Commission may engage under contract for services such professional and technical or other assistance as it considers necessary to enable the Commission and the Corporation to carry out their respective functions.

### **Use of staff and facilities of Departments and instrumentalities**

**13.** (1) The Commission may, by arrangement made between the board of commissioners and the Minister concerned, and on such terms and conditions as may be mutually arranged with that Minister and, if appropriate, with the Public Service Board, make use, either full time or part time, of—

(a) the services of any officer or employee employed in the Public Service of the State or in a State instrumentality or otherwise in the service of the Crown in the right of the State; or

(b) any facilities of a Department of the Public Service of the State or of a State instrumentality.

(2) Any such arrangement shall provide for an agreed amount by way of payment for the use of the services or facilities.

## Superannuation

14. (1) The Commission may grant, or make provision for the grant of, pensions, gratuities and retirement benefits to its officers and employees and, for that purpose may establish, manage and control, or enter into an arrangement with the Corporation or any company for the establishment, management and control by such company either alone or jointly with the Commission of, any fund or scheme for the purpose of providing for such pensions, gratuities and benefits.

(2) The Commission may make contributions to any fund or scheme referred to in subsection (1).

(3) In subsection (1) "officers and employees" includes—

- (a) dependants of officers and employees; and
- (b) former officers and employees and their dependants.

### *Division 4 — Financial provisions relating to the Commission*

#### *Subdivision A—Income, Expenditure and Property of the Commission*

## Moneys available to the Commission

15. (1) Subject to this Act the Commission shall be responsible for managing its own finances.

(2) The moneys available to the Commission for the purposes of this Act are—

- (a) moneys from time to time appropriated by Parliament for the purpose;
- (b) moneys received by the Commission, pursuant to any written law, by way of premiums, charges, fees, interest or payment for services;
- (c) moneys derived from the disposal of or dealing with real or personal property vested in or acquired by the Commission, or derived as the income of investment by the Commission or otherwise in the exercise of its functions;
- (d) moneys received from the Corporation by way of dividends;
- (e) moneys borrowed under this Act, or lent to the Commission under any other written law, or derived from financial accommodation entered into under and subject to this Act;

- (f) such moneys as may be advanced by the Treasurer in any case where the moneys otherwise standing to the credit of any of the Funds would be insufficient; and
- (g) any other moneys lawfully received by the Commission.

### **Establishment and composition of Funds**

**16.** (1) The Commission shall establish, maintain and administer the following funds, namely—

- (a) a fund to be called the “Third Party Insurance Fund”;
- (b) a fund to be called the “Compensation (Miscellaneous Risks) Insurance Fund”;
- (c) a fund to be called the “Compensation (Industrial Diseases) Fund”;
- (d) a fund to be called the “Government Insurance Fund”; and
- (e) a fund to be called the “Insurance Commission General Fund”.

(2) The Third Party Insurance Fund shall consist of—

- (a) moneys appropriated for, or derived from or in connection with, the Commission’s functions under section 6 (a) other than moneys to which section 3P (4a) of the *Motor Vehicle (Third Party Insurance) Act 1943* applies;
- (b) other property received or acquired by the Commission in connection with the Commission’s functions under section 6 (a); and
- (c) moneys or other property apportioned or transferred to that Fund by the Commission under section 17 or 18 or Schedule 4,

and, subject to sections 18 and 19, may be applied for the purpose of carrying out the Commission’s functions under section 6 (b) (i) and for that purpose only.

(3) The Compensation (Miscellaneous Risks) Fund shall consist of—

- (a) moneys appropriated for, or derived from or in connection with, the Commission’s functions under section 6 (b) (i);
- (b) other property received or acquired by the Commission in connection with the Commission’s functions under section 6 (b) (i); and

- (c) moneys or other property apportioned or transferred to that Fund by the Commission under section 17 or 18 or Schedule 4,

and, subject to sections 18 and 19, may be applied for the purpose of carrying out the Commission's functions under section 6 (b) (i) and for that purpose only.

(4) The Compensation (Industrial Diseases) Fund shall consist of—

- (a) moneys appropriated for, or derived from or in connection with, the Commission's functions under section 6 (b) (ii);
- (b) other property received or acquired by the Commission in connection with the Commission's functions under section 6 (b) (ii);  
and
- (c) moneys or other property apportioned or transferred to that Fund by the Commission under section 17 or 18 or Schedule 4, and, subject to sections 18 and 19, may be applied for the purpose of carrying out the Commission's functions under section 6 (b) (ii) and for that purpose only.

(5) The Government Insurance Fund shall consist of—

- (a) moneys appropriated for, or derived from or in connection with, the Commission's functions under section 6 (c);
- (b) other property received or acquired by the Commission in connection with the Commission's functions under section 6 (c);  
and
- (c) moneys or other property apportioned or transferred to that Fund by the Commission under section 17 or 18 or Schedule 4,

and, subject to sections 18 and 19, may be applied for the purpose of carrying out the Commission's functions under section 6 (c) and for that purpose only.

(6) The Insurance Commission General Fund shall consist of—

- (a) moneys available to the Commission that are not required to be placed to the credit of any of the other Funds;
- (b) other property of the Commission that does not form part of any of the other Funds;

- (c) any moneys or other property apportioned or transferred to that Fund by the Commission under section 17 or 18 or Schedule 4; and
- (d) dividends received by the Commission from the Corporation,

and subject to sections 18 and 19 may be applied for the purpose of carrying out the functions of the Commission, under section 6 (d), (e), (f) and (g), and for the general administration of this Act, and for those purposes only.

(7) An account or accounts shall be maintained at the Treasury or in a bank or banks approved by the Treasurer under section 7 (2) (c) in respect of each Fund.

(8) One account may be maintained under subsection (7) in respect of 2 or more Funds.

### **Apportionment of income, expenditure and assets**

17. (1) Where money received or receivable or expenditure incurred by the Commission relates to the Commission's operations in relation to 2 or more Funds the receipts or payments in respect of that income or expenditure shall be apportioned by the Commission to the relevant Funds in such proportions as the board of commissioners thinks fit.

(2) Where property (other than money) received or acquired by the Commission relates to the Commission's operations in relation to 2 or more Funds the value of that property shall be apportioned by the Commission to the relevant Funds in such proportions as the board of commissioners thinks fit.

### **Transfer between Funds**

18. (1) The Commission may temporarily transfer moneys or other property from one Fund to another Fund subject to appropriate adjustments being made at intervals not exceeding 12 months.

(2) Where the financial statements prepared under the *Financial Administration and Audit Act 1985* in respect of the Third Party Insurance Fund, the Government Insurance Fund or the Insurance Commission General Fund indicate that there is a surplus in that Fund the Commission, with the approval of the Treasurer, may transfer the amount, or a portion of the amount, of that surplus to—

- (a) another of the Funds;
- (b) the Consolidated Revenue Fund; or
- (c) any other fund or account.

(3) The Commission may transfer moneys from the Compensation (Industrial Diseases) Fund to the Insurance Commission General Fund to meet or assist in meeting any amounts required to be expended by the Commission under paragraph 6 of Schedule 2 to the *Mine Workers' Relief Act 1932*.

(4) Subject to this section no moneys or other property shall be transferred from a Fund to another Fund.

(5) In this section "surplus" means any amount standing to the credit of a Fund which, in the opinion of the Treasurer, is in excess of that required as adequate provision for actual and contingent liabilities and the operating and other expenses of the Fund.

### **Temporary investment of moneys**

19. (1) Moneys standing to the credit of the Commission may, until required for the purpose of carrying out its functions under this Act, be temporarily invested or dealt with by the Commission in such manner as the board of commissioners thinks fit.

