GENERAL INSURANCE BROKERS AND AGENTS ACT 1981.

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GENERAL INSURANCE BROKERS AND AGENTS.

No. 17 of 1981.

AN ACT relating to brokers and agents engaged in the transaction of general insurance business.

[Assented to 26 May 1981.]

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.

1. This Act may be cited as the General ^{Short title.} Insurance Brokers and Agents Act 1981.

2. The provisions of this Act shall come into <u>Commence-</u> operation on such day or days as is or are, respectively, fixed by proclamation. Interpretation.

3. (1) In this Act unless the contrary intention appears—

"agency agreement" means an agency agreement, whether evidenced in writing or not, in relation to general insurance business;

"appointed day" means the day fixed by the Minister pursuant to subsection (4);

"approved" means approved by the Board;

"chairman" means the chairman of the Board;

- "District Court" means The District Court of Western Australia established under the District Court of Western Australia Act 1969;
- "insurance agent" means a person whose business, either alone or as a part of or in connection with any other business is to act, under an agency agreement or agency agreements and for or in expectation of gain, as an agent for one or more insurers in the transaction of general insurance business;

"insurance broker" means—

- (a) a person whose business, either alone or as part of or in connection with any other business, is to act, for or in expectation of gain, as an agent for insureds or intending insureds in the transaction of general insurance business; or
- (b) an insurance agent who is a party to agency agreements with 4 or more insurers,

but does not include a person or a person of a class, for the time being excepted from the meaning of the expression pursuant to section 4;

"insured" means a person, other than the insurer, who is a party to a contract of general insurance or for whose benefit such a contract enures and "intending insureds" has a corresponding meaning;

"insurer" means a person who carries on general insurance business either alone or as part of or in connection with any other business and includes The State Government Insurance Office established by the State Government Insurance Office Act 1938;

"licence" means a licence under this Act:

- "licensed insurance broker" means a person licensed under this Act:
- "member" means a member of the Board and includes the chairman and deputy chairman of the Board;
- "secretary" means the secretary to the Board;

"section" means a section of this Act;

- "subsection" means a subsection of the section wherein the term is used;
- "the Board" means the Insurance Brokers Licensing Board.
- (2) In subsection (1)—
 - "gain" includes any commission, hire, profit, reward, fee, payment, remuneration or valuable consideration whatsoever, whether paid or payable in cash or kind;
 - "general insurance business" has the same meaning as the expression "insurance business" has in and for the purposes of the Insurance Acts 1973 of the Parliament of the Commonwealth, as amended from time to time.

(3) For the purposes of paragraph (b) of the interpretation of "insurance broker" in subsection (1), and subsections (4), (5) and (6) of section 4, and for those purposes only, an insurance agent who carries on business in partnership or in concert with another person shall be deemed to be a party to any agency agreement to which that other person is a party.

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(4) The Minister shall by notice published in the *Government Gazette* fix a day to be the appointed day for the purposes of the provisions of this Act that refer to the appointed day.

Exceptions to "insurance broker".

4. (1) The Minister may by notice published in the *Government Gazette* except any person or class of persons from the meaning of "insurance broker" in and for the purposes of this Act.

(2) The Minister may by notice published in the *Government Gazette* cancel an exception granted under subsection (1) either wholly or, where a class of persons has been excepted, in respect of one or some persons of that class.

(3) A notice under subsection (2) shall be published not less than 2 months before the date on which the cancellation is to take effect.

(4) An insurance agent who would otherwise come within the meaning of the expression "insurance broker" by reason only of his being a party to agency agreements with 4 or more insurers may apply to the Board in writing to be excepted from the meaning of that expression in and for the purposes of this Act and, subject to subsection (5), the Board may, by notice published in the *Government Gazette*, grant that exception.

(5) An exception may be granted in respect of an insurance agent under subsection (4) if, and only if, the Board is satisfied that—

- (a) he is *bona fide* an insurance agent and has not assumed the character of an insurance broker;
- (b) each agency agreement to which he is a party is in writing, is properly executed, and authorizes him to collect premiums;
- (c) he is able to issue each insurer's premium receipts and other documentation; and
- (d) he is not a party to agency agreements with more than 10 insurers.

