

EXPORT PAYMENTS INSURANCE CORPORATION.

No. 32 of 1956.

An Act to promote Trade with Countries outside Australia by establishing an Export Payments Insurance Corporation to provide Insurance against certain Risks arising out of that Trade not normally insured with Commercial Insurers.

[Assented to 19th June, 1956.]

[Date of commencement, 17th July, 1956.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Export Payments Insurance Corporation Act 1956*.

Parts.

2. This Act is divided into Parts, as follows :—

Part I.—Preliminary (Sections 1–5).

Part II.—The Export Payments Insurance Corporation.

Division 1.—Establishment and Constitution of the Corporation (Sections 6–12).

Division 2.—Powers and Duties of the Corporation (Sections 13–16).

Division 3.—Staff (Sections 17–21).

Division 4.—Finances of the Corporation (Sections 22–31).

Division 5.—Reports (Sections 32–33).

Part III.—Miscellaneous (Sections 34–38).

Definitions.

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

“Australia” includes the Territories of the Commonwealth ;

“the Auditor-General” means the Auditor-General for the Commonwealth ;

“the Commissioner” means the Commissioner constituting the Corporation ;

“the Corporation” means the Export Payments Insurance Corporation constituted by this Act ;

“trade with countries outside Australia” includes any transaction (including a transaction for the rendering of a service) involving a consideration in money or money's worth accruing from a person in the course of carrying on business or other activities outside Australia to a person carrying on business in Australia.

4. This Act extends to all the Territories of the Commonwealth.

Extension to
Territories.

5. The *Insurance Act 1932-1937*, to the extent to which it requires deposits with the Treasurer, does not apply to the Corporation.

Insurance Act
1932-1937 not
to apply.

PART II.—THE EXPORT PAYMENTS INSURANCE CORPORATION.

Division 1.—Establishment and Constitution of the Corporation.

6.—(1.) For the purposes of this Act, there shall be an Export Payments Insurance Corporation, constituted by a Commissioner appointed and holding office as provided by this Act.

The Export
Payments
Insurance
Corporation.

(2.) The corporation—

(a) is a corporation sole with perpetual succession and an official seal; and

(b) is capable, in its corporate name and in Australia or elsewhere, of acquiring, holding and disposing of real and personal property and of suing and being sued.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Corporation affixed to a document and shall presume that it was duly affixed.

7.—(1.) Subject to this section, the Commissioner shall be appointed by the Governor-General for a period of seven years, but is eligible for re-appointment.

Appointment of
Commissioner.

(2.) Except as provided by the next succeeding sub-section, a person shall not be appointed or re-appointed as Commissioner for a period commencing after he has attained the age of sixty-five years.

(3.) Where the period of appointment or re-appointment of a person as Commissioner would, but for this sub-section, expire after he attains the age of sixty-five years, his appointment or re-appointment shall be for a period ending upon the date upon which he attains that age, but the Governor-General may, as from the expiration of that last-mentioned period, re-appoint him for such period, not being more than three years, as the Governor-General determines.

(4.) The Commissioner shall be paid salary and allowances as determined by the Governor-General.

(5.) The Governor-General may terminate the appointment of the Commissioner for inability, inefficiency or misbehaviour.

8. The Minister may grant leave of absence to the Commissioner upon such terms and conditions as to payment of salary or otherwise as the Minister determines.

Leave of
absence.

9. If the Commissioner—

(a) engages in paid employment outside the duties of his office without the approval of the Minister;

(b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his salary for their benefit;

Vacation of
office.

- (c) resigns his office by writing under his hand addressed to the Governor-General;
- (d) is absent from duty, except on leave granted by the Minister, for fourteen consecutive days or for twenty-eight days in any twelve months; or
- (e) in any way, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons—
 - (i) becomes concerned or interested in a contract entered into by or on behalf of the Corporation; or
 - (ii) participates or claims to participate in the profit of any such contract or in any benefit or emolument arising from any such contract.

the Governor-General shall declare, by notice in the *Gazette*, that the office of the Commissioner is vacant, and thereupon the office shall be deemed to be vacant.

**Acting
Commissioner.**

10.—(1.) If the office of Commissioner is vacant at any time (whether or not an appointment has previously been made to the office), or in the event of the absence from duty of the Commissioner, the Governor-General may appoint a person to be Acting Commissioner.

(2.) An Acting Commissioner appointed by reason of a vacancy in the office of Commissioner shall hold office during the pleasure of the Governor-General but shall not in any event continue in office for more than two years from the date of his appointment.