(2) The board of commissioners, in the name and on behalf of the Commission, may, by resolution, appoint a person as investment manager for the Commission and delegate to the investment manager the power of the Commission under subsection (1).

(3) The investment manager may be appointed for such term and at such remuneration as the board of commissioners thinks fit.

#### **Subdivision B—Financial Administration, Audit and Reporting**

### **Application of *Financial Administration and Audit Act 1985* to the Commission**

20. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Commission and its operations.

### **Provisions and reserves**

21. The Commission may, in its accounting records, establish and operate provisions for actual and contingent liabilities, reserve accounts and reserve funds for such purposes and within such limits as the Treasurer approves.

## Accounts

22. The Commission shall cause separate and distinct accounts to be kept and maintained under the *Financial Administration and Audit Act 1985* in respect of each Fund.

## Financial statements

23. The Commission shall cause separate and distinct financial statements to be prepared under the *Financial Administration and Audit Act 1985* in respect of each Fund.

### Subdivision C—Borrowing and Financial Accommodation

## Power to borrow etc., generally

24. (1) Subject to this Act, the Commission may, with the approval of the Treasurer—

- (a) borrow, or re-borrow, moneys;
- (b) obtain credit; or
- (c) arrange for financial accommodation to be extended to the Commission in ways additional to or other than borrowing moneys or obtaining credit,

for the purpose of performing its functions.

(2) Any moneys borrowed by, credit obtained by, or financial accommodation extended to the Commission under this section may be raised or entered into, either in Australia or elsewhere, as one loan or transaction or as several loans or transactions.

## Power to make provision to pay off loans

25. For the purpose of making provision to pay off either the whole or any part of the moneys comprised in a loan raised by the Commission, the Commission may, with the approval of the Treasurer, convert or re-negotiate that loan or otherwise borrow moneys in accordance with this Act before the loan or that part of it becomes repayable.

**Borrowing power, from Treasury sources**

26. The Commission may borrow from the Treasurer such amounts as the Treasurer approves, on such conditions as to repayment, payment of interest or any other matter, as the Treasurer imposes.

**Specific State guarantees**

27. (1) The Treasurer on behalf of the State may guarantee the performance by the Commission, in the State or elsewhere, of any obligation of the Commission, however or wherever arising, entered into or to be entered into by the Commission.

(2) An instrument of guarantee given pursuant to subsection (1) shall be executed by—

- (a) the Treasurer; or
- (b) a person authorized—
  - (i) by the Treasurer in writing; or
  - (ii) by operation of law.

(3) The liability of the State pursuant to a guarantee under this section shall not be affected or discharged by the granting to the Commission of any time or other indulgence or consideration, or by reason of any transaction that may take place between the Commission and any person having the benefit of the guarantee, or by any other act or omission of the person having the benefit of the guarantee, whereby the liability of the State as guarantor would but for this provision have been affected or discharged.

(4) The due performance of a guarantee given by the Treasurer on behalf of the State under the authority of this Act is hereby authorized, and the due payment of moneys payable thereunder with all interest thereon shall be payable out of the Consolidated Revenue Fund which is hereby to the extent necessary appropriated accordingly, and any sums received or recovered by the Treasurer from the Commission or otherwise in respect of payment so made shall be paid into the Consolidated Revenue Fund.

(5) By virtue of this subsection any sum paid by the Treasurer under any guarantee given by him on behalf of the State under this Act, and any obligation of the Commission arising pursuant to an advance made under section 26 constitutes a floating charge upon the revenue and assets of the Commission, and such revenue and those assets are charged with the performance and observance by the Commission of the terms and the conditions which the Treasurer may have imposed or approved in relation to that guarantee or that advance.

## PART III—STATE GOVERNMENT INSURANCE CORPORATION

*Division 1—Establishment of the Corporation***State Government Insurance Corporation established as a body corporate**

**28.** (1) There is hereby established a body to be called the State Government Insurance Corporation.

(2) The Corporation is a body corporate with perpetual succession and a common seal and is capable of—

- (a) acquiring, holding, managing, leasing and disposing of real and personal property;
- (b) suing and being sued; and
- (c) doing and suffering all such acts and things as corporations may lawfully do and suffer.

(3) The Corporation is an agent of the Crown in right of the State and enjoys the status, immunities and privileges of the Crown except as otherwise prescribed.

(4) The Corporation is not, and shall not become, part of the Public Service under the *Public Service Act 1978*.

(5) Notwithstanding subsection (1), the Corporation may use and operate under a trading name approved by the Minister being—

- (a) an abbreviation or adaptation of its corporate name;
- (b) a name other than its corporate name.

**Board of directors**

**29.** (1) The Corporation shall have a board of directors comprising—

- (a) the managing director who shall be a director and the chairman of the board *ex officio*; and

(b) not less than 2 nor more than 4 other persons appointed as directors by the Commission.

(2) One of the directors referred to in subsection (1) (b) shall be appointed by the Commission to be deputy chairman of the board of directors.

(3) The board of directors is the governing body of the Corporation with authority, in the name of the Corporation, to exercise and perform the powers, functions and duties conferred or imposed on the Corporation under this Act.

(4) Schedule 2 shall have effect with respect to the board of directors and the directors of the Corporation and with respect to the acts, proceedings and determinations of the board of directors.

(5) A director of the Corporation referred to in subsection (1) (b) shall be paid out of the funds of the Corporation such remuneration and travelling and other allowances as are determined in the case of that director by the Minister on the recommendation of the Commission.

*Division 2—Function and powers of the Corporation*

**Corporation to conduct insurance and related business**

**30.** (1) The function of the Corporation is to carry on, in the State or elsewhere—

- (a) the business of issuing and undertaking liability under policies of insurance; and
- (b) any business related or incidental to the business referred to in paragraph (a),

including any form or class of insurance business or life insurance business, or business related or incidental to insurance business or life insurance business, carried on, in the State or elsewhere, by any insurer.

(2) The authority of the Corporation, to carry on any form or class of business is not limited by reference to the practice, usage, form or procedure followed by any insurer.

**Powers**

**31.** (1) The Corporation has power to do, in the State or elsewhere, all things necessary or convenient to be done for or in connection with the performance of its function.

(2) Without limiting the generality of section 30 or subsection (1), the powers of the Corporation referred to in subsection (1) include power—

- (a) with the approval of the Treasurer, to borrow moneys and give security for such borrowings by creating and issuing debt paper or in any other manner;
- (b) to declare and pay dividends in respect of shares in the Corporation;
- (c) to lend moneys and provide credit;
- (d) with the approval of the Treasurer, to open, maintain and operate accounts in the name of the Corporation with such bank or banks as the Treasurer may approve;
- (e) to issue, draw, make, accept, endorse and discount bills of exchange and promissory notes;
- (f) to improve, develop or alter property;
- (g) to form or establish, or participate in the formation or establishment of, any business undertaking;
- (h) to subscribe for, invest in or otherwise acquire, and to dispose of, shares in, or debentures or other securities of, a business undertaking;
- (i) to enter into a partnership or an arrangement for sharing of profits;
- (j) to underwrite issues of shares in, or debentures or other securities of, any business undertaking;
- (k) to appoint or engage agents, brokers and attorneys;
- (l) to exercise any right conferred upon the Corporation to appoint a director of, or hold office in, a business undertaking;
- (m) to acquire the business or any part of the business of an insurer and amalgamate the business so acquired with the business of the Corporation;
- (n) to act as agent for other persons;

- (o) to do and suffer in relation to insurance policies that it has issued, or caused to be issued, or under which it has undertaken liability, all such acts and things as an insurer may do and suffer in the course of carrying on business; and
- (p) to do anything incidental to any of its powers.

