

[CONFIDENTIAL.]
(Rough Draft for Consideration Only.)

No. , 1925.

To provide for the establishment of a Government Insurance Office; to require the deposit by insurance companies with the Colonial Treasurer of certain amounts, and for the investment of the amounts deposited; to transfer to the Government Insurance Office the business carried on by the Treasury Insurance Board; to amend the Metropolitan Water, Sewerage and Drainage Act, 1924, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Government Insurance Act, 1925." Short title.

2. This Act shall come into operation on a day to be appointed by the Governor and notified by proclamation published in the Gazette. Date of commencement.

3. This Act is divided into Parts as follows:— Parts.

PART I.—PRELIMINARY—*ss.*

PART II.—ESTABLISHMENT OF THE OFFICE—*ss.*

PART III.—MANAGEMENT OF THE OFFICE—*ss.*

PART IV.—GENERAL PROVISIONS—*ss.*

PART V.—ISSUE OF DEBENTURES BY THE OFFICE—*ss.*

PART VI.—MISCELLANEOUS—*ss.*

PART VII.—INSURANCE COMPANIES TO INVEST IN GOVERNMENT STOCK—*ss.*

4. In this Act, unless the context or subject-matter otherwise indicates or requires,— Definitions.

"Corporation" includes a public company.

"Prescribed" means prescribed by this Act or by regulation made thereunder.

"The general manager" means the general manager of the office.

"The office" means the Government Insurance Office of New South Wales established by this Act.

PART

PART II.

ESTABLISHMENT OF THE OFFICE.

5. A Government Insurance Office, to be called the ^{Establish-} "Government Insurance Office of New South Wales" ^{ment of office.} is hereby established.

6. The office shall be a body corporate with perpetual ^{Incorporation} succession and a common seal, and may sue and be sued ^{of office.} in its corporate name.

7. (1) The office shall have as its objects ^{Objects.} the carrying on either in New South Wales or elsewhere of the general business of insurance against risks of any kind or description, including any class of insurance or assurance now or hereafter practised in New South Wales or elsewhere.

(2) The office shall in addition to any other ^{Powers.} powers expressly or impliedly conferred by this Act have the following powers:—

- (a) to effect reinsurances and counter-insurances;
- (b) to enter into and operate under treaties with any person, including a Government Insurance Office, carrying on insurance business in New South Wales or elsewhere;
- (c) to sell annuities or endowments;
- (d) to acquire, hold, and dispose of land of any tenure;
- (e) to borrow money;
- (f) to pay bonuses in the ordinary course of business;
- (g) compromise, compound, abandon, submit to arbitration, or otherwise settle any debt, account, claim or matter arising in the course of the business; and
- (h) to do anything incidental to any of its powers.

(3) The office may decline any business offered without stating any reasons for so declining in any case in which any other person in New South Wales may lawfully undertake the business.

8. (1) The office may, with the approval of the Minister, enter into an agreement with any other corporation carrying on the business of insurance for the purchase by the office of all or any of the assets of that corporation and for the transfer to the office of the debts and liabilities of that corporation or any part thereof.

Office may purchase insurance business.

(2) Payment in respect of any such arrangement may be made either by debentures or in cash, or in part by debentures and in part by cash, or in such other manner as may be agreed upon between the office and the corporation.

cf. No. 24 of 1914 (Fed.), s. 2.

9. (1) The capital of the office shall be one million pounds to be raised by the sale and issue of debentures in pursuance of this Act.

Capital. cf. No. 18 of 1911 (Fed.), s. 9.

(2) The capital of the office shall be available for the objects of the office.

10. (1) At any time after the passing of this Act, and either before or after its commencement, the Colonial Treasurer may, out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, make advances to the person who is appointed as general manager for the purpose of enabling him to defray any of the expenses incidental to the establishment of the office, the opening of branches or agencies thereof for business, and the raising of sufficient capital for carrying on business.

Advance to office by Treasurer. *Ibid.* s. 10.

(2) Any moneys advanced in pursuance of this section shall be repaid to the Colonial Treasurer by the office together with interest at the rate of five per centum per annum.

PART III.

MANAGEMENT OF THE OFFICE.

11. (1) The office shall be managed by the general manager.

Management. *Ibid.* s. 11.

(2) There shall be a board of advice constituted of the managers of the several insurance departments of the

Board of advice.

the

the office and such other persons not exceeding two as the Governor may on the recommendation of the general manager and the said managers appoint.