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(6) An insurance agent in respect of whom an exception has been granted under subsection (4)—

- (a) shall, when entering into negotiations with an intending insured, immediately identify to the intending insured the insurers that he is representing; and
- (b) shall immediately advise the Board in writing in the event of his becoming a party to a further agency agreement with an insurer or of the termination or variation of an agency agreement with an insurer to which he is a party.

(7) Subject to this section, an exception granted under subsection (4) shall have effect for such period not exceeding 2 years as is specified in the notice by which it is granted and may be renewed.

(8) The Board may by notice published in the *Government Gazette* cancel an exception granted in respect of an insurance agent under subsection (4) if in the opinion of the Board—

- (a) paragraph (a), (b), (c) or (d) of subsection
 (5) has ceased to apply to or in relation to him; or
- (b) he has failed to comply with paragraph (a) or (b) of subsection (6).

PART II.-INSURANCE BROKERS LICENSING BOARD.

5. (1) For the purposes of this Act there shall be ^{The Board.} a board to be known as the "Insurance Brokers Licensing Board".

- (2) The Board—
 - (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) shall be the licensing and supervisory authority for the purposes of this Act; and
 - (c) shall have the powers, duties, and functions, conferred, imposed, or prescribed by or under this Act.

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(3) Where in any judicial proceedings, whether under this Act or not, a document is produced bearing a seal purporting to be the common seal of the Board the court or tribunal before which those proceedings are brought shall in the absence of proof to the contrary presume that—

(a) the seal is the common seal of the Board;

and

(b) the common seal was duly affixed.

Composition of the Board.

6. (1) Subject to this section the Board shall consist of 4 members appointed by the Governor of whom—

- (a) one, being a person who is neither an insurance agent nor an insurance broker shall be appointed to be a member and chairman of the Board;
- (b) one, being a person nominated by the Minister who is neither an insurance agent nor an insurance broker, shall be appointed to be a member and deputy chairman of the Board;
- (c) one shall be a person who is conversant with the business and operations of insurers and insurance agents and is nominated for appointment by Insurance Council of Australia Ltd, a body corporate; and
- (d) one shall be a person who is a licensed insurance broker and is elected for appointment by licensed insurance brokers (in the Schedule to this Act called an elective member).
- schedule. (2) The provisions of the Schedule to this Act shall have effect in relation to the Board and its members and in relation to the acts, proceedings and determinations of the Board.

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7. (1) The functions of the Board are-

Functions of the Board.

- (a) to advise the Minister as to the general administration of this Act:
- (b) to make recommendations and submit proposals to the Minister from time to time with respect to regulations to be made under this Act;
- (c) to administer the scheme of licensing and registration established under this Act; and
- (d) to carry out such other functions as are conferred upon the Board under this Act.

(2) The Board has power to do all things as are necessary or convenient for or in connection with the performance of its functions.

(3) The Minister may from time to time give directions to the Board with respect to its functions, powers and duties, either generally or with respect to a particular matter, and the Board shall give effect to those directions.

8. (1) There shall be a secretary to the Board $\frac{\text{Secretary}}{\text{and staff.}}$ and there may be such other officers of the Board as are necessary for its proper functioning.

(2) The officers of the Board shall be appointed and shall hold office subject to and in accordance with the Public Service Act 1978.

(3) The officers of the Board may hold office as such in conjunction with any other office in the Public Service of the State.

PART III.-LICENSING AND CONTROL OF INSURANCE BROKERS.

9. On or after the appointed day a person shall $\frac{Insurance}{brokers to}$ not carry on business, or by any means hold be licensed. himself out, as an insurance broker unless he is licensed under this Act.

Penalty: \$10 000.