(3) The Corporation shall be deemed to be an incorporated insurance office capable of being approved under section 161 of the *Workers' Compensation and Assistance Act 1981* by the Minister to whom the administration of that Act is committed by the Governor.

(4) Without limiting the generality of section 30 or subsection (1) or (2) the Corporation has power to arrange re-insurance of risks.

(5) Where a department, authority or instrumentality of the Government proposes to arrange or renew insurance in lieu of or in addition to self insurance arrangements—

- (a) that insurance business shall be open to competitive bids within the insurance industry without being preferentially directed to the Corporation; and
- (b) where that insurance business is placed with the Corporation brokerage shall be payable by the Corporation on a normal commercial basis.

### **Corporation to act on commercial principles**

32. The Corporation shall perform its functions and exercise its powers in accordance with prudent commercial principles and shall use its best endeavours to ensure that its revenue is sufficient both to meet its expenditure and to derive a profit by earning a commercial rate of return on its capital.

### **Corporation to comply with insurance laws**

33. (1) The board of directors shall cause the Corporation to—

- (a) supply to the Minister such annual accounts and statements as it would be required to supply under section 44 of the *Insurance Act 1973* of the Commonwealth and Divisions 4, 5 and 6 of Part III of the *Life Insurance Act 1945* of the Commonwealth if it were an insurer (incorporated in Australia) carrying on business in the State;
- and
- (b) observe all solvency and minimum valuation basis requirements imposed on insurers carrying on business in the State by Acts of the Commonwealth relating to insurance.

(2) As soon as practicable after each financial year the Commission shall furnish the Minister with a certificate stating whether the Corporation has complied with subsection (1) (b) in respect of that financial year.

(3) Subject to subsection (4), the Minister shall cause—

(a) the accounts and statements supplied under subsection (1) (a);  
and

(b) the certificate furnished under subsection (2),

in respect of a financial year, to be laid before each House of Parliament within 14 sitting days of such House after the Minister has received both those accounts and statements and that certificate.

(4) Paragraph (a) of subsection (3) shall be deemed to have been complied with if the accounts and statements referred to therein are laid before each House of Parliament within the time specified in that subsection to the extent and in the form that comparable information is customarily published in the annual reports of the Insurance Commissioner appointed under the *Insurance Act 1973* of the Commonwealth and the Life Insurance Commissioner appointed under the *Life Insurance Act 1945* of the Commonwealth, respectively.

(5) This section shall have effect notwithstanding the *Financial Administration and Audit Act 1985*.

(6) Subject to subsection (7), the directors shall, in addition to causing the Corporation to comply with the requirements mentioned in subsection (1), cause the Corporation to comply with all other requirements imposed on insurers carrying on business in the State by or under Acts of the Commonwealth relating to insurance.

(7) Regulations may exempt the Corporation from complying with any of the requirements imposed on insurers by the laws of the Commonwealth relating to insurance.

(8) Subsection (7) does not authorize the making of a regulation that would confer an unfair commercial advantage on the Corporation.

### **Liability in respect or in lieu of taxation**

**34.** (1) Notwithstanding any exemption or immunity that may otherwise exist, the Corporation shall be liable for and shall pay all local government rates and charges and all land tax, metropolitan region improvement tax, water rates, pay-roll tax, stamp duties, and all other taxes, fees and charges imposed by the Government, its instrumentalities or agencies.

(2) In lieu of the liability of insurers carrying on business in the State to pay tax on income or profits under any Act of the Commonwealth, the Corporation shall, within 6 months after the end of each financial year that ends after the Corporation is established, pay to the Treasurer for payment into the Consolidated Revenue Fund such amount as the Treasurer may determine, being not less than the amount that the Treasurer is satisfied would be payable for tax on income or profits for that year if the Corporation were a public company liable to pay such tax.

(3) In determining the net profit of the Corporation for the purposes of subsection (2), any loss that may have accrued in a previous year or years may be carried forward, and any amount provided for provisions, reserves and reserve funds is subject to the approval of the Treasurer.

(4) In lieu of the liability of insurers carrying on business in the State to pay to the Commonwealth sales tax, excise or other taxes or charges, the Corporation, on the demand of the Treasurer and to the extent that it is exempt from making such payments to the Commonwealth, shall pay to the Treasurer for payment into the Consolidated Revenue Fund amounts equivalent to the amounts that the Treasurer is satisfied would be payable by the Corporation but for such exemption.

## **Delegation**

**35.** The board of directors, in the name and on behalf of the Corporation, may, by instrument in writing approved by resolution, delegate to a director of the Corporation, to an officer or employee of the Commission or to an agent, broker or attorney appointed or engaged by the Corporation, all or any of the powers or duties of the Corporation, except this power of delegation.

## **Directions by the Commission**

**36.** The Commission may give directions to the Corporation with respect to its function, powers and duties, either generally or with respect to a particular matter, and the Corporation shall give effect to those directions.

*Division 3—Staff of the Corporation***Classification, employment conditions, and duties of staff allocated to the Corporation**

37. The Commission may have regard to recommendations made by the Corporation when—

- (a) determining, under section 12 (2), the remuneration and other terms and conditions of service of;
- (b) classifying, under section 12 (3), the positions to be held by; or
- (c) defining, under section 12 (3), the duties of,

the officers and employees of the Commission employed in the service of the Corporation.

**Use of services and facilities of the Commission, Departments and instrumentalities**

38. (1) Subject to subsection (2), the Corporation may, by arrangement made between the board of directors and the Minister concerned, and on such terms and conditions as may be mutually arranged with that Minister and with the Public Service Board, make use, either full time or part time, of—

- (a) the services of any officer or employee employed in the Public Service of the State or in a State instrumentality or otherwise in the service of the Crown in right of the State; or
- (b) any services or facilities of a Department of the Public Service of the State or of a State instrumentality.

(2) A full and appropriate charge shall be made to the Corporation for the use of services and facilities provided—

- (a) by the Commission under section 6 (d); or
- (b) under an arrangement under subsection (1), on a basis in all respects commensurate with the basis on which a charge would be made to insurers carrying on insurance business in the State for the like services or facilities by persons engaged in providing such services or facilities.

(3) Without limiting the generality of subsection (2) (a) the Corporation shall reimburse the Commission in full in respect of all expenditure incurred by the Commission in the remuneration of the officers and employees referred to in section 37.

*Division 4—Financial provisions relating to  
the Corporation*

**Capital of the Corporation**

**39.** (1) The authorized capital of the Corporation shall be \$40 000 000 divided into 400 000 shares of \$100 each.

(2) The Governor may on the recommendation of the Commission by regulation increase the authorized capital of the Corporation.

(3) The Commission shall take up 200 000 shares in the authorized capital of the Corporation at par as soon as is practicable after the commencement of this section, and those shares shall be paid for out of the Insurance Commission General Fund.

(4) Further shares in the authorized capital of the Corporation may from time to time be issued by the Corporation and taken up—

- (a) by the Treasurer, with moneys appropriated by Parliament for the purpose;
- (b) by the Commission; or
- (c) with the approval of the Treasurer, by any other statutory authority.

(5) In issuing further shares under subsection (4) the Corporation shall give preference to existing holders of shares in the Corporation and shall ensure that subsection (6) is not contravened.

(6) The Commission shall at all times hold not less than 50% of all the shares in the Corporation that have been taken up.

(7) Subject to subsection (10), a statutory authority is authorized by virtue of this subsection to acquire and hold shares in the Corporation notwithstanding any enactment to the contrary.

