



ANNO VICESIMO QUINTO

ELIZABETHAE SECUNDAE REGINAE

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No. 31 of 1976

**An Act to amend the Insurance Act 1960–1975 in certain particulars**

[ASSENTED TO 28TH APRIL, 1976]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title and citation.** (1) This Act may be cited as the *Insurance Act Amendment Act 1976*.

(2) In this Act the *Insurance Act 1960–1975* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Insurance Act 1960–1976*.

**2. Transitional provision.** (1) Without prejudice to the operation of the *Acts Interpretation Act 1954–1971* every liability incurred by an insurer or an agent pursuant to the Principal Act shall continue in existence and shall be discharged by the person liable thereunder as if this Act had not been passed.

(2) No person shall be entitled to be paid a refund of any part of a license fee paid under the Principal Act and no such refund shall be paid by reason that the license to which the fee relates has ceased to have force or effect before its expiration by effluxion of time.

**3. Amendment of s. 3.** Section 3 of the Principal Act is amended by omitting from the proviso all words commencing with the words “(a) Every license issued” to the end of the section and substituting the following paragraph:—

“(a) Every license as a broker issued by the Treasurer of Queensland under the provisions of Part III of the repealed Acts before and in force at the commencement of this Act shall be deemed to be a license as a broker issued by the Insurance Commissioner under this Act and shall, subject to the provisions of this Act, continue in force accordingly.”.

**4. Amendment of s. 4.** Section 4 of the Principal Act is amended by—

(a) omitting the following definitions:—

“Agent”; “Chief representative”; “Lloyd’s settling agent”; “Reinsurance”; “Salaried officer”; “Settling agent”;

(b) adding at the end of the definition “Broker” the words:—

“: the term includes a Lloyds broker but does not include a broker who immediately prior to the passing of the *Insurance Act Amendment Act 1976* was licensed under this Act as an insurer”;

(c) omitting from the definition “License” all words commencing with the words “and, with reference” to the end of the definition.

**5. Repeal of and new s. 7.** The Principal Act is amended by repealing section 7 and substituting the following section:—

“**7. Carrying on as broker.** A person shall not act as or carry on business as a broker unless he is licensed under this Act as a broker.

Penalty: \$200 and in addition \$60 for each day on which the offence has continued.”.

**6. Repeal of and new s. 8.** The Principal Act is amended by repealing section 8 and substituting the following section:—

“**8. Grant of brokers’ licenses.** (1) Subject to this Act, the Insurance Commissioner may grant licenses to act as or carry on business as a broker.

(2) Every application for a license shall be made to the Insurance Commissioner and shall—

(a) be in or to the effect of the prescribed form;

(b) be signed by the applicant;

(c) be accompanied by the prescribed amount of annual fee for the first year of the license; and

(d) contain or be accompanied by such information and particulars as are prescribed.

(3) A license shall be in or to the effect of the prescribed form and shall specify—

(a) the name of the holder of the license;

(b) the authority conferred on the holder by the license; and

(c) such other particulars as are prescribed.

(4) Subject to this Act, a license shall continue in force without limit of time.”

**7. Repeal of and new s. 9.** The Principal Act is amended by repealing section 9 and substituting the following section:—

“**9. Annual license fee; suspension and cancellation of license.**

(1) There shall be payable in respect of every license an annual fee of \$20, or such other amount as the Governor in Council fixes by Order in Council, which shall be payable for each year or part of a year during which the license is in force.

(2) The prescribed amount of annual fee for the first year of a license, which shall accompany the application for the license as required by section 8 (2), shall be an amount that bears to the amount of the annual fee for the time being fixed by or under this Act the proportion which the number of months from the first day of the month in which the application is made to the next following last day of December bears to 12.

(3) The annual fee for the second and each subsequent year of a license shall become due and payable on 1 January in each year without any demand for payment being made.

(4) If, in respect of any year, the annual fee is not paid to the Commissioner within 30 days after 1 January of that year the Commissioner may suspend the license in respect of which the fee is not paid.

If, in respect of any year, the annual fee is not paid to the Commissioner within 60 days after 1 January of that year the Commissioner may cancel the license in respect of which the fee is not paid, whether or not he has suspended that license.

(5) Upon payment to the Commissioner of an annual fee for failure to pay which a license is suspended, he shall remove the suspension.

(6) Upon payment to the Commissioner of an annual fee for failure to pay which a license is cancelled he shall, subject to this subsection, restore the license.

The Commissioner shall not restore a license unless application for its restoration, accompanied by the payment for failure to make which the license was cancelled, is made not later than three months after its cancellation.

Before restoring a license that is cancelled the Commissioner may require the applicant for restoration to pay a penalty of an amount fixed by him not exceeding one-half of the payment for failure to make which the license was cancelled and he may refuse restoration of the license until such penalty is paid to him.