Grant of licence to a natural person. 10. (1) Subject to this Act a person, not being a body corporate, who applies to the Board for a licence and pays to the Board the prescribed fee for the licence shall be granted and may hold a licence if the Board is satisfied that—

- (a) he is a person of good character and repute and is fit to hold a licence;
- (b) he is a qualified person;
- (c) he has sufficient material and financial resources available to him to enable him to carry on business as an insurance broker;

and

(d) he has the insurance required under this Act in relation to the business to be operated under the licence.

(2) In subsection (1) and in sections 11 and 12 "qualified person" means a person who has such qualification by way of experience or otherwise as is prescribed, or if no qualification is prescribed, such qualification by way of experience or otherwise as is approved.

Grant of licence to a firm. 11. Subject to this Act, 2 or more persons constituting a firm who apply to the Board for a licence and pay to the Board the prescribed fee for the licence shall be granted and may hold a licence if the Board is satisfied that—

(a) all of the natural persons, if any, by whom the firm is constituted and all of the directors of, and all of the persons concerned in the management or control of, any body corporate by which the firm is constituted are persons of good character and repute and are persons fit to be concerned as directors of, or in the management and control of, an insurance broker's business;

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- (b) they have sufficient material and financial resources available to them to enable them to comply with the requirements of this Act;
- (c) where the firm is constituted by not more than 3 persons at least one of them is a qualified person or where the firm is constituted by more than 3 persons at least 2 of them are qualified persons;
- (d) the person in *bona fide* control of the business operated under the licence is a qualified person; and
- (e) they have the insurance required under this Act in relation to the business to be operated under the licence.

12. Subject to this Act, a body corporate which Grant of applies to the Board for a licence and pays to the Board the prescribed fee for the licence shall be granted and may hold a licence if the Board is satisfied that—

- (a) all of the directors of the body corporate, and all of the persons concerned in the management or conduct of the body corporate, are persons of good character and repute and are fit to be concerned as directors of, or in the management and control of, an insurance broker's business;
 - (b) it has sufficient material and financial resources available to it to comply with the requirements of this Act;
 - (c) unless for good cause shown by the applicant the Board otherwise determines, where there are not more than 3 directors of the body corporate at least one of them is a qualified person or where there are more than 3 directors of the body corporate at least 2 of them are qualified persons;

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- (d) the person in *bona fide* control of the business operated under the licence is a qualified person; and
- (e) it has the insurance required under this Act in relation to the business to be operated under the licence.

Applications. 13. (1) An application for a licence shall be made in writing in a manner and form approved in respect of such an application.

> (2) In the case of an application for a licence by a person already carrying on business as an insurance broker the applicant or applicants shall furnish to the Board audited accounts of that business to the satisfaction of the Board together with a certificate in relation to those accounts given in the approved form by a qualified accountant.

> (3) In subsection (2) "qualified accountant" means a person who is a registered company auditor for the purposes of the law relating to companies in this State or in another State or a Territory of the Commonwealth and who is not—

- (a) in the case of an application by an individual natural person—
 - (i) the applicant or the spouse of the applicant; or
 - (ii) a partner or employee, or the spouse of a partner or employee of the applicant;
- (b) in the case of an application by the members of a firm—
 - (i) a member, or the spouse or an employee of a member, of the firm; or
 - (ii) an employee or the spouse of an employee of the firm;

- (c) in the case of an application by a body corporate-
 - (i) a director, or the spouse or a partner or employee of a director, of the body corporate; or
 - (ii) a partner or employee, or the spouse of a partner or employee, of the body corporate.

(4) In respect of any particular application for a licence the applicant or applicants shall furnish to the Board such further information as the Board determines.

(5) The Board may require any information furnished in or in connection with an application for a licence to be verified by statutory declaration of the applicant or in the case of an application by the members of a firm or a body corporate, by the person who is to be in bona fide control of the business to be operated under the licence.

(6) The Board may require any applicant for a licence and any person who is to be in bona fide control of the business to be operated under the licence to attend personally before the Board and may refuse the application if such a requirement is not complied with.

14. (1) Subject to this Act a licence shall be puration of granted to have effect for the period expiring on 31 of licence. October next ensuing the day on which it is granted.