(8) The amount to be paid for shares taken up under subsection (4) may, if the board of directors so determines, include a payment by way of premium, which the Corporation may receive and apply in such manner as the Treasurer may approve.

(9) A holder of shares in the Corporation—

- (a) is liable only to the extent of any amount unpaid on the shares held by that shareholder;
- (b) is entitled to receive any dividend declared by the board of directors in respect of those shares; and

- (c) subject to subsection (6) in the case of the Commission, may, by instrument executed by the transferor and the transferee and delivered to the Corporation, transfer shares to another person or body authorized by subsection (4) to take up shares in the Corporation.

(10) Notwithstanding anything in this section, no statutory authority referred to in subsection (4)(c) shall, without the prior approval of the Treasurer, acquire or hold shares in the Corporation, whether under subsection (4) or (9)(c), in excess of such limit as may be prescribed.

(11) The Corporation shall keep a register of the holders of its shares, in such form as the Treasurer may approve, and enter in the register such details as the Treasurer may require.

### **Temporary investment of funds**

40. Moneys standing to the credit of the Corporation may, until required for the purpose of carrying out its function under this Act, be temporarily invested or dealt with by the Corporation in such manner as the board of directors thinks fit.

### **Application of *Financial Administration and Audit Act 1985* to the Corporation**

41. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Corporation and its operations.

## **PART IV—GENERAL**

### **Secrecy**

42. (1) A person to whom this section applies shall not, either directly or indirectly, except in the performance of a function or duty under or in connection with this or any other written law or as required by any other legal duty—

- (a) make a record of, or divulge or communicate to any person, any information concerning the affairs of another person acquired by him by reason of his office or employment under or for the purposes of this Act; or
- (b) produce to any person any document relating to the affairs of another person furnished for the purposes of this Act.

Penalty: \$2 500.

(2) This section applies to every person who is or has been a commissioner or alternate commissioner, is or has been a director or alternate director of the Corporation, is or has been an officer or employee of the Commission, or is rendering or has rendered services to the Commission or Corporation under section 12, 13 or 38.

### **Execution of documents and entry into contracts**

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

- (a) it is sealed with the seal of the Commission in accordance with the regulations; or
- (b) it is executed on behalf of the Commission by a person empowered to do so under subsection (4).

(2) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.

(3) Where a document is produced bearing a seal purporting to be the common seal of the Commission it shall be presumed that the seal is the common seal of the Commission until the contrary is shown.

(4) The Commission may, by writing under its common seal, empower a commissioner, officer, employee or other person, either generally or in respect of a specified matter, or specified matters, to execute deeds on its behalf, and a deed executed by such a person on behalf of the Commission binds the Commission and has the same effect as if it were under the common seal of the Commission.

(5) The authority of a person empowered by the Commission under subsection (4) shall be deemed as between the Commission and a person dealing with him, to have continued during the period (if any) specified in the instrument conferring his authority or, if no period is so specified, until notice of the revocation or termination of his authority was given to the person dealing with him.

(6) Insofar as the formalities of making, varying or discharging a contract are concerned a person acting under the express or implied authority of the Commission may make, vary or discharge a contract in the name of or on behalf of the Commission in the same manner as if the Commission were a natural person.

(7) The making, varying or discharging of a contract in accordance with subsection (6) is effectual in law and binds the Commission and other parties to the contract.

(8) Subsection (6) does not prevent the Commission from making, varying or discharging a contract under its common seal.

(9) Subsections (1) to (8) shall also apply to and in relation to the Corporation as if references in those subsections to the Commission were references to the Corporation and the reference in subsection (4) to a commissioner were a reference to a director of the Corporation.

### **Certain proposals or statements deemed to be made to the Commission**

44. Where a proposal or statement made to the Corporation in relation to insurance business relates, in part, to insurance business that is within the functions of the Commission that proposal or statement shall, to that extent, be deemed for all purposes to have been made to the Commission.

### **Regulations**

45. (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

(2) Without limiting the generality of subsection (1) regulations may make provision as to—

- (a) the use of the common seals of the Commission and the Corporation in Western Australia and elsewhere;
- (b) the application to the Corporation, the directors of the Corporation, or the officers and employees employed in the service of the Corporation, either with or without modification or variation, of any written law which would not otherwise be binding on the Corporation, the directors of the Corporation, or those officers and employees; and
- (c) the requirements and procedures which are to be observed or followed in, or in relation to, borrowing by the Corporation and the issue and recording of debt paper.

PART V—REPEAL, AMENDMENTS, SAVING,  
VALIDATION AND TRANSITIONAL

### Repeal and amendments

46. (1) The *State Government Insurance Office Act 1938* is hereby repealed.

(2) The *Employers' Indemnity Supplementation Fund Act 1980*, the *Financial Administration and Audit Act 1985*, the *Fire Brigades Act 1942*, the *Mine Workers' Relief Act 1932*, the *Motor Vehicle (Third Party Insurance) Act 1943*, the *Motor Vehicle (Third Party Insurance Surcharge) Act 1962*, the *Parliamentary Commissioner Act 1971*, the *Real Estate and Business Agents Act 1978*, the *Settlement Agents Act 1981* and the *Workers' Compensation and Assistance Act 1981* are amended as set out in Schedule 3.

### Saving, validation and transitional provisions

47. Schedule 4 shall have effect.

### Oversight by Public Accounts Committee

48. (1) The Public Accounts Committee, for the time being, of the Legislative Assembly shall oversee the conduct and management of the affairs of the Commission and the Corporation to the extent necessary to determine and report whether the Commission and the Corporation receive any improper or unfair advantage or preference over their competitors in the insurance industry.

(2) The Terms of Reference of the Public Accounts Committee in relation to its function under subsection (1) shall be as agreed to by both Houses of Parliament.

## SCHEDULE 1

(Section 5 (4))

### PROVISIONS AS TO COMMISSIONERS

#### Definitions

1. In this Schedule—

“ordinary commissioner” means a commissioner other than the managing director, and includes the chairman and the deputy chairman of the board of commissioners;

“the board” means the board of commissioners of the Commission.

#### Commissioners—terms and vacation of office

2. (1) Subject to subclauses (2), (3) and (4), an ordinary commissioner shall hold office for such period, not exceeding 3 years, as is specified in the instrument appointing him as a commissioner, and is eligible for reappointment.

(2) An ordinary commissioner, unless he sooner resigns or is removed from office, shall continue in office until his successor comes into office, notwithstanding that the period for which he was appointed may have expired.

(3) An ordinary commissioner may resign his office by notice in writing delivered to the Minister.

(4) An ordinary commissioner may be removed from office by the Governor—

- (a) for mental or physical disability, incompetence, neglect of duty or misconduct proved to the satisfaction of the Governor;
- (b) if he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or
- (c) if he is absent without leave of the board from 3 consecutive meetings of the board of which he has had notice.

(5) An ordinary commissioner shall carry out his duties on a part time basis unless there is any requirement to the contrary in the instrument appointing him as a commissioner or as chairman or deputy chairman of the board.

#### **Alternate commissioners**

3. (1) Where an ordinary commissioner, is unable to act by reason of sickness, absence or other cause, the Minister may appoint another person to act temporarily in his place, and while so acting according to the tenor of his appointment that other person is deemed to be a commissioner.

(2) Except where there is a person acting in his place pursuant to section 11(8), the managing director may, in writing delivered to the chairman of the board, nominate a senior officer of the Commission to represent him at any meeting of the board which he is unable to attend by reason of sickness, absence or other cause, and while so attending the person so nominated is deemed to be a commissioner.

