**Insurance (Deposits) Act 1973**

**No. 77 of 1973**

**AN ACT**

To amend the *Insurance Act* 1932–1966.

[*Assented to 19 June 1973*]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

**Short title and citation.**

**1.** (1) This Act may be cited as the *Insurance* (*Deposits*) *Act* 1973.

(2) The *Insurance Act* 1932–1966 is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Insurance* (*Deposits*) *Act* 1932–1973.

**Commencement.**

**2.** (1) Sections 1, 2 and 5 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.

**Interpretation.**

**3.** Section 3 of the Principal Act is amended—

(a) by omitting from the definition of “Accident insurance business” in sub-section (1) the words “issue of, or the undertaking of liability under, policies of insurance upon” and substituting the words “business of undertaking liability under policies of insurance in respect of”;

(b) by omitting from that sub-section the definition of “Insurance business “and substituting the following definition:—

“‘Insurance business’ means the business of undertaking liability, by way of insurance (including reinsurance), in respect of any loss or damage, including liability to pay damages or compensation, contingent upon the happening of a specified event, and includes any business incidental to insurance business as so defined, but does not include—

(a) life insurance business;

(b) accident insurance business undertaken solely in connexion with life insurance business;

(c) pecuniary loss insurance business carried on solely in the course of carrying on banking business and for the purposes of that business by a bank within the meaning of the *Banking Act* 1959–1967;

(d) business in relation to the benefits provided by a friendly society or trade union for its members or their dependants;

(e) business in relation to the benefits provided for its members or their dependants by an association of employees, or of employees and other persons, that is registered as an organization under the *Conciliation and Arbitration Act* 1904–1972;

(f) business in relation to a scheme or arrangement under which superannuation benefits, pensions or payments to employees or their dependants (and not to any other persons) on retirement, disability or death are provided by an employer or his employees or by both, wholly through an organization established solely for that purpose by the employer or his employees or by both;

(g) business in relation to a scheme or arrangement for the provision of benefits consisting of—

(i) the supply of funeral, burial or cremation services, with or without the supply of goods connected with any such service; or

(ii) the payment of money, upon the death of a person, for the purpose of meeting the whole or a part of the expenses of and incidental to the funeral, burial or cremation of that person,

and no other benefits, except benefits incidental to the scheme or arrangement;

(h) business undertaken by a person, being a carrier, carrier’s agent, forwarding agent, wharfinger, warehouseman or shipping agent, relating only to his liability in respect of goods belonging to another person and in. his possession or under his control for the purpose of the carriage, storage or sale of those goods;

(j) business undertaken by a person, being an innkeeper or lodging-house keeper, relating only to his liability in respect of goods belonging to another person and in the possession or under the control of a guest at the inn or lodging-house of which the first-mentioned person is the innkeeper or lodging-house keeper or deposited with the innkeeper or lodging-house keeper for safe custody;

(k) the business of insuring the property of a religious organization where the person carrying on the business does not carry on any other insurance business; or

(l) business as a registered medical, benefits organization or a registered hospital benefits organization carried on by an organization that is a registered organization within the meaning of Part VI of the *National Health Act* 1953–1973;”; and

(c) by inserting after the definition of “Owner” in that sub-section the following definition:—

“‘Pecuniary loss insurance business’ means the business of undertaking liability by way of insurance against any one or more of the following risks:—

(a) risks of loss to the persons insured arising from the insolvency of their debtors or from the failure (otherwise than through insolvency) of their debtors to pay their debts when due;

(b) risks of loss to the persons insured arising from their having to perform contracts of guarantee;

(c) risks of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them;

(d) risks of loss to the persons insured attributable to their incurring unforeseen expense;”.

**Act not to apply to persons to whom *Insurance Act* 1973 does not apply.**

**4.** Section 5 of the Principal Act is amended by adding at the end thereof the following sub-section;—

“(2) This Act does not apply to—

(a) a person where, by reason of section 5 of the *Insurance Act* 1973, that Act does not apply to or with respect to insurance business carried on by that person; or

(b) a body corporate in respect of which an exemption under section 37 of that Act is in force.”.

**Deposits under State Acts.**

**5.** Section 7 of the Principal Act is amended by omitting from sub-section (1) the words “After the commencement of this Act, no State” and substituting the words “No State”.