(2) Notwithstanding subsection (1) the Board, when granting a licence after 30 April and before 31 October in any year, may grant the licence to have effect, subject to this Act, until 31 October in the next ensuing year.

15.(1) Subject to this Act a licence may, on Renewal. application to the Board not more than 3 months before the expiry of the licence and on payment of

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the prescribed fee, be renewed from time to time for subsequent periods expiring on 31 October in each year.

(2) Sections 10, 11, 12, and 13, with such modifications as may be necessary, apply to and in relation to the renewal of a licence.

(3) In the case of an application for the renewal of a licence the references in section 13 (2) to accounts shall be read as references to a statement of the account maintained pursuant to section 16 (2) for the financial year ending on 30 June last preceding the date on which the application is made.

Insurance broking account.

16. (1) In this section—

"bank" means—

- (a) a bank as defined by section 5 of the Banking Act 1959 of the Parliament of the Commonwealth, as amended from time to time; or
- (b) a bank that carries on banking business on behalf of the State under the authority of the laws of the State;

"short term investment" means-

- (a) an investment of a class mentioned in paragraph (d), (e), (f) or (o) of section 16 (1) of the Trustees Act 1962; or
- (b) an investment prescribed, or of a class prescribed, for the purposes of this section.

"the insurance broking account", in relation to an insurance broker, means the account maintained by that insurance broker pursuant to subsection (2).

(2) An insurance broker shall maintain an account at a bank in the State under a title that includes the words "Insurance Broking Account" with or without other words of description.

(3) An insurance broker shall not use the insurance broking account for a purpose other than those set out in this section.

(4) An insurance broker shall forthwith pay to the credit of the insurance broking account, and no other account, all moneys (including brokerage) that are paid to or received by him from any source under or in relation to insurance transactions in his business as an insurance broker.

(5) An insurance broker shall use the insurance broking account, and no other account, for the payment of all moneys that are due to insurers or insureds under or in relation to insurance transactions in his business as an insurance broker.

(6) In addition to using the insurance broking account for the purposes set out in subsections (4) and (5) an insurance broker may use that account—

- (a) for the withdrawal of moneys for investment in short term investments;
- (b) for the withdrawal of brokerage and fees;
- (c) for the withdrawal of any money paid into the account in error;
- (d) for the receipt of funds necessary for the operation of the account;
- (e) for any prescribed purpose.

(7) Where an insurance broker receives any moneys by way of income from a short term investment made under subsection (6) (a), or by way of proceeds from the realisation of any such investment, he shall forthwith pay those moneys into the insurance broking account, and no other account, but—

- (a) such income; and
- (b) such proceeds, to the extent to which they exceed the amount invested,

may be withdrawn by him from the account.

(8) Subject to subsection (9) if the amount received by way of proceeds from the realisation of a short term investment made under subsection (6) (a) is less than the amount invested, the insurance broker shall, at the same time as he pays those proceeds into the insurance broking account, pay into that account an amount equal to the difference between the amount invested and the amount received.

(9) Where subsection (8) applies in relation to the realisation of a short term investment the insurance broker may set off against the whole or a part of the amount that he owes to the insurance broking account pursuant to that subsection any moneys in that account being—

- (a) moneys referred to in subsection (7) (a) derived from that or any other short term investment; or
- (b) moneys referred to in subsection (7) (b) derived from any other short term investment.

(10) Notwithstanding subsection (7), moneys in the insurance broking account that are set off pursuant to subsection (9) shall not be withdrawn other than for the purposes mentioned in subsection (5).

(11) A person who contravenes or fails to comply with subsection (2), (3), (4), (5), (7), (8) or (10) commits an offence and is liable to a penalty of \$10 000.

Insurance requirements for brokers.

17. (1) The insurance required under this Act in relation to the business of an insurance broker is—

(a) an approved policy or approved policies of professional indemnity insurance in respect of liabilities amounting to not less than the prescribed sum or such greater sum as the Board may in any particular case require; and

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(b) an approved policy or approved policies of fidelity guarantee insurance in respect of liabilities amounting to not less than the prescribed sum or such greater sum as the Board may in any particular case require.