(3) No act or omission of a person acting in place of another under this clause shall be questioned on the ground that the occasion for his appointment or acting had not arisen or had ceased.

#### **Chairman and deputy chairman—term and vacation of office**

4. (1) Subject to subclauses (2) and (3) the chairman or deputy chairman of the board shall hold office as chairman or deputy chairman for such period not exceeding 3 years as is specified in the instrument appointing him as chairman or deputy chairman, as the case may be, and is eligible for reappointment.

(2) The office of the chairman or deputy chairman of the board becomes vacant if he ceases to be a commissioner.

(3) The chairman or deputy chairman of the board may resign his office as chairman or deputy chairman by notice in writing delivered to the Minister.

#### **Disclosure of pecuniary interests**

5. (1) A commissioner who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the board.

(2) A disclosure under subclause (1) shall be recorded in the minutes of the meeting of the board and the commissioner shall not, unless the board otherwise determines—

- (a) be present during any deliberation of the board with respect to that matter;  
or
- (b) take part in any decision of the board with respect to that matter.

(3) For the purpose of the making of a determination by the board under subclause (2) in relation to a commissioner who has made a disclosure under subclause (1), a commissioner who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the board for the purpose of making the determination;  
or
- (b) take part in the making by the board of the determination.

### Meetings

6. (1) The first meeting of the board shall be convened by the chairman of the board and thereafter, subject to subclause (2), meetings shall be held at such times and places as the board determines.

(2) A special meeting of the board may at any time be convened by the chairman of the board.

(3) The chairman of the board shall preside at all meetings of the board at which he is present.

(4) If the chairman of the board is absent from a meeting the deputy chairman of the board shall, if present, preside at the meeting.

(5) If the chairman and the deputy chairman of the board are both absent from a meeting the commissioners present shall appoint one of their number to preside.

(6) At any meeting of the board 4 commissioners constitute a quorum.

(7) At any meeting of the board the person presiding shall have a deliberative vote, and in the case of an equality of votes, shall also have a casting vote.

### Committees

7. (1) The board may from time to time, by resolution, appoint committees of such commissioners, or such commissioners and other persons, as it thinks fit and may discharge, alter, continue or reconstitute any committee so appointed.

(2) Subject to the directions of the board and to the terms of any delegation under section 9, each committee may determine its own procedures.

### Resolution may be passed without meeting

8. A resolution in writing signed or assented to by letter, telex or telegram by each commissioner shall be as valid and effectual as if it had been passed at a meeting of the board.

**Leave of absence**

9. The board may grant leave of absence to a commissioner on such terms and conditions as it thinks fit.

**Board to determine own procedures**

10. Subject to this Act, the board shall determine its own procedures.

**Protection of commissioners**

11. A commissioner is not personally liable for any act done or omitted to be done in good faith by the Commission, the board, a committee of the board or a delegate of the Commission or by him acting as a commissioner.

**SCHEDULE 2**

(Section 29 (4))

**PROVISIONS AS TO DIRECTORS****Definition**

1. In this Schedule "ordinary director" means a director of the Corporation other than the managing director, and includes the deputy chairman of the board of directors.

**Directors—terms and vacation of office**

2. (1) Subject to subclauses (2), (3) and (4), an ordinary director shall hold office for such period, not exceeding 5 years, as is specified in the instrument appointing him as a director, and is eligible for reappointment.

(2) An ordinary director, unless he sooner resigns or is removed from office, shall continue in office until his successor comes into office, notwithstanding that the period for which he was appointed may have expired.

(3) An ordinary director may resign his office by notice in writing delivered to the chairman of the board of commissioners.

(4) An ordinary director may be removed from office by the Commission—

- (a) for mental or physical disability, incompetence, neglect of duty or misconduct proved to the satisfaction of the Commission;
- (b) if he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or
- (c) if he is absent without leave of the board of directors from 3 consecutive meetings of the board of directors of which he has had notice.

(5) An ordinary director shall carry out his duties as a director on a part time basis unless there is any requirement to the contrary in the instrument appointing him as a director or as deputy chairman of the board of directors.

**Alternate directors**

3. (1) Where an ordinary director, is unable to act by reason of sickness, absence or other cause, the Commission may appoint another person to act temporarily in his place, and while so acting according to the tenor of his appointment that other person is deemed to be a director of the Corporation.

(2) Except where there is a person acting in his place pursuant to section 11(8), the managing director may, in writing delivered to the deputy chairman of the board of directors, nominate a senior officer of the Commission to represent him at any meeting of the board of directors which he is unable to attend by reason of sickness, absence or other cause, and while so attending the person so nominated is deemed to be a director of the Corporation.

(3) No act or omission of a person acting in place of another under this clause shall be questioned on the ground that the occasion for his appointment or acting had not arisen or had ceased.

**Deputy chairman—term and vacation of office**

4. (1) Subject to subclauses (2) and (3) the deputy chairman of the board of directors shall hold office as deputy chairman for such period not exceeding 5 years as is specified in the instrument appointing him as deputy chairman and is eligible for reappointment.

(2) The office of the deputy chairman of the board of directors becomes vacant if he ceases to be a director of the Corporation.

(3) The deputy chairman of the board of directors may resign his office as deputy chairman by notice in writing delivered to the chairman of the board of commissioners.

**Meetings**

5. (1) The first meeting of the board of directors shall be convened by the chairman of the board of directors and thereafter, subject to subclause (2), meetings shall be held at such times and places as the board of directors determines.

(2) A special meeting of the board of directors may at any time be convened by the chairman of the board of directors.

(3) The chairman of the board of directors shall preside at all meetings of the board of directors at which he is present and, if the chairman is absent, the deputy chairman of the board of directors shall preside.

(4) At any meeting of the board of directors 3 directors, at least one of whom is an office-bearer, constitute a quorum.

(5) In subclause (4) "office-bearer" means the chairman or deputy chairman of the board of directors.

(6) At any meeting of the board the person presiding shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

**Certain provisions of Schedule 1 to apply**

6. Clauses 5, 8, 9 and 10 of Schedule 1 apply, with any necessary modifications, to and in relation to the board of directors and the directors of the Corporation and with respect to the acts, proceedings and determinations of the board of directors.

## SCHEDULE 3

(Section 46 (2) )

## AMENDMENTS TO ACTS

*1. Employers' Indemnity Supplementation Fund Act 1980*


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<i>Provision amended</i>	<i>Amendment</i>
Section 3	Before definition of "insurer" insert the following definition— " "Insurance Commission" means the State Government Insurance Commission established by the <i>State Government Insurance Commission Act 1986</i> ; ". Delete definition of "SGIO".
Section 7 (1) (b), 7 (3) (b)	Delete "funds referred to in section 7 (5) of the <i>State Government Insurance Office Act 1938</i> ", substitute "Insurance Commission General Fund established under section 16 of the <i>State Government Insurance Commission Act 1986</i> " in each case.
Section 26	Repeal the section.
Sections 4, 7, 10, 19 to 25, 27, 31, 35, 36, 38 and 39.	Delete "SGIO", wherever it occurs, substitute "Insurance Commission" in each case.

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*2. Financial Administration and Audit Act 1985*


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<i>Provision amended</i>	<i>Amendment</i>
Schedule 1	Below "State Engineering Works of Western Australia" insert the following— " State Government Insurance Commission. State Government Insurance Corporation. ". Delete "The Motor Vehicle Insurance Trust". Delete "The State Government Insurance Office".

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3. Fire Brigades Act 1942

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*Provision amended*

*Amendment*

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Section 4 (1)

In definition of "Insurance company" delete "The State Government Insurance Office established under the State Government Insurance Office Act 1938", substitute "the State Government Insurance Corporation established by the *State Government Insurance Commission Act 1986*".