The board shall meet at such times at least once in each month, and shall have such duties and functions as may be prescribed.

Any member other than an officer may be paid such fees out of the funds of the office as the Governor on the recommendation of the board approves.

12. (1) The general manager shall be appointed by the Governor and shall hold office during good behaviour for a period of seven years and shall be eligible for reappointment.

Appointment of general manager. cf. No. 18 of 1911 (Fed.), s. 12.

(2) The general manager shall be deemed to vacate his office if—

Office of general manager, how vacated. cf. No. 15, 1924 (Fed.), s. 7.

(a) he engages during his term of office in any paid employment outside the duties of his office; or

(b) he becomes bankrupt, or applies to take the benefit of any law relating to the relief of bankrupt debtors, or compounds with his creditors, or makes an assignment of his remuneration for the benefit of any creditor; or

(c) he absents himself (except on leave granted by the Governor) from all meetings of the board of advice held during two consecutive months, or absents himself (except on leave granted by the Governor) from his duties for the period of four consecutive weeks in any period of twelve months; or

(d) he becomes permanently incapable of performing his duties.

13. (1) The general manager shall be paid such salary and travelling expenses as shall be fixed by the Governor.

Salary. cf. No. 18 of 1911 (Fed.), s. 13.

(2) The salary of the general manager shall not be reduced during his continuance in office.

14.

14. (1) The general manager shall devote the whole of his time to the duties of the office, shall be the chief executive officer of the office, and shall have such powers and perform such duties as are prescribed.

Powers and duties of general manager.

(2) The general manager may delegate to any of the officers of the office any duty or power unless such delegation is forbidden by the regulations made under this Act.

15. If the general manager is absent from whatever cause, or if any vacancy exists in the office of general manager, the Governor may appoint some other officer already in the service of the office to exercise the powers and perform the duties of the general manager and either generally or in respect of any special matters during his absence, or while the vacancy exists, or during any specified period.

Officer to exercise powers of general manager during absence, &c. cf. No. 18 of 1911 (Fed.), s. 15.

16. (1) The managers of the several departments of the office shall be appointed by the Governor on the recommendation of the general manager.

Appointment of officers. Ibid. s. 16.

(2) The general manager may, from time to time, subject to the provisions of section forty-nine, appoint such other officers and servants of the office as he thinks necessary for efficiently conducting the business of the office.

(3) The provisions of the Public Service Act, 1902, and any Act amending the same shall not apply to officers or servants of the office: Provided that nothing herein contained shall affect any right or privilege accrued or to accrue under the said Acts or under the Superannuation Act, 1916, or any Act amending the same, to any permanent or temporary employee whose services are transferred to the office, and such employee shall be entitled to contribute to the superannuation fund or the State provident fund; and any pension, gratuity or other sum shall be payable as if such employees were officers within the meaning of the said Acts.

(4) The Superannuation Act, 1916, is amended by adding at the end of Schedule III the words "The Government Insurance Office of New South Wales."

Amendment of Act No. 28, 1916. Sch. III.

17. Officers of the office shall not borrow money from the office on any security except the surrender value of life policies issued by the office.

Officers not to borrow from office. No. 18 of 1911 (Fed.), s. 17.

18. The general manager shall furnish to the Minister, in accordance with the prescribed forms, annual statements of the assets and liabilities of the office, and of the business of the office, which statements shall be published in the Gazette.

Returns to Minister. Ibid. s. 18.

19. (1) The affairs of the office shall be subject to inspection and audit by the Auditor-General.

Audit. Ibid. s. 19.

(2) The inspection and audit shall be conducted yearly, and the Auditor-General shall report to the Minister the result of each inspection and audit.

(3) Towards defraying the cost and expenses of the inspection and audit the office shall pay to the Colonial Treasurer by quarterly payments the sum of hundred pounds annually, and after three years from the commencement of this Act such further annual sum as may be from time to time fixed by the Governor.

20. The general manager shall prepare a balance-sheet in accordance with the prescribed form once in each year, and shall submit it to the Auditor-General for report as to its correctness or otherwise, and shall transmit it, together with the report of the Auditor-General, to the Minister. A copy of such balance-sheet and report shall be laid before both Houses of Parliament if Parliament is in session, and if not, then at the next ensuing session.

Balance-sheet. Ibid. s. 20.

PART IV.

GENERAL PROVISIONS.