(2) "Prescribed sum" as used in paragraph (a) or (b) of subsection (1) means such sum as is from time to time fixed by proclamation for the purposes of that paragraph, or, if a sum has not been so fixed, the sum of \$100000.

(1) Subject to section 19 the Board may, if ^{Suspension} 18. proper cause exists, by order suspend or cancel the of licence. licence of an insurance broker and disgualify the insurance broker either temporarily or permanently, or until the fulfilment of any condition, or until the further order of the Board, from holding a licence

(2) Proper cause exists for the making of an order under subsection (1) if—

- (a) the Board is satisfied that the licence has been obtained by fraud, dishonesty or misrepresentation;
- (b) a relevant person has been convicted of any offence the commission of which, in the opinion of the Board, renders the insurance broker unfit to hold a licence;
- (c) a relevant person has been found by any court or other tribunal, or by the Board, to have been guilty of dishonesty in connection with the business of the insurance broker:
- (d) the Board is satisfied that the insurance broker no longer has sufficient material and financial resources to enable him to comply with the provisions of this Act;
- (e) the Board is satisfied that an offence has been committed under section 16 (11) in relation to the business of the insurance broker: or

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(f) the Board is satisfied that the insurance broker no longer has the insurance required under this Act in relation to his business.

(3) In subsection (2) "relevant person" in relation to an insurance broker means the insurance broker or any partner, director, employee, or agent of the insurance broker.

Inquiries.

19. (1) Before making an order under section 18 (1) in respect of an insurance broker the Board shall hold an inquiry and, unless his address is not then known to the Board or reasonable efforts to effect service are not successful, shall give to him notice of the time and place at which the inquiry is to be held and sufficient details of the matters to be inquired into to enable him to show cause why such an order should not be made.

(2) In conducting an inquiry the Board is not bound by the rules of evidence or by the rules of legal procedure but may proceed in such manner as it thinks fit subject to the requirement that the person concerned be afforded an opportunity to be heard and to examine witnesses.

(3) The person concerned is entitled to appear at an inquiry in person or by agent, solicitor or counsel.

(4) In the course of an inquiry, the Board may—

- (a) receive in evidence any transcript of evidence in proceedings before a court and draw any conclusions of fact therefrom that it considers proper; or
- (b) adopt, as in its discretion it considers proper, any findings, decision, or judgment of a court that may be relevant to the inquiry.

(5) For the purposes of conducting an inquiry the Board may—

(a) by summons under the hand of the chairman or of the secretary require the attendance of any witness;

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- (b) by notice in writing signed by the chairman or the secretary, require the production of any books, papers \mathbf{or} documents relevant to the matter before the Board:
- (c) inspect any books, papers and documents produced before it and make copies of or extracts from matters therein that are relevant to the matter before the Board;
- (d) examine witnesses on oath or affirmation administered by any member or the secretary; and
- (e) appoint a person with such qualifications as it thinks fit to appear before the Board to assist the Board.
- (6) Any person—
 - (a) who has been personally served with a summons referred to in subsection (5) (a) to attend before the Board and fails without lawful excuse (proof whereof shall lie on him) to attend in obedience to such summons;
 - (b) who wilfully interrupts the proceedings of the Board:
 - (c) who, being called or examined as a witness in any proceeding or inquiry before the Board, refuses to be sworn or to affirm or without lawful excuse (proof whereof shall lie on him), fails to produce any books, papers or documents mentioned in a notice referred to in subsection (5) (b), and personally served upon him, or knowingly or wilfully makes a false statement to the Board,

commits an offence and is liable on conviction to a penalty not exceeding \$500.

(7) A statement or disclosure made at an inquiry before the Board by a witness is not, except in an appeal under this Act or in proceedings for giving

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false testimony before the Board, admissible in evidence against him in any civil or criminal proceedings.

(8) A person who attends for the purpose of giving evidence before the Board is entitled to receive such fees and allowances as the member presiding may allow in accordance with the prescribed scale.