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4. Mine Workers' Relief Act 1932

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*Provision amended*

*Amendment*

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Schedule 2, para. 2

Before definition of "dependants" insert the following definitions—

" "commencement day" means the day of the commencement of section 46 of the *State Government Insurance Commission Act 1986*;

"Commission" means the State Government Insurance Commission established by the *State Government Insurance Commission Act 1986*; "

Schedule 2, para. 5 (2)

Repeal the subparagraph, substitute the following subparagraphs—

" (2) Without limiting the generality of clause 9 of Schedule 4 to the *State Government Insurance Commission Act 1986* it is hereby declared that that clause applies to—

- (a) funds, rights, property and assets that have been vested in;
- (b) debts, liabilities and obligations that have been imposed upon; and
- (c) registers, books, papers, documents, minutes, receipts and books of account that have been delivered to,

the State Government Insurance Office under subparagraph (1).

(3) Where anything lawfully commenced by or under the authority of the Board has been lawfully carried on by or under the authority of the State Government Insurance Office before the commencement day such thing may be carried on and completed by or under the authority of the Commission. "

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## 4. Mine Workers' Relief Act 1932—continued

Provision amended	Amendment
Schedule 2, paras. 6 and 7	<p>Repeal the paragraphs, substitute the following paragraphs—</p> <p>State Government Insurance Commission to meet obligations.</p> <p>“ 6. If upon or after the commencement day the resources that, having been vested in the State Government Insurance Office under this Act, are vested in the Commission under clause 9 of Schedule 4 to the <i>State Government Insurance Commission Act 1986</i> are insufficient to meet the obligations imposed on the Commission under this Act, the Commission shall nevertheless meet all such obligations as they fall due and may adjust premiums payable by employers of miners for industrial diseases insurance in order to recover any amounts so expended.</p> <p>Construction of references to the Board or State Government Insurance Office.</p> <p>7. Subject to Part III of this Schedule and without limiting the generality of clause 12 (1) of Schedule 4 to the <i>State Government Insurance Commission Act 1986</i>, any agreement, deed, instrument, application, notice, or other document subsisting for the purposes of this Act immediately before the commencement day shall, have effect on and after that day as if any reference in the document to the Board or the State Government Insurance Office were (unless the context otherwise requires) a reference to the Commission. ”.</p>
Schedule 2, para. 11 (3)	Delete “he is then”, substitute “or the Commission he has been or is”
Schedule 2, para. 12	<p>After subparagraph (4) insert the following subparagraph—</p> <p>“ (4a) For the purposes of subparagraphs (3) and (4) an offer made by the State Government Insurance Office within 3 months before the commencement day and not accepted as at the commencement day shall be deemed to have been made by the Commission. ”.</p>
Schedule 2, para. 12 (5)	Delete “subsequently”, substitute “, after the commencement day,”.
Schedule 2, para. 14 (3)	Delete “the General Manager of”.
Schedule 2, para. 15 (2)	<p>Repeal the subparagraph, substitute the following subparagraph—</p> <p>“ (2) Payments under this paragraph shall be made by the Commission from the Insurance Commission General Fund established under section 16 of the <i>State Government Insurance Commission Act 1986</i>. ”.</p>
Schedule 2, paras. 9, 10, 11 (4) (a), 12 and 14	Delete “State Government Insurance Office” wherever it occurs, substitute “Commission” in each case.
Schedule 3	Delete “Office”, wherever it occurs, substitute “Commission” in each case.

## 5. Motor Vehicle (Third Party Insurance) Act 1943

<i>Provision amended</i>	<i>Amendment</i>
Section 3 (1)	<p>Before definition of "Contract of Insurance" insert the following definition—</p> <p style="padding-left: 40px;">" "Commission" means the State Government Insurance Commission established by the <i>State Government Insurance Commission Act 1986</i>. "</p> <p>In definition of "Contract of Insurance" delete "Trust", substitute "Commission".</p> <p>Delete definition of "Fund", substitute the following definition—</p> <p style="padding-left: 40px;">" "Fund" means the Third Party Insurance Fund established under section 16 of the <i>State Government Insurance Commission Act 1986</i>. "</p> <p>Delete definitions of "Prescribed date" and "Trust".</p>
Sections 3A to 3K	Repeal the sections.
Section 3P (1), (2) and (3)	Repeal the subsections.
Section 3P (4a)	<p>Delete "Trust" wherever it occurs, substitute "Commission" in each case.</p> <p>Delete paragraph (b) (ii).</p>
Section 3P (5)	Repeal the subsection.
Section 3Q	Repeal the section.
Section 3R (1)	Repeal the subsection.
Section 3R (2)	Delete "From and after the prescribed date, no", substitute "No".
Section 3T (1)	<p>After "received" insert "under or for the purposes of this Act".</p> <p>After "year", in the third place where it occurs, insert "under this Act".</p>
Section 4 (1)	Delete "Subject to subsection (10) of this section, every", substitute "Every".
Section 4 (8)	Delete "From and after the prescribed date and notwithstanding", substitute "Notwithstanding".
Section 4 (10)	Repeal the subsection.
Section 6 (2)	Repeal the subsection.
Section 7 (6) (a)	Delete the paragraph.
Section 32	Repeal the section.

## 5. Motor Vehicle (Third Party Insurance) Act 1943—continued

<i>Provision amended</i>	<i>Amendment</i>
Section 3R to 6A, 7 (1) to (5) and (6)(c), 8 to 16, 18, 19, 23, 25, 27, 29, 29A, 30 and 33.	Delete "Trust" wherever it occurs, substitute "Commission" in each case.

## 6. Motor Vehicle (Third Party Insurance Surcharge) Act 1962

<i>Provision amended</i>	<i>Amendment</i>
Section 2	In definition of "policy of insurance" delete "Trust", substitute "Commission". Before definition of "the Insurance Act" insert the following definition— " "the Commission" means the State Government Insurance Commission established by the <i>State Government Insurance Commission Act 1986</i> ; ". In definition of "the Insurance Act" delete the semi-colon, substitute a full stop. Delete Definition of "the Trust".

## 7. Parliamentary Commissioner Act 1971

<i>Provision amended</i>	<i>Amendment</i>
Schedule	Delete "The Motor Vehicle Insurance Trust constituted under the Motor Vehicle (Third Party Insurance) Act 1943." Delete "The State Government Insurance Office constituted under the State Government Insurance Office Act 1938.", substitute "State Government Insurance Commission established by the <i>State Government Insurance Commission Act 1986</i> ."

## 8. Real Estate and Business Agents Act 1978

<i>Provision amended</i>	<i>Amendment</i>
Section 121 (4)	Repeal the subsection.
Schedule clause 22 (14)	Repeal the subclause.

## 9. Settlement Agents Act 1981

<i>Provision amended</i>	<i>Amendment</i>
Section 35 (1)	Delete "insurance company or companies", substitute "insurer".
Section 35 (7)	Repeal the subsection.
Section 99 (5)	Repeal the subsection.

