

SECURITIES INDUSTRY (RELEASE OF SURETIES).

No. 40 of 1977.

AN ACT to make provision for the discharge of bonds and the release of sureties consequential upon the repeal of the Securities Industry Act, 1970.

[Assented to 7th November, 1977.]

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:—

1. This Act may be cited as the *Securities Industry (Release of Sureties) Act, 1977.* Short title.

2. In this Act—

Interpreta-
tion.

“dealer” means a person or body corporate who or which was licensed as such pursuant to the repealed Act;

“surety” means an insurance company or other person or body corporate approved as a surety for the purposes of section 18 of the repealed Act;

“the Commissioner” means the Commissioner for Corporate Affairs under the Companies Act, 1961, and includes any Deputy or Assistant Commissioner for Corporate Affairs;

“the repealed Act” means the Securities Industry Act, 1970.

Notice by dealer.

3. Where a dealer lodged a bond pursuant to the provisions of section 18 of the repealed Act which was entered into by a surety then that surety may, and on the written request of the dealer shall,

- (a) advertise for claims in the manner prescribed by this Act;
- (b) subject to the provisions of section 6 of this Act, on the expiry of the period specified in the advertisement apply to the Commissioner for discharge of the bond; and
- (c) on the bond being discharged return to the dealer the whole, or such proportion as the Commissioner may direct in the case of a partial discharge, of any money or other property which had been deposited with or held by the surety to cover the potential liability of the surety under the bond.

Form of advertisement.

4. (1) The advertisement referred to in section 3 of this Act shall be published in the form set out in the Schedule to this Act, or in such other form as the Commissioner may in relation to any particular case authorise, in the public notices of a newspaper circulating generally in the State.

(2) The date to be inserted in the advertisement as that by which particulars of any claim shall be delivered to the surety shall be a date not less than three months nor more than six months from the date of publication of the advertisement.

5. Where an advertisement is published in the manner prescribed by section 4 of this Act then, on the application of either the dealer or of the surety, the Commissioner may, on being satisfied—

Where no claims delivered.

- (a) that no particulars of any claim were delivered by the date specified in the advertisement; and
- (b) that there are no outstanding liabilities of the dealer in respect of the business to which the obligations of the bond refer,

notify the dealer and the surety, in writing, that the bond is discharged and the surety released by virtue of the operation of this Act.

6. Where particulars of any claim giving rise to a potential liability under the bond are known, or are delivered pursuant to an advertisement made under this Act, to the surety then that surety may, and on the written request of the dealer shall, apply to the Commissioner for directions as to the manner in which the bond is to be dealt with and the Commissioner, on being satisfied that the potential liability is substantially less than the amount of the bond, may give such directions including directions making provision for—

Where claims exist.

- (a) the variation of the bond;
- (b) the return of the whole or any part of any money or other property held by the surety in respect of a potential liability that was greater than the claims presented;
- (c) the reference to a court or arbitration of any matters in dispute; or
- (d) the entire or partial release of the surety, and effect shall be given to such directions.

Effect of discharge.

7. (1) Where a bond is discharged, whether wholly or in part, by the Commissioner pursuant to this Act—

- (a) a claim shall not lie against, and if made shall not be recoverable from, the surety in relation to the obligations conditioned by the bond insofar as they are so discharged; and
- (b) the surety shall deliver up, refund, transfer or otherwise return to the dealer the whole, or such proportion as the Commissioner may direct in the case of a partial discharge, of any money or other property deposited with or held by the surety to cover the potential liability of the surety under the bond.

(2) A discharge may, pursuant to a direction of the Commissioner, relate only to a proportion of the amount of the bond where the provisions of section 6 of this Act have effect and in any such case the provisions of subsection (1) of this section do not apply to and in relation to such claims as the Commissioner may specify in his direction or to the obligations relating thereto.

Saving.

8. Nothing in this Act shall be construed as prohibiting or affecting any claim made, or to be made, in relation to—

- (a) the payment or the application of, or the accounting for, moneys coming to the hands of a dealer; or
- (b) the compliance by a dealer with the duties and obligations imposed by law in relation to those moneys,

insofar as any such claim is not made against a surety under a bond discharged pursuant to this Act.

THE SCHEDULE.

S.4.

Securities Industry (Release of Sureties) Act, 1977.

In the matter of the Securities Industry Act, 1970,

and in the matter of ¹.....

Notice is hereby given that any person who claims to have suffered pecuniary loss by reason of a failure on the part of ¹.....

..... of ²....., or any clerk or servant employed thereby,—

(a) to duly and according to law pay, apply and account for moneys coming to the hands of that dealer prior to the ²..... day of 197....; or

(b) to comply punctually with all duties and obligations imposed by law in relation to those moneys,

is required to deliver in writing on or before the ⁴..... day of 197...., to ⁵.....

of ⁶..... particulars of that claim, after which time no further claim will be admitted by ⁵.....

..... in respect of

the surety bond entered into in relation to ¹..... and an application will be made pursuant to the Securities Industry (Release of Sureties) Act, 1977, to be discharged from the obligations of the bond.

Dated this day of 197....

(signed)

for ⁵.....

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1. Insert name of dealer.
 2. Insert all known business addresses of the dealer.
 3. Insert the date upon which the requirement for the bond ceased.
 4. Insert date pursuant to section 4 (2) of the Securities Industry (Release of Sureties) Act, 1977.
 5. Insert name of surety.
 6. Insert address to which claims are to be delivered.