

MOTOR VEHICLE (THIRD PARTY INSURANCE).

13° Elizabeth II., No. LXV.

No. 65 of 1964.

AN ACT to amend the Motor Vehicle (Third Party Insurance) Act, 1943-1963.

[Assented to 4th December, 1964.]

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. (1) This Act may be cited as the *Motor Vehicle (Third Party Insurance) Act Amendment Act, 1964.*

Short title and citation.

(2) In this Act the Motor Vehicle (Third Party Insurance) Act, 1943-1963, is referred to as the principal Act.

Reprinted approved for reprint 2nd March, 1961 and amended by Acts Nos. 70 of 1961, 57 of 1962, 72 of 1962 and 71 of 1963.

(3) The principal Act as amended by this Act may be cited as the Motor Vehicle (Third Party Insurance) Act, 1943-1964.

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amended.

2. Section three P of the principal Act is amended—

- (a) by adding after the word, “account” in line two of subsection (4), the passage, “(in this section called “the annual account”);”;
- (b) by deleting the passage, “, subsection (3),” in line three of subparagraph (ii) of paragraph (b) of subsection (4) and adding the passage, “subsection (3) of”, before the word, “section” in that line;
- (c) by substituting for the passage, “Trustees Act, 1900,” in line four of paragraph (a) of subsection (5), the passage, “Trustees Act, 1962,”;
- (d) by repealing and re-enacting subsection (6) as follows—

(6) The Trust may at any time in anticipation of a surplus remaining to the credit of any annual account, make a distribution to the participating approved insurers for the year to which the annual account relates, in accordance with each participating insurer’s respective percentage interest in the Fund for that year, but so that the total amount distributed by the Trust pursuant to this subsection, shall not in any event exceed five per centum of the amount of the premiums received by the Trust for that year. ;

- (e) by repealing and re-enacting subsection (7) as follows—

(7) (a) The Trust shall dispose of the amount of any surplus that remains to the credit of any annual account after all

the administration and general expenses and claims referred to in subsection (4) of this section have been finalised in the following order, that is to say—

- (i) firstly, by crediting the respective account of each participating approved insurer for the year to which that annual account relates, with an amount not exceeding five per centum of its proportion of the total amount of the premiums received by the Trust for that year;
- (ii) secondly, by applying all or any part of the amount of the then balance of the remaining surplus,
 - (I) against a deficit incurred in any previous year by crediting the annual account for that year with the amount so applied or by crediting the respective account of each participating approved insurer for that year with a proportion of the amount so applied according to his interest in the Fund for that year; or
 - (II) in payment of any unpaid dividend for any previous year to the respective participating approved insurers for that year to an amount not exceeding five per centum of its proportion of the total amount of the premiums received by the Trust for that year, or where the amount of the dividend so

paid for that year was less than that percentage, in payment of the difference between the amount of dividend so paid and that percentage,

as the Trust may determine;

- (iii) thirdly, by transferring and applying from the amount of the then balance of the remaining surplus to a fund, to be called "The Disaster Reserve Fund", a sum not exceeding twelve thousand pounds per year, but the amount standing to the credit of the Fund shall not at any time exceed the sum of one hundred thousand pounds; and
- (iv) fourthly, in holding and applying the amount of the then balance of the remaining surplus to the credit of the annual account for the next succeeding year.

(b) Any amount standing to the credit of an account of a participating approved insurer may be paid by the Trust to it at any time, if the amount so paid together with all payments made in accordance with subsection (6) of this section does not exceed five per centum of its proportion of the total amount of premiums received by the Trust to and including the thirtieth day of June immediately preceding the day the amount is paid to the approved participating insurer.

(c) Paragraph (b) of this subsection does not affect any payments made by the Trust to an approved participating insurer prior to the thirtieth day of June, nineteen hundred and sixty-four.

(d) The Trust is entitled at any time to withdraw from The Disaster Reserve Fund such amount as may be necessary to complete or satisfy any claim or judgment exceeding the sum of thirty thousand pounds or any claims or judgments arising out of one accident where the total claims or judgments exceed that sum, and the amount of any such claims or judgments may be recovered from the Trust under this Act.

(e) For the purposes of subsections (6) and (7) of this section, the participating approved insurer's proportion of the premiums for each year in which it was such an insurer, is the same as its proportion in the Fund for that year.

(f) When a participating approved insurer withdraws from the Fund and—

- (i) the claims in respect of all years in which it participated have been finalised; and
- (ii) there remains a balance after the payment of dividends for those years at the rate referred to in subsection (6) of this section, which but for the provisions of this section would be payable to that participating approved insurer, the Trust may pay and apply in accordance with this subsection, that balance by adding it to the surplus or deducting it from the deficit shown in any annual account in respect of any year in which the participating approved insurer was not such an insurer.

(g) Where pursuant to the provisions of subsection (7) of section three L of this Act, a participating approved insurer ceases to be such an insurer, no dividend in respect of any years to which the insurer might, but for this paragraph, be entitled shall thereafter be paid or credited to it or any person on its behalf or at the discretion of the Trust, until all claims in respect of all years in which it was such an insurer have been finalised; and, notwithstanding any Act to the contrary, where—

- (i) the claims in respect of all years during which the insurer was participating have been finalised; and
- (ii) there remains a balance that, but for the provisions of this paragraph would be payable to the insurer,

the Trust, may pay and apply the balance by adding it to the surplus, or deducting it from the deficit in the Fund, in respect of any year in which that insurer was not a participating approved insurer; and where there remains a debt due by the insurer, the liability for so much of that debt as is not recovered from that insurer shall be apportioned among the remaining participating approved insurers in proportion to their interests as they then exist in the Fund. .