**Termination of requirement to lodge deposit.**

**6.** Section 9 of the Principal Act is amended—

(a) by omitting the words “A person” and substituting the words “Subject to sub-section (2), a person”; and

(b) by adding at the end thereof the following sub-sections:—

“(2) This section does not apply to a person commencing to carry on insurance business in Australia after the expiration of the period of two years after the date of commencement of section 21 of the *Insurance Act* 1973 or, where a longer period, not exceeding five years after that date, is prescribed for the purposes of this section before the expiration of the first-mentioned period, after the expiration of that longer period.

“(3) In sub-section (2), ‘Australia’ includes a Territory to which the *Insurance Act* 1973 extends.”.

**Exemption from deposit requirement limited to Territories to which *Insurance Act* 1973 does not extend.**

**7.** Section 15 of the Principal Act is amended by inserting after the words “insurance business” the words “in a Territory to which the *Insurance Act* 1973 does not extend”.

**Information and returns.**

**8.** Section 16 of the Principal Act is amended—

(a) by omitting from sub-section (1) the words “A person carrying on insurance business” and substituting the words “Subject to sub-section (10), a person carrying on insurance business”; and

(b) by adding at the end thereof the following sub-section:—

“(10) This section does not apply to a person authorized under the *Insurance Act* 1973 to carry on insurance business.”.

**Return of deposit on termination of requirement to lodge deposits.**

**9.** Section 26 of the Principal Act is amended by adding at the end thereof the following sub-sections:—

“(5) Where—

(a) this Act does not, by reason of paragraph (a) of sub-section (2) of section 5, apply to or with respect to insurance business carried on by a person, who has deposited money or approved securities with the Treasurer under this Act; or

(b) a body corporate that has deposited money or approved securities with the Treasurer is granted an exemption under section 37 of the *Insurance Act* 1973,

the Treasurer shall return to the person or body corporate that money or those approved securities.

“(6) After the expiration of the period of two years after the date of commencement of section 21 of the *Insurance Act* 1973 or, if a longer period not exceeding five years after that date is prescribed for the purposes of section 9 of this Act before the expiration of the first-mentioned period, after the expiration of that longer period, the Treasurer shall return to a person carrying on insurance business in Australia the money or approved securities deposited by that person under this Act.

“(7) In sub-section (6), ‘Australia’ includes a Territory to which the *Insurance Act* 1973 extends.

“(8) Sub-section (6) does not apply to a body corporate that, before the expiration of the period, or longer period, as the case may be, referred to in that, sub-section, has commenced to be wound up or in respect of which a winding up order has been made by a court.”.

**Formal amendments.**

**10.** The Principal Act is amended as set out in the Schedule.

SCHEDULE Section 10

FORMAL AMENDMENTS

1. The following provisions of the Principal Act arc amended by omitting any number expressed in words that is used, whether with or without the addition of a letter or fetters, to identify a section of that Act or of another Act, and substituting that number expressed in figures:—

Sections 3(4), 7(4), 11(1), 13(1), 13a, 13b, 14(2)(b), (c)(i) and (d)(i), 20b(1), 22(2)(a) and 26b(1)(a) and (b).

2. The following provisions of the Principal Act are amended by omitting the words “of this Act”:—

Sections 7(4), 13a, 13b, 14(2)(b), (c)(i) and (d)(i), 20b(1), 22(2)(a) and 26b(1)(a) and (b).

3. The Principal Act is further amended as set out in the following table:—

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| Provision | Amendment |
| Section 3(1) (definition of “Actuary”) | Omit “the twenty-ninth day of July, One thousand eight hundred and ninety-four,”, substitute “29th July, 1894,”. |
| Section 3(4)  | Omit “of this Act” (last occurring). |
| Section 7(1)  | Omit “the first day of February, One thousand nine hundred and thirty-two,”, substitute “1st February, 1932,”. |
| Section 8  | Omit “the first day of February One thousand nine hundred and thirty-two,”, substitute “1st February, 1932,”. |
| Section 11(1)  | Omit “of this Act” (first occurring). |
| Section 13(1)  | Omit “of this Act” (first occurring). |