## 10. Workers' Compensation and Assistance Act 1981

<i>Provision amended</i>	<i>Amendment</i>
Section 5 (1)	After definition of "spouse" insert the following definitions— " "State Government Insurance Commission" means the State Government Insurance Commission established by the <i>State Government Insurance Commission Act 1986</i> ; "State Government Insurance Corporation" means the State Government Insurance Corporation established by the <i>State Government Insurance Commission Act 1986</i> ; ".
Section 95 (1) (c) (iii) and (iv)	Delete "The State Government Insurance Office, substitute "the State Government Insurance Commission or the State Government Insurance Corporation" in each case.
Section 95 (3) (d)	Delete the paragraph, substitute the following paragraph— " (d) the State Government Insurance Commission; ".
Section 147 (2) (b)	Delete "Permanent Head of The State Government Insurance Office", substitute "managing director of the State Government Insurance Commission".
Section 147 (2) (d) (iii)	Delete "The State Government Insurance Office", substitute "the State Government Insurance Commission or the State Government Insurance Corporation".
Section 154 (6), (7) and (9)	Delete "The State Government Insurance Office" wherever it occurs, substitute "the State Government Insurance Commission" in each case.
Section 154 (6) and (8)	Delete "that Office", substitute "that Commission" in each case.
Section 154 (6)	Delete "which Office", substitute "which Commission".
Section 154 (8)	Delete "The State Government Insurance Office's", substitute "the State Government Insurance Commission's".
Section 162 (1)	Delete "On and after the coming into operation of this Part, The State Government Insurance Office", substitute "The State Government Insurance Commission".
Section 163	Delete "The State Government Insurance Office", substitute "the State Government Insurance Commission".

## SCHEDULE 4

(Section 47)

## SAVING, VALIDATION AND TRANSITIONAL PROVISIONS

**Terms used**

1. In this Schedule, unless the contrary intention appears—

“assets” includes funds, rights and property;

“commencement day” means the day of commencement of section 46;

“liabilities” includes debt and obligations;

“MVIT” means the Motor Vehicle Insurance Trust constituted by the Third Party Insurance Act;

“prescribed period” means the period commencing on 1 July 1986 and ending immediately before the commencement day;

“SGIO” means the State Government Insurance Office established by the *State Government Insurance Office Act 1938*;

“Third Party Insurance Act” means the *Motor Vehicle (Third Party Insurance) Act 1943*.

**Transfer of assets, liabilities and records of the MVIT**

2. On the commencement day—

- (a) all assets that were, immediately before that day, vested in, under the control of, or standing to the credit of the MVIT (including the Motor Vehicle Insurance Fund but excluding the moneys in the Premium Surcharge Account kept under section 3P (4a) of the Third Party Insurance Act) are, by force of this clause, vested in the Commission;
- (b) the Commission becomes, by force of this clause, liable to pay, bear or discharge all the liabilities of the MVIT that existed immediately before that day; and
- (c) the Commission shall take delivery of all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of the MVIT.

**MVIT insurance policies**

3. Without limiting the generality of clause 4 (1), on and from the commencement day any policy of insurance issued under the Third Party Insurance Act in force immediately before that day shall be deemed to be, and, subject to that Act and the terms and conditions of the policy, shall continue to have effect as if it were, a policy issued by the Commission under that Act.

**Agreements, instruments, determinations and proceedings generally**

4. (1) Any agreement or instrument subsisting immediately before the commencement day to which the MVIT was a party has effect on and after that day as if—

- (a) the Commission were substituted for the MVIT as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the MVIT were (unless the context otherwise requires) a reference to the Commission.

(2) Any determination of the MVIT made under or for the purposes of the Third Party Insurance Act and subsisting immediately before the commencement day has effect on and from that day as if it were a determination made by the Commission.

(3) Where anything has been lawfully commenced by or under the authority of the MVIT before the commencement day that thing may be carried on and completed by or under the authority of the Commission.

(4) Without limiting the generality of subclause (3), any proceedings pending immediately before the commencement day to which the MVIT was a party may be continued on or after that day as if the Commission were a party thereto in lieu of the MVIT.

**Final reports on the operations of the MVIT**

5. (1) If sections 3QA and 3QB of the Third Party Insurance Act (as applied by section 4 of the *Acts Amendment (Financial Administration and Audit) Act 1985*) have not been complied with before the commencement day in respect of the year ending on 30 June 1986, the MVIT, the auditor of the MVIT and the Minister to whom the administration of the Third Party Insurance Act is committed shall comply with those sections (as so applied) in respect of that year as soon as practicable after the commencement day.

(2) As soon practicable after the commencement day the MVIT shall cause sections 66, 67 and 68 of the *Financial Administration and Audit Act 1985* to be complied with in relation to the MVIT in respect of the prescribed period, and a report prepared under this subclause shall be deemed to be an annual report for the purposes of section 69 of that Act.

(3) Notwithstanding section 46 (2) and Schedule 3, the MVIT as constituted immediately before the commencement day shall continue in existence for the purposes of subclauses (1) and (2).

(4) The Commission shall provide such clerical and other assistance as is reasonably required for the purposes of subclauses (1) and (2).

**Assessment as to sufficiency of income**

6. If the MVIT has complied with subsection (1) of section 3T of the Third Party Insurance Act at least once during the prescribed period, the Commission is not obliged to comply with that subsection until the financial year beginning on 1 July 1987.

**Employment of current officers**

7. (1) A person who was, immediately before the commencement day, an employee of the MVIT shall be entitled to be employed pursuant to this Act with remuneration corresponding with or higher than that which he received immediately before the commencement day.

(2) A person who becomes an officer or employee of the Commission pursuant to subclause (1) is entitled to retain his existing and accruing rights (including any rights in relation to retirement benefits) and for the purpose of determining such rights his service with the Commission shall be regarded as continuous with his service with the MVIT.

**References to the MVIT in laws**

8. References to the MVIT in a written law, other than this Act or an Act amended by section 46(2) and Schedule 3, shall, unless because of the context it would be inappropriate so to do, be read and construed as references to the Commission.

**Transfer of assets, liabilities and records of the SGIO**

9. On the commencement day—

- (a) all assets that were, immediately before that day, vested in, under the control of, or standing to the credit of the SGIO (including the Trading Fund, the Life Insurance Fund and the Government Insurance Fund) are, by force of this clause, vested in the Commission;
- (b) the Commission becomes, by force of this clause, liable to pay, bear or discharge all the liabilities of the SGIO that existed immediately before that day; and
- (c) the Commission shall take delivery of all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of the SGIO.

**SGIO insurance policies and re-insurance**

10. (1) In this clause—

“existing policy” means a policy of insurance subsisting immediately before the commencement day being a policy that was issued by the SGIO or a policy under which the SGIO had undertaken liability;

“existing re-insurance policy” means a policy of re-insurance subsisting immediately before the commencement day being a policy that was issued by another insurer and under which the SGIO was re-insured in respect of a liability or risk.

(2) On and after the commencement day—

- (a) any existing policy that relates to the Commission’s functions under section 6 (b), (c), or (g) is deemed to be, and, subject to the terms and conditions of the policy, continues to have effect as if it were, a policy issued by the Commission;
- (b) any existing policy that relates to the Corporation’s function under section 30 is deemed to be, and, subject to the terms and conditions of the policy, continues to have effect as if it were, a policy issued by the Corporation.

(3) Any doubt or dispute as to whether an existing policy is one to which subclause (2) (a) applies or is one to which subclause (2) (b) applies shall be resolved by determination of the Minister and the Minister’s determination on the matter shall be final and not subject to appeal, review or challenge in any way.

(4) On or as soon as practicable after the commencement day, the Commission shall, in respect of each existing policy referred to in subclause (2) (b), transfer to the Corporation, out of the assets vested in the Commission under clause 9 (a), an amount that bears the same proportion to the current premium for that policy as the unexpired portion of the current term of that policy bears to the whole of that term.

(5) Subject to subsections (4) and (5) of section 161 of the *Workers' Compensation and Assistance Act 1981*, the approval of the SGIO granted by the Minister under that section current immediately before the commencement day shall subsist in favour of the Corporation in respect of existing policies referred to in subclause (2) (b) and in that respect only.