Termination of business.

- **20.** (1) Where the Board—
 - (a) refuses to grant a licence to;
 - (b) refuses to renew the licence of; or
 - (c) suspends or cancels the licence of,

a person carrying on business as an insurance broker—

- (d) the refusal, suspension or cancellation shall take effect immediately, and shall not be deferred by reason of any proposed or pending appeal to the District Court under this Act unless the District Court otherwise orders, which it may do if it thinks fit subject to such conditions as it may impose to protect clients and potential clients of the business and the public generally;
- (e) the Board may by order impose conditions as to the manner in which the person shall conclude or dispose of transactions commenced but not concluded on behalf of clients of the business, or as to any other matter relating to the cessation or termination of the business, to protect clients and potential clients of the business and the public generally.

(2) A person who fails to comply with any condition imposed under paragraph (d) or (e) of subsection (1) commits an offence.

Penalty: \$10 000.

21. Where the Board—

Records of Board decisions.

- (a) refuses an application by a person for a licence or for the grant or renewal of an exception under section 4(4); or
- (b) makes any order under section 18 (1) in respect of a person,

the Board shall record the finding on which the decision was based, and its reasons, and shall as soon as is practicable communicate its decision to that person.

22. (1) A person aggrieved by an order of the Appeals. Board, or by the refusal of an application to the Board for a licence or the renewal of a licence or for the grant or renewal of an exception under section 4(4), or by the cancellation by the Board of an exception granted under section 4(4), may within 3 months after the date of the decision by the Board make application in writing to the Board for a statement by the Board in writing of its reasons for the decision, and the Board shall, as soon as reasonably may be after receipt of the application, furnish the applicant with such a statement.

(2) Within one month, or such further time as the District Court may allow, after receipt of the statement of the Board furnished under subsection (1) the person aggrieved by the decision of the Board may appeal from that decision to the District Court.

(3) The District Court may on the hearing of an appeal under this section—

- (a) confirm, quash or vary the decision of the Board, or substitute its own decision for that of the Board;
- (b) remit the matter to the Board for further consideration or for reconsideration with or without directions;
- (c) make any further or other order as to costs or any other matter that the case requires.

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(4) Where on the hearing of an appeal under this section the District Court imposes any condition of the kind referred to in section 20 (1) (e) or alters any such condition imposed by the Board, the condition as so imposed or altered by the District Court shall, for the purposes of section 20 (2), be deemed to have been imposed under section 20 (1) (e).

(5) On any appeal to the District Court from the refusal of the Board to grant or renew an exception under section 4(4) only that evidence submitted to the Board at the time of, or in connection with, the application for the exception or renewal thereof shall be considered by the District Court.

PART IV.—REGISTRATION OF INSURANCE AGENTS.

Insurance agents to be registered.

23. (1) On or after the appointed day a person shall not carry on business, or by any means hold himself out, as an insurance agent unless he is registered under this Act.

Penalty: \$1000.

(2) Subsection (1) does not apply to a person who is a licensed insurance broker.

registration. 24. An insurance agent who applies to the Board for registration and pays to the Board the prescribed fee for registration shall be granted registration.

Applications. 25. (1) An application for registration shall be made in writing in a manner and form approved in respect of such an application and shall be accompanied by a statement, verified by statutory declaration, setting out details of every agency agreement with an insurer to which the applicant is a party.

(2) Where a person carries on business as an insurance agent in partnership or in concert with another person he shall include in the statement

required by subsection (1) details of every agency agreement with an insurer to which that other person is a party.

The registration of an insurance agent shall Duration of first period of registration. 26. have effect-

(a) where it is granted on or before 30 October in a year—until 31 October in the second year after the year in which it is granted:

(b) where it is granted after 30 October in a year—until 31 October in the third year after the year in which it is granted.

(1) The registration of an insurance agent Renewal of registration. 27. may, on application to the Board and payment of the prescribed fee, be renewed from time to time for periods expiring on 31 October in each third vear.

(2) Section 25 applies to and in relation to the renewal of registration.