21. The head office of the office shall be situated in Sydney.

Head office.

22. The general manager may establish branches or appoint agencies of the office in any part of the State.

Branches and agencies. Ibid. s. 22.

23.

23. The general manager may, with the approval of the Minister, by instrument under the common seal of the office, appoint any person (whether in the State or in any place beyond the State) to be the attorney of the office, and any person so appointed may, subject to the instrument, do any act or execute any power or function which he is authorised by the instrument to do or execute.

Power to appoint attorney.
cf. No. 18 of 1911 (Fed.), s. 24.

24. The general manager may arrange with any person to act as the agent of the office in any place whether in or outside Australia.

Agents.
Ibid. s. 25.

25. The office may act as the agent in New South Wales of any person carrying on insurance business in or outside Australia.

Office may act as agent.
Ibid. s. 26.

26. Where the office holds any property, whether real or personal, the office may maintain, repair, or improve the property until, in the discretion of the general manager, the property may be disposed of in the best interests of the office.

Power to improve property.
Ibid. s. 27.

27. The common seal of the office shall be kept in the custody of the general manager.

Custody of seal.
Ibid. s. 28.

28. The common seal shall not be affixed to any document without the authority of the general manager.

Affixing of seal.
Ibid. s. 29.

29. (1) With the exception of the net profits derived from the life department, the net profits of the office shall be dealt with as follows:—

Disposal of profits.
Ibid. s. 30.

(a) One-half shall be placed to the credit of a fund to be called the general reserve fund; and

(b) one-half shall be placed to the credit of a fund to be called the redemption fund.

(2) The general reserve fund shall be available for the payment of any liabilities of the office.

(3) The redemption fund may be used in repayment of any money advanced to the office by the Colonial Treasurer, or in the redemption of the debentures or stock issued by the office; but whenever the fund exceeds the amount of debentures and stock in circulation, the excess shall be placed to the credit of the general reserve fund.

(4) The net profits derived from the life department after proper provision for claims and liabilities has been made shall be separately invested, and shall be applied towards the provision of reversionary bonuses to the policy holders in that department.

30. Contracts on behalf of the office may be made, varied, or discharged as follows :—

- Contracts.
cf. No. 18 of
1911 (Fed.),
s. 31.
- (a) Any contract which, if made between private persons, would be required by law to be in writing under seal, may be made, varied, or discharged, in the name and on behalf of the office, in writing under the common seal of the office.
- (b) Any contract which, if made between private persons, would be required by law to be in writing and signed by the parties to be charged therewith, may be made, varied, or discharged, in the name and on behalf of the office, in writing signed by any person acting under the express or implied authority of the office.
- (c) Any contract which, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made, varied, or discharged by parol, in the name and on behalf of the office, by any person acting under the express or implied authority of the office.

And all contracts made according to the provisions contained in this section shall be effectual in law, and shall be binding upon the office and on all other parties thereto, their heirs, executors, administrators, or assigns, as the case may be :

Provided that nothing in this section shall invalidate any contract executed on behalf of the office by any duly appointed attorney of the office, if the contract would be valid if executed by the attorney on his own behalf.

31. The general manager may, with the consent of the Minister, make rules, not inconsistent with this Act or the regulations thereunder, for any of the following purposes :—

- (a) the good government of the office ;

(b)

- (b) the classification of the officers of the office ; and
- (c) any matter necessary or convenient to be provided for carrying on the business of the office.

32. The Crown shall be responsible for the payment of all moneys due by the office :

Crown responsible for payment of moneys due. cf. No. 18 of 1911 (Fed.), s. 33.

Provided that nothing in this section shall authorise any creditor or other person claiming against the office to sue the Crown in respect of his debt or claim.

33. The office may invest any moneys held by it—

Investment of funds. *Ibid.* s. 34.

- (a) upon any security on which a trustee is by the Trustee Act in force for the time being or by any other Act authorised to invest trust moneys, but subject to like restrictions and conditions ; or
- (b) on loan on the security of life policies issued by the office within their surrender value ; or
- (c) in any other prescribed manner.

34. Debts due to the office by any person shall have the same priority as debts due to the Crown.

Priority of debts due to office. cf. No. 24 of 1914 (Fed.), s. 4.

PART V.

ISSUE OF DEBENTURES BY THE OFFICE.

35. The office may from time to time issue debentures of such amount as it thinks necessary, but so that the total amount thereof current at any one time shall not exceed one million pounds.