(3.) An Acting Commissioner appointed in the event of the absence from duty of the Commissioner shall hold office during that absence, but his appointment may at any time be terminated by the Governor-General.

(4.) An Acting Commissioner has all the powers and shall perform all the duties of the Commissioner.

(5.) An Acting Commissioner shall be paid salary and allowances as determined by the Governor-General.

**Relations of
Corporation
with Minister.**

11.—(1.) The Corporation shall keep the Minister informed of the decisions of the Corporation with respect to matters of policy in relation to the conduct of its business.

(2.) Before adopting a policy (including an altered policy) with respect to a matter included in any of the following subjects, namely:—

- (a) the classes of contracts of insurance into which the Corporation will enter;
- (b) the nature of the risks that may be covered under contracts of insurance with the Corporation; and
- (c) the undertaking of liabilities in relation to trade with particular countries,

the Corporation shall submit the policy for the approval of the Minister, and the Corporation shall not adopt the policy without the approval of the Minister, or, except during such time as the Minister permits,

continue to pursue the policy where the Minister, having approved the policy, subsequently withdraws his approval.

(3.) If the Corporation fails to obtain the Minister's approval to a policy with respect to a matter included in a subject specified in paragraph (a), (b) or (c) of the last preceding sub-section, or the Minister withdraws his approval of a policy of the Corporation with respect to such a matter, the Corporation shall endeavour to reach agreement with the Minister as to the policy to be adopted by the Corporation with respect to that matter and, in the event of agreement not being reached within a time which the Minister considers reasonable, the Minister may, by writing under his hand, determine a policy to be adopted by the Corporation with respect to that matter, and the Corporation shall adopt that policy.

(4.) Nothing in this section shall be construed as requiring the approval of the Minister to the entering by the Corporation into a particular contract of insurance or as empowering the Minister to determine that the Corporation shall or shall not enter into a particular contract of insurance, but the Corporation shall not enter into a particular contract of insurance unless the contract is in accordance with policies approved or determined by the Minister under this section.

12.—(1.) For the purposes of this Act there shall be a Consultative Council consisting of not more than ten members.

Consultative
Council.

(2.) A member of the Consultative Council—

- (a) shall be appointed by the Governor-General for a term not exceeding three years, but is eligible for re-appointment;
- (b) shall be paid such allowances (if any) for expenses as are determined by the Governor-General; and
- (c) may be removed from office by the Governor-General for good cause.

(3.) The Commissioner may, at his discretion, and shall, as required by the Minister, refer matters for advice to the Consultative Council.

Division 2.—Powers and Duties of the Corporation.

13.—(1.) The Corporation shall, subject to this Act, carry on the business of insurance, being insurance under contracts referred to in the next succeeding sub-section.

Corporation to
carry on
certain
insurance
business.

(2.) The contracts of insurance which the Corporation may enter into under this section are contracts of insurance with, or for the benefit of, persons carrying on business in Australia, being contracts of insurance against risk of monetary loss or other monetary detriment attributable to circumstances outside the control of the person suffering the loss or detriment and resulting from failure to receive payment in connexion with, or otherwise arising out of, acts or transactions in the course of, or for the purpose of, trade with countries outside Australia.

(3.) The Corporation shall not enter into contracts of insurance under this section against risks that are normally insured with commercial insurers.

Duties of Corporation.

14. The Corporation shall—

- (a) endeavour to encourage trade with countries outside Australia by developing and expanding its business ; and
- (b) pursue a policy directed towards securing revenue sufficient to meet all its expenditure properly chargeable to revenue.

Powers of Corporation.

15. The Corporation has power to do (whether in Australia or elsewhere) all things necessary or convenient to be done for or in connexion with, or as incidental to, the carrying on of its business and, in particular, power—

- (a) to acquire, hold and dispose of land, goods or other property ;
- (b) to make contracts ;
- (c) to appoint agents and attorneys ;
- (d) to institute and defend legal proceedings ;
- (e) to advertise its services ; and
- (f) to obtain and pay for information necessary for its business.

Percentage of loss that may be covered.

16. A contract of insurance entered into by the Corporation shall specify a percentage as the percentage of the amount of the loss, as defined in the contract, to which the indemnity under the contract extends, and the maximum percentage which may be so specified is eighty-five per centum.

Division 3.—Staff.

Appointment of officers.