28. In the month of October in each year an Information to be insurer shall notify the Board, in writing, of every supplied by insurers. insurance agent carrying on business in the State who is a party to an agency agreement with the insurer.

PART V.---MISCELLANEOUS.

(1) The secretary shall keep a register of Registers. 29. licensed insurance brokers and a register of persons registered as insurance agents under this Act.

(2) The secretary shall record in the registers any prescribed particulars.

(3) The secretary shall cause to be removed from the relevant register the name of every person who dies or ceases for any reason to be licensed or registered under this Act.

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(4) The secretary shall, upon receipt of the prescribed fee from a person desiring to inspect a register, make it available for inspection by that person.

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Lists and certificates.

30. (1) A list of the names and descriptions of all persons holding licences on a date specified therein together with such of the particulars appearing in the register of licensed insurance brokers as the secretary thinks fit, shall be published annually.

(2) The secretary may cause supplementary lists to be published and, in any event, shall cause notice to be published of the addition of any name to, or the removal of any name from, the register of licensed insurance brokers.

(3) In subsections (1) and (2) "published" means published in the *Government Gazette*.

(4) A certificate under the hand of the secretary that any person is or is not, or was or was not, licensed or registered under this Act on the date of, or a date referred to, in the certificate, or as to any other matter contained in a register, shall, in the absence of proof to the contrary, be taken as proof of the matter so certified.

(5) The secretary shall, upon receipt of a request in writing by any person, and payment of the prescribed fee, issue a certificate as to any of the contents of a register.

Annual report. 31. (1) The chairman shall, on behalf of the Board, as soon as practicable after 1 July and not later than 31 October in each year, submit to the Minister a report on the activities under this Act of the Board for the year ending on 30 June last preceding.

(2) The Minister shall cause the report to be laid on the Table of each House of Parliament within 14 days of its receipt, or if at that time Parliament is not in session, then within 14 days of the commencement of the next session of Parliament.

No liability shall attach to a member or the Board and of a member, or the secretary or any other officers. 32. deputy of a member, or the secretary or any other officer, of the Board for any act or omission by him or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this Act.

(1) This section applies to any person who secrecy. 33. is, or has been, a member or the deputy of a member, or the secretary or any other officer, whether permanent or temporary, of the Board.

(2) A person to whom this section applies shall not either directly or indirectly, except in the performance of a duty under or in connection with this Act, make a record of, or divulge or communicate to any person, any information concerning the affairs of any other person acquired by him by reason of his office or employment under or for the purposes of this Act.

Penalty: \$5 000.

34. Where a person by whom an offence under ^{Offences by} corporations. this Act is committed is a body corporate, every director or other officer concerned in the management of the body corporate is guilty of the like offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such due diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity, the nature of his office, the nature of the duties pertaining to his office under any other law, and all the circumstances.

No. 17.] General Insurance Brokers and Agents.

Proceedings.

35. (1) Proceedings for an offence against this Act may be taken by the secretary or, in the case of an offence against section 33, by any person.

(2) Notwithstanding the provisions of any other Act, proceedings for an offence against this Act may be brought within the period of 3 years after the commission of the alleged offence or, with the consent of the Minister, at any later time.

(3) Without limiting the application of section 72 of the Justices Act 1902, in relation to a complaint for an offence against this Act, in any proceedings for an offence against this Act an allegation in the complaint that a person named therein was or was not licensed or registered under this Act at the time specified therein shall, in the absence of proof to the contrary, be taken as proved.

Regulations. 36. The Governor may make regulations prescribing 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.

PART VI.—TRANSITIONAL.

37. (1) Notwithstanding section 6 (1) until a vacancy occurs in the office referred to in section 6 (1) (d) after the appointed day, that office shall be filled by a person who is an insurance broker and is nominated for appointment by the Minister.

(2) A person appointed pursuant to subsection (1) is not an elective member for the purposes of the Schedule to this Act.

Licensing or registration before appointed day. 38. For the purposes of sections 14 and 26 a licence or registration granted before the appointed day shall be deemed to have been granted on the appointed day.