Issue of debentures. cf. No. 18 of 1911 (Fed.), s. 53.

36. Debentures shall be in accordance with the prescribed form, and shall be under the common seal of the office, and shall be signed and countersigned as prescribed.

Form of debentures. *Ibid.* s. 54.

37. (1) Debentures shall be for ten pounds or some multiple thereof, and shall bear interest at a rate to be fixed by the office before the issue thereof.

Interest and period of debentures. *Ibid.* s. 55.

(2) Debentures shall be redeemable at par at such time or times as are specified therein, being—

- (a) on a fixed date ; or
- (b)

- (b) after a fixed date on twelve months' notice given by the office in the prescribed manner; or
- (c) between fixed dates on twelve months' notice given by the office in the prescribed manner.

38. The Crown by this Act guarantees the payment by the office of the principal and interest due in respect of any debenture issued by the office in pursuance of this Act, and the Consolidated Revenue Fund is hereby appropriated for this purpose.

Guarantee by Crown.
cf. No. 18 of 1911 (Fed.), s. 56.

39. (1) Debentures and every coupon originally annexed to a debenture and whether separated therefrom or not, shall be payable to the bearer thereof, and shall pass by delivery only, without any assignment or endorsement, and the bearer of a debenture or coupon shall have the same rights and remedies as if he were expressly named therein.

Negotiability of debentures.
Ibid. s. 57.

(2) At the request of the bearer of a debenture the office may in lieu thereof issue to him inscribed stock of the same currency and bearing the same interest, and transferable only in manner prescribed.

(3) At the request of the holder of any inscribed stock of the office, the office may in lieu thereof issue to him debentures of the same currency and bearing the same interest.

40. (1) The office may sell debentures or cause them to be sold, at such times and at such places and in such sums and on such conditions as are prescribed.

Sale of debentures.
Ibid. s. 58.

(2) A purchaser of a debenture or of inscribed stock of the office shall not be concerned to inquire whether the amount authorised by this Act to be raised by the sale and issue of debentures has been exceeded or not.

Purchasers' protection.

(3) Any debenture issued or stock inscribed by the office shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(4)

(4) No notice of any trust expressed, implied, or constructive shall be received by the office or by any officer or servant of the same in relation to any debenture or coupon issued or stock inscribed by the office.

41. (1) If any debenture issued by the office is lost or destroyed or defaced before the same has been paid, the office may, subject to the provisions of this section, issue a new debenture in lieu thereof. Lost debentures.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed, and that it has not been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the office to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the office for cancellation.

(5) The provisions of this section shall *mutatis mutandis* extend to the case of a lost, destroyed, or defaced coupon.

42. A trustee, executor, or administrator may invest any trust moneys in his hands in the purchase of debentures or inscribed stock issued by the office. Investment of trust moneys in debentures.

43. (1) Any person who, with intent to defraud—

- (a) forges any security of the office; or
- (b) utters any forged security of the office; or

Forgery of securities.
cf. No. 18 of
1911 (Fed.),
s. 59.

(c)

- (c) makes any instrument for forging any security of the office; or
- (d) has in his possession any such instrument; or
- (e) has in his possession any forged security of the office,

shall be guilty of a misdemeanour and liable to imprisonment for *ten* years.

(2) Any person who, unless with authority, Unauthorised forms. proof whereof shall lie upon him—

- (a) makes any form of security of the office;
- (b) has in his possession any form of security of the office; or
- (c) makes or has in his possession any instrument or thing by which any distinctive mark or signature on any security of the office may be made or imitated,

shall be guilty of a misdemeanour and liable to imprisonment for *two* years.

(3) In this part of this Act “security of the office” means any debenture, inscribed stock, or any coupon, warrant, or document for the payment of interest thereon, and includes any transfer of any inscribed stock, and any endorsement of any coupon, warrant, or document for the payment of interest on any security of the office.

44. All forged securities of the office, and all unauthorised forms of security of the office, and all unauthorised instruments and things by which any distinctive mark or signature on any security of the office, may be unlawfully made or imitated, shall be forfeited to His Majesty and may be seized by any member of the police force. Forfeiture of forged securities. cf. No. 18 of 1911 (Fed.), s. 60.

PART VI.

MISCELLANEOUS.