(7) All amounts of fees received by the Commissioner under this Act shall be paid by him to the Consolidated Revenue Fund.

No part of an annual fee paid shall be refunded or rebated on account of the suspension, cancellation or surrender of the license in respect of which it was paid.”

**8. Amendment of s. 10.** Section 10 of the Principal Act is amended by, in subsection (1), omitting from paragraph (b) the words “ or to the grant to the corporation of a license under this Act ”.

**9. Repeal of ss. 11 and 12.** The Principal Act is amended by repealing sections 11 and 12.

**10. Repeal of s. 13 and new sections.** The Principal Act is amended by repealing section 13 and substituting the following sections:—

“**11. Entitlement to broker’s license.** Subject to this Act, any person who—

- (a) makes application as prescribed by section 8 (2); and
- (b) satisfies the Commissioner that he is—
  - (i) of good fame and character;
  - (ii) competent to perform the duties of a broker;
  - (iii) not associated with an insurer in a manner that might lead to his having a conflict of interest as respects his association with that insurer and his responsibilities as a broker; and
  - (iv) adequately protected by a professional indemnity insurance policy,

shall be entitled to be licensed under this Act as a broker.

**12. Obligations of broker.** A person who is licensed as a broker—

- (a) shall, if allowed credit by an insurer, pay to that insurer all premiums due to him on or before the fifteenth day of the second month following that in which the transactions to which the premiums are relevant were completed with that insurer;
- (b) shall pay all premiums received by him on behalf of insurers into a separate bank account forthwith upon receiving them;
- (c) shall deliver promptly to an insured all original notices and documents issued by insurers and intended for the insured;
- (d) shall not take into partnership or take into or retain in his employment any person or a member of any firm or partnership where the license of that person, firm or partnership has been cancelled by the Commissioner during the preceding 13 months;
- (e) shall not exhibit at his office or any premises occupied by him any external window sign bearing the name of an insurer;
- (f) shall, if he is a member of a firm or partnership, give notice to the Commissioner of any change in the constitution of the firm or partnership promptly upon such change; and
- (g) shall not act as a director, managing agent or agent or accept an appointment as a salaried officer of an insurer without first surrendering his license as a broker.

**13. Annual accounts and audit.** A person who is licensed as a broker shall, within three months after the close of his financial year or within such longer period as the Commissioner approves in writing in a particular case, furnish to the

Commissioner a copy of his annual accounts for and his balance sheet at the end of that year, audited to the satisfaction of the Commissioner.”.

**11. Repeal of ss. 14 and 14A.** The Principal Act is amended by repealing sections 14 and 14A.

**12. Repeal of and new s. 17.** The Principal Act is amended by repealing section 17 and substituting the following section:—

“ **17. Premium rebates where hire-purchase agreement determined.** Where any hire-purchase agreement is determined (whether by repossession of the goods comprised therein or otherwise) the following rebates shall be made in respect of any insurance premium or premiums paid in respect of such goods:—

- (a) the total amount of premium paid in respect of any annual period not then commenced; and
- (b) ninety per centum of the proportion of the amount of the premium for insurance in respect of the current annual period attributable to the unexpired portion of that period consisting of whole months.”.

**13. Amendment of s. 18.** Section 18 of the Principal Act is amended by, in subsection (1), omitting from paragraph (a) the words “ as an insurer, Lloyds broker, broker, agent or settling agent ” and substituting the words “ as a broker ”.

**14. Amendment of s. 19.** Section 19 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:—

“ (1) If the Commissioner is satisfied that a person licensed under this Act as a broker is unable to pay his debts, he may give to that person written notice of his intention to cancel the license held by that person and of the reasons for his intention and may, subject to this section, cancel such license.

(2) If the Commissioner is satisfied that a person licensed under this Act as a broker—

- (a) is not of good fame and character;
- (b) is not competent to perform the duties of a broker;
- (c) is associated with an insurer in a manner that might lead to his having a conflict of interest as respects his association with that insurer and his responsibilities as a broker;
- (d) is not adequately protected by a professional indemnity insurance policy; or
- (e) has contravened or failed to comply with any provision of this Act,

he may give to that person written notice of his intention to cancel the license held by that person and of the reasons for his intention and may, subject to this section, cancel such license.”.

**15. Repeal of ss. 20 and 21.** The Principal Act is amended by repealing sections 20 and 21.

**16. Repeal of ss. 22.** The Principal Act is amended by repealing section 22.

**17. Amendment of s. 26.** Section 26 of the Principal Act is amended by omitting from subsection (3) the expression “*The Justices Acts, 1886 to 1958,*” and substituting the words “*the Justices Act 1886-1975*”.