Broker member of Board.

SCHEDULE.

PROVISIONS AS TO BOARD.

1. (1) Wherever a nomination is required for the purpose of filling the office referred to in section 6(1)(c)the Minister shall, in writing, request Insurance Council of Australia Ltd to nominate in writing a person qualified and willing to be appointed to that office.

(2) Where a request is made pursuant to subclause (1) of this clause the Minister may, if no nomination is made in accordance with the request, appoint to the office of member such person, being a person qualified and willing to be appointed to that office, as he thinks fit.

2. (1) The Minister shall appoint a returning officer for Election for appoint. the election of an elective member. ment.

(2) The election of an elective member shall be held and conducted in such manner and at such times as may be prescribed.

(3) The expenses incurred in connection with the election of an elective member shall be paid out of the moneys appropriated by Parliament for the purposes of this Act.

3. (1) The Governor may appoint a person as the deputy Deputies. of a member.

(2) Provisions of section 6 and this Schedule as to qualifications, nomination or election that apply to and in relation to the appointment of a member apply, with any necessary modifications, to and in relation to the appointment of the deputy of that member.

(3) A person appointed pursuant to this clause is, in the event of the absence from a meeting of the Board of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, is deemed to be a member and has all the powers, functions, and duties of a member.

4. (1) Subject to this Act-

Term of office.

- (a) each elective member shall hold office for a period ending at the expiration of 4 years from the date of the occurrence of the vacancy which he is appointed to fill, and is eligible for re-election and re-appointment;
- (b) each member other than an elective member shall hold office for such period, not exceeding 4 years. as is specified in the instrument of his appointment, and is eligible for re-appointment.

Nomination for appointment

S. 6.

(2) The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.

(3) The Governor may terminate the appointment of a member for inability, inefficiency, or misbehaviour.

- (4) The office of a member becomes vacant if—
 - (a) his term of office expires;
 - (b) his appointment is terminated pursuant to subclause (3) of this clause;
 - (c) he becomes an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
 - (d) he becomes permanently incapable of performing his duties as a member;
 - (e) he resigns his office by written notice addressed to the Minister;
 - (f) he absents himself, except on leave duly granted by the Minister from 3 consecutive meetings of the Board; or
 - (g) he ceases to hold any qualification required for his becoming or being a member.

(5) Notwithstanding subclause (1) (a) of this clause, where an elective member is appointed to fill a vacancy in the office referred to in section 6(1)(d) that has occurred otherwise than by effluxion of time the person appointed to fill the vacancy shall hold office for the unexpired portion of the term of his predecessor.

5. (1) The Board shall hold meetings at such times and places as are necessary to enable it to discharge its functions and duties under this Act and the Minister may at any time require the chairman to convene a meeting of the Board.

(2) The chairman shall preside at all meetings of the Board at which he is present and the deputy chairman shall preside at all meetings at which he, but not the chairman, is present, but where neither the chairman nor the deputy chairman is present at a meeting of the Board, the members present shall appoint one of their number present to preside at the meeting.

(3) At a meeting of the Board, 3 members constitute a quorum.

(4) Any question arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting.

Meetings of the Board.

(5) The member presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(6) The Board shall cause accurate minutes to be kept of its proceedings at its meetings.

(7) To the extent that it is not prescribed the Board shall determine its own procedure.

6. (1) Members of the Board shall be entitled to be paid Remuneration. such remuneration and allowances as are determined by the Minister on the recommendation of the Public Service Board.

(2) Acceptance of or acting in the office of member or deputy of a member shall not of itself render the provisions of the Public Service Act 1978 or any other Act applying to persons as officers of the Public Service applicable to that member or deputy of a member or affect or prejudice the application to him of those provisions if they applied to him at the time of the acceptance of or acting in that office.

7. No act, proceeding, or determination of the Board Validity of acts. shall be invalid on the ground only of any vacancy in the office of any member of the Board or of any defect in the appointment of any member of the Board or in the appointment of any deputy of a member of the Board.