45. Any officer of the office who fraudulently and in breach of his duty—

- Falsification of books, &c. cf. No. 18 of 1911 (Fed.), s. 61.
- (a) makes any false entry in any book, record, or document; or
 - (b) omits to make any entry in any book, record, or document; or
 - (c) by act or omission falsifies any book, record, or document; or
 - (d) destroys or damages any book, record, or document; or
 - (e) furnishes any false return or statement of any money or property; or
 - (f) omits to furnish any return or statement of any money or property,

shall be guilty of a misdemeanour and liable to imprisonment for *seven* years.

46. Any officer of the office who steals, or fraudulently misappropriates, or fraudulently converts to his own use any money or property of the office shall be guilty of a misdemeanour and liable to imprisonment for *seven* years.

Misappropriation. *Ibid.* s. 62.

47. No insurance company carrying on business within the State shall refuse to allow additional insurance with the office in respect of any insurance risk.

Additional insurance to be allowed. cf. Geo. V, No. 27 (Q.), s. 23.

Any such company refusing to allow such additional insurance shall be liable to a penalty of *fifty* pounds for every such offence.

This section shall not be held to prohibit the cancellation of a policy by any company for prudential reasons if the company allows the insured a return premium in respect of the unexpired term of the policy calculated pro rata as to time and without reference to any customary short period ratings.

48. (1) Upon the commencement of this Act the office shall take over any Government insurance business which is then being carried on by the Treasury Insurance Board.

Government insurance business to be transferred to office.

(2) The Colonial Treasurer may make such payments to the office, as in his opinion are just and equitable, out of any funds accumulated in special deposit account in the Treasury, in respect of any Government insurance business which is taken over by the office.

(3) Any persons who, at the date of the said commencement, are permanent or temporary employees in the Treasury Insurance Branch shall be entitled to be appointed by the general manager under subsection two of section seventeen, as from the date of the said commencement, as officers or servants of the office, at a salary, or a salary and allowance, not less than the salary, or the salary and allowance, received by them respectively at the said date.

(4) The Metropolitan Water, Sewerage, and Drainage Act, 1924, is amended by omitting from section one hundred and twenty-three the words "Treasury Insurance Board" and by inserting in lieu thereof the words "Government Insurance Office of New South Wales."

Amendment of Act 1924 No. 50, s. 123.

49. (1) From and after a day to be appointed by the Governor and notified by proclamation published in the Gazette, insurable risks affecting or relating to any property, business, or enterprise belonging to the State, or carried on by or on behalf of the State or of some department of the State or in respect of which some subsidy or endowment has been or is paid by the State, shall not be insured otherwise than with the office.

Risks to be insured with office.

(2) Any person acting in contravention of the provisions of this section shall be liable to a penalty of *fifty* pounds.

(3) Nothing in this section shall preclude the office from effecting a reinsurance of any such risk as is referred to in this section or vitiate or invalidate any contract of insurance made in contravention of this section.

50. The provisions of the Life, Fire and Marine Insurance Act, 1902, and of the Life, Fire and Marine Insurance Amendment Act, 1917, shall extend and apply

Application of other Acts.

apply to all contracts or policies of insurance made or granted by the office under this Act as if the office were a company within the meaning of these Acts.

51. The provisions of any Act now or hereafter in force which renders an insurance company liable to assessment for rates of any description or to pay stamp duty on any instrument or to pay fire brigade charges or State taxation shall extend and apply to the office and to the business conducted thereby by virtue of this Act.

Liability as
to stamp
duty, &c.

52. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which 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 without limiting the generality of the foregoing power in particular for making provision for the issue, inscription, transfer, transmission, and redemption of debentures and inscribed stock of the office and all matters incidental thereto.

Regulations.

(2) Such regulations may prescribe a penalty not exceeding *fifty* pounds for any breach thereof.

(3) Such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (c) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulation or any part thereof, such regulation or part shall thereupon cease to have effect.

(5) Subject to the provisions of this Act such regulations shall have the force of law.

PART VII.

INSURANCE COMPANIES TO INVEST IN GOVERNMENT STOCK.

53. (1) Every insurance company, while carrying on business in this State, shall invest and keep invested a sum of not less than twenty thousand pounds in New South Wales Government stock:

Insurance companies to hold Government stock.

Provided that if and so long as the head office of any such company is situated outside New South Wales, the sum to be so invested by such company shall be not less than thirty thousand pounds.

(2) For the purpose of this section "insurance company" includes every corporation, wherever incorporated, and every society or person or body of persons whose principal business in this State is the carrying on of any kind of insurance business.