17.—(1.) The Corporation may appoint such officers as it thinks necessary.

(2.) Subject to the next succeeding sub-section, a person shall not be appointed as an officer of the Corporation unless—

- (a) he is a British subject ;
- (b) the Commissioner is satisfied as to his health and physical fitness ; and
- (c) he makes and subscribes an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution.

(3.) The Corporation may appoint, to such positions or to positions of such classes as are approved by the Minister, persons who do not comply with all the provisions of the last preceding sub-section.

Terms and conditions of employment.

18.—(1.) Subject to the next succeeding sub-section, the terms and conditions of employment of officers appointed by the Corporation shall be such as are, with the approval of the Public Service Board, determined by the Corporation.

(2.) The Corporation shall not, except with the approval of the Minister, determine the salary of a position in the service of the Corporation at a rate exceeding Two thousand five hundred pounds per annum.

(3.) Where the Commissioner, an Acting Commissioner or an officer appointed in pursuance of this section was, immediately before his appointment, an officer of the Public Service of the Commonwealth—

- (a) he retains his existing and accruing rights ;

- (b) for the purposes of determining those rights, his service as Commissioner or Acting Commissioner or as an officer of the Corporation shall be taken into account as if it were service in the Public Service of the Commonwealth ; and
- (c) the *Officers' Rights Declaration Act* 1928–1953 applies as if this Act and this section had been specified in the Schedule to that Act.

19.—(1.) The Corporation shall appoint a person to be the principal executive officer of the Corporation. Principal executive officer.

(2.) The principal executive officer shall, under the Commissioner, manage the affairs of the Corporation.

20. The Corporation may employ such temporary or casual employees as it thinks fit, on such terms and conditions as the Corporation determines. Temporary and casual employees.

21.—(1.) The *Commonwealth Employees' Compensation Act* 1930–1954 applies to the Commissioner or an Acting Commissioner and to officers and employees of the Corporation as if they were employees within the meaning of that Act. Compensation to officers and employees.

(2.) Any liability to pay compensation under that Act as applied by this section shall be borne by the Corporation.

Division 4.—Finances of the Corporation.

22. The Commonwealth is responsible for the payment of all moneys due by the Corporation, but nothing in this section authorizes a creditor or other person claiming against the Corporation to sue the Commonwealth in respect of his claim. Corporation guaranteed by Commonwealth.

23.—(1.) The Treasurer may pay to the Corporation, out of the Consolidated Revenue Fund, which is appropriated accordingly, sums not exceeding in all Five hundred thousand pounds. Capital of Corporation.

(2.) Payments under the last preceding sub-section shall be made at such times and on such terms and conditions as the Treasurer determines and those terms and conditions may provide for repayment to the Commonwealth of the whole or a part of the moneys paid to the Corporation under this section.

(3.) The capital of the Corporation consists of the amounts paid to the Corporation under this section.

24.—(1.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Corporation of such amounts, and upon such terms and conditions with respect to repayment, payment of interest and otherwise, as the Treasurer determines. Loans to Corporation.

(2.) Except with the consent of the Treasurer, the Corporation shall not borrow otherwise than in accordance with this section.

25.—(1.) The Corporation shall open and maintain an account or accounts with the Commonwealth Bank of Australia, and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves. Bank accounts.

(2.) The Corporation shall pay all moneys received by it into an account referred to in this section.

Application
of moneys.

26.—(1.) Subject to the next succeeding sub-section, the moneys of the Corporation shall be applied only—

- (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Corporation in the exercise of its powers under this Act; and
- (b) in payment of the remuneration and allowances of the Commissioner or an Acting Commissioner, and of the allowances of the members of the Consultative Council established under section twelve of this Act.

(2.) Moneys of the Corporation not immediately required for the purposes of the Corporation may be invested on fixed deposit with the Commonwealth Bank of Australia or with any other bank approved by the Treasurer, or in securities of the Commonwealth.

Provision in
the nature of
reserves.

27. The Corporation may make provision in its accounts for depreciation, superannuation or future or contingent liabilities to such extent only as is approved by the Treasurer.

Maximum
liability.

28. The contingent liability of the Corporation under contracts of insurance is not at any time to exceed Twenty-five million pounds.

Proper accounts
to be kept.

29. The Corporation shall keep proper accounts and records in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over its assets and the incurring by it of liabilities.

Audit.

30.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Corporation, and shall forthwith draw the Minister's attention to any irregularity revealed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

(2.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under the last preceding sub-section.