(6) On and after the commencement day—

- (a) any existing re-insurance policy that relates to the Commission's functions under section 6 (b), (c), or (g) is deemed to be, and, subject to the terms and conditions of the policy, continues to have effect as if it were, a policy that re-insures the Commission;
- (b) any existing re-insurance policy that relates to the Corporation's function under section 30 is deemed to be, and, subject to the terms and conditions of the policy, continues to have effect as if it were, a policy that re-insures the Corporation.

(7) Any doubt or dispute as to whether an existing re-insurance policy is one to which subclause (6) (a) applies or is one to which subclause (6) (b) applies shall be resolved by determination of the Minister and the Minister's determination on the matter shall be final and not subject to appeal, review or challenge in any way.

### Agents and brokers

11. (1) Where any person has been appointed as an agent by the SGIO—

- (a) that appointment;
- (b) the terms and conditions of the agreement or instrument (if any) by which that appointment was made; and
- (c) any act or thing done by or in relation to that person whilst he was acting under that appointment,

is, and shall be deemed to have always been, as valid and effectual as it would have been if, when the appointment was made, the SGIO had had the power conferred on the Commission by section 7 (2) (j) and on the Corporation by section 31 (2) (k).

(2) Where any person is acting under an appointment referred to in subclause (1) immediately before the commencement day that appointment and the terms and conditions of the agreement or instrument by which that appointment was made have effect on and after that day as if the appointment were 2 separate and distinct appointments—

- (a) one appointing the person as an agent of the Commission; and
- (b) the other appointing the person as on agent of the Corporation.

(3) An agreement between the SGIO and an insurance broker subsisting immediately before the commencement day has effect on and after that day as if it were 2 separate and distinct agreements—

- (a) one between the Commission and the broker; and
- (b) the other between the Corporation and the broker.

**Agreements, instruments and proceedings generally**

12. (1) Unless clause 10 or 11 or an order under subclause (4) applies, any agreement or instrument subsisting immediately before the commencement day to which the SGIO was a party, has effect on and after that day as if—

- (a) the Commission were substituted for the SGIO as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the SGIO were (unless the context otherwise requires) a reference to the Commission.

(2) Where anything has been lawfully commenced by or under the authority of the SGIO before the commencement day that thing may, unless an order under subclause (5) applies, be carried on and completed by or under the authority of the Commission.

(3) Without limiting the generality of subclause (2), any proceedings pending immediately before the commencement day to which the SGIO was a party may, unless an order under subclause (5) applies, be continued on or after that day as if the Commission were a party thereto in lieu of the SGIO.

(4) Except where clause 10 or 11 applies, the Minister may, by order published in the *Gazette*, declare that an agreement or instrument mentioned in subclause (1) shall have effect on and after the day specified in the order as if—

- (a) the Corporation were substituted for the SGIO as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the SGIO were (unless the context otherwise requires) a reference to the Corporation.

(5) The Minister may, by order published in the *Gazette*, declare that a thing mentioned in subclause (2) may be carried on and completed by or under the Authority of the Corporation on and after the day specified in the order.

(6) An order under subclause (4) or (5) shall operate according to its tenor and the operation of subclause (1) or (2), as the case may be, shall be modified accordingly.

**Final reports on the operations of the SGIO**

13. (1) If sections 21 (1), (2) and (3) and 22 of the *State Trading Concerns Act 1916* (as applied by section 7 (7) of the *State Government Insurance Office Act 1938* and section 4 of the *Acts Amendment (Financial Administration and Audit) Act 1985* have not been complied with before the commencement day in respect of the year ending on 30 June 1986, the SGIO and the Auditor General shall comply with those provisions (as so applied) in respect of that year as soon as practicable after the commencement day.

(2) As soon as practicable after the commencement day the SGIO shall cause sections 66, 67 and 68 of the *Financial Administration and Audit Act 1985* to be complied with in relation to the SGIO in respect of the prescribed period, and a report prepared under this subclause shall be deemed to be an annual report for the purposes of section 69 of that Act.

(3) Notwithstanding section 46 (1) the SGIO as constituted immediately before the commencement day shall continue in existence for the purposes of subclauses (1) and (2).

(4) The Commission shall provide such clerical and other assistance as is reasonably required for the purposes of subclauses (1) and (2).

(5) The Corporation shall incorporate in, or attach to, the first accounts and statements that it supplies under section 33(a) such accounts and statements as the SGIO would have been required to supply under section 7A (8) of the *State Government Insurance Office Act 1938* in respect of the prescribed period if that Act had not been repealed by section 46 (1).

#### **Certain outstanding obligations to be met by the Commission**

14. (1) The first return submitted by the Commission under section 25 (1) of the *Employers' Indemnity Supplementation Fund Act 1980* shall consist of or contain, as the case may require, the payments made, and expenses incurred by the SGIO under that Act during the month to which the statement relates and, without limiting the generality of clause 9 (a), those payments and expenses shall be deemed to be payments and expenses to which the Commission is entitled to reimbursement under section 25 (2) of that Act.

(2) Before 1 January 1988 the Commission shall pay to the Treasurer the amount (if any) that the SGIO would have been required to pay under section 7B (1) of the *State Government Insurance Office Act 1938* in respect of the prescribed period if that Act had not been repealed by section 46 (1).

#### **Saving of presumption and protection**

15. Notwithstanding section 46 (2) and Schedule 3—

- (a) section 26 of the *Employers' Indemnity Supplementation Fund Act 1980* shall continue to have effect in relation to documents created before the commencement day;
- (b) the protection afforded by section 39 of the *Employers' Indemnity Supplementation Fund Act 1980* extends to acts or things done by the SGIO before the commencement day.

#### **Employment of staff of the SGIO**

16. (1) A person who was, immediately before the commencement day an officer within the meaning of the *Public Service Act 1978* employed in the SGIO shall be entitled to be employed pursuant to this Act with remuneration corresponding with or higher than that which he received immediately before the commencement day.

(2) A person who becomes an officer or employee of the Commission pursuant to subclause (1) is entitled to retain all his existing and accruing rights (including, if he is a contributor under the *Superannuation and Family Benefits Act 1938*, his rights under that Act) as if his service as an officer or employee of the Commission were a continuation of his service as an officer of the Public Service.

(3) A person who becomes an officer or employee of the Commission pursuant to subclause (1) shall, subject to a suitable vacancy being available, be entitled to be reappointed by the Public Service Board at the termination of his employment with the Commission, to an office in the Public Service with a classification and remuneration corresponding with that of the office which he last held in the Public Service.

(4) Subclause (3) does not apply to a person whose employment as an officer or employee of the Commission is terminated for mental or physical disability, incompetence, neglect of duty or misconduct.

**References to the SGIO in laws**

17. References to the SGIO in a written law, other than this Act or an Act amended by section 46 (2) and Schedule 3, shall, unless because of the context it would be inappropriate so to do, be read and construed as references to the Commission.

**Apportionment of assets and liabilities**

18. Assets vested in the Commission under clauses 2 (a) and 9 (a) and liabilities taken over by the Commission under clauses 2 (b) and 9 (b) shall, in the first instance, be held to the credit of or against the Insurance Commission General Fund but the Commission may, on or after the commencement day, apportion those assets and liabilities or their value to that Fund and the other Funds in such proportions as the board of commissioners thinks most conducive to the efficient performance of the various functions conferred on the Commission by section 6.

**Interpretation Act to apply**

19. With respect to the repeals and amendments effected by section 46 and Schedule 3, this Schedule is supplementary to, and does not displace the operation of, the *Interpretation Act 1984*.

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