(3.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Corporation relating directly or indirectly to the receipt or payment of moneys by the Corporation or to the acquisition, receipt, custody or disposal of assets of the Corporation.

(4.) The Auditor-General or an officer authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

(5.) The Auditor-General or an officer authorized by him may require the Commissioner or an officer of the Corporation to furnish him with such information in the possession of the Commissioner

or officer or to which the Commissioner or officer has access as the Auditor-General or authorized officer considers necessary for the purposes of an inspection or audit under this Act, and the Commissioner or officer of the Corporation shall comply with the requirement.

31.—(1.) Subject to this section, the Corporation is subject to taxation (other than taxes on income) under the laws of the Commonwealth, but is not subject to taxation under a law of a State or Territory of the Commonwealth to which the Commonwealth is not subject.

Liability to taxation.

(2.) Stamp duty under the law of a State or Territory of the Commonwealth is not payable by the Corporation or in respect of instruments or documents executed by or on behalf of the Corporation.

Division 5.—Reports.

32.—(1.) The Corporation shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

Annual report of Corporation.

(2.) Before furnishing the financial statements to the Minister, the Corporation shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records ;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of the affairs of the Corporation ;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Corporation during the year have been in accordance with this Act ; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3.) The Minister shall lay the report and financial statements of the Corporation, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

33. The Corporation shall, as soon as practicable after each period of three months ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September or the thirty-first day of December, forward to the Minister a return in a form approved by the Minister with respect to—

Quarterly return of liabilities.

- (a) contracts of insurance entered into by the Corporation in that period of three months ; and

- (b) contracts of insurance entered into by the Corporation and not discharged before the end of that period of three months.

PART III.—MISCELLANEOUS.

Validity of
insurance
contracts.

34. Without prejudice to the duty of the Corporation to comply with the provisions of this Act and to observe the limits of its powers under this Act, a contract of insurance entered into by the Corporation is not invalidated by reason of a provision of this Act not having been complied with by the Corporation in relation to the contract or by reason of its not being within those limits.

Delegation of
powers of
Minister.

35.—(1.) The Minister may, either generally or in relation to a particular matter or class of matters, by writing under his hand, delegate to the Permanent Head of the Department of State administered by the Minister or an officer of that Department occupying an office in the Second Division of the Public Service of the Commonwealth all or any of his powers under this Act, except this power of delegation and his power to make determinations under section eleven of this Act, so that the delegated powers may be exercised by the delegate either generally or with respect to the matter or class of matters specified in the instrument of delegation, as the case may be.

(2.) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Minister.

Secrecy.

36.—(1.) A person who, in the course of his duty or employment under or in connexion with this Act as the Commissioner, an Acting Commissioner, a member of the Consultative Council, an officer or employee of the Corporation, the Auditor-General or an officer authorized by the Auditor-General, has acquired, or has access to, information relating to the affairs of a person shall not, except in the course of his duty in connexion with this Act, communicate that information, or make it available, to another person.

Penalty: Two hundred and fifty pounds or imprisonment for twelve months.

(2.) The Commissioner or an Acting Commissioner, a member of the Consultative Council and an officer or employee of the Corporation shall, before entering on the performance of his duties, make and subscribe, before a person authorized under the law of the Commonwealth or a State to take affidavits, an oath or affirmation of secrecy in accordance with the form in the Schedule to this Act.

False
statements.

37.—(1.) A person who wilfully makes a false or misleading statement in or in connexion with an application or proposal for insurance under this Act or a claim under a contract of insurance under this Act is guilty of an offence.

(2.) An offence against this section may be prosecuted either summarily or on indictment.

- (3.) The punishment for an offence against this section is—
- (a) if the offence is prosecuted summarily—a fine not exceeding One hundred pounds ; or
 - (b) if the offence is prosecuted on indictment—imprisonment for a term not exceeding two years.

38. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, for prescribing penalties not exceeding a fine of Fifty pounds or imprisonment for a period not exceeding three months, or both, for offences against the regulations. Regulations.

THE SCHEDULE.

Section 36.

OATH OR AFFIRMATION OF SECRECY.

I, _____, do swear by Almighty God (or do solemnly and sincerely affirm and declare) that I will not, except in the course of my duty in connexion with the *Export Payments Insurance Corporation Act 1956*, communicate or make available to another person any information relating to the affairs of a person coming to my knowledge, or to which I have access, in the course of my duty (or employment) under that Act.
