

291

[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

NOT REVISED BY THE PARLIAMENTARY DRAFTSMAN.

No. , 1937.

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# A BILL

To require owners of motor vehicles to insure against liability to pay damages in respect of the death of or bodily injury to persons caused by or arising out of the use of motor vehicles; and for purposes connected therewith.

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**B**E 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 :—

1. This Act may be cited as "The Motor Vehicles Short title.  
(Third Party Insurance) Act, 1937."

2. (a) This Act shall commence on a date or dates to Commence-  
ment. be appointed by the Governor, and notified by proclamation in the Gazette.

1292

(b) Any such appointment and proclamation may be made with respect to the whole Act or to such sections or provisions of the Act as may be specified therein or to the whole Act with the exception of specified sections or provisions.

3. (1) Subject to the control of the Minister, this Act shall be administered in the Department of Road Transport and Tramways by the Commissioner. Administration.

(2) Any expenses incurred by the Commissioner in connection with the administration of this Act shall be paid from the Road Transport and Traffic Fund established under the Transport Act, 1930.

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

“Authorised Insurer” means any body corporate or unincorporate which is approved as an authorised insurer under this Act.

“Commissioner” means the Commissioner for Road Transport and Tramways appointed under the Transport (Division of Functions) Act, 1932.

“Driver” includes the rider of a motor cycle and any person for the time being in charge of any motor vehicle, and “driving” has a corresponding meaning.

“Member of family” means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, brother, sister, half-brother, half-sister and any person who stands in loco parentis to another person and also that other person.

“Motor Vehicle” has the same meaning as in the Motor Traffic Act, 1909, as amended, but does not include a motor omnibus registered under the Transport Act, 1930, as amended.

“Owner” when used with reference to a motor vehicle means—

(a) in a case where the vehicle is registered—the person in whose name it is registered except where such person has sold  
or

473

or ceased to have the possession of the vehicle within the meaning of section twelve of this Act and has complied with the requirements of such section in respect of such sale or cessation of possession;

- (b) in a case where the vehicle is registered and has been purchased or the possession thereof has been acquired within the meaning of section twelve of this Act—any person who solely or jointly or in common with any other person has so purchased or acquired possession of the vehicle;
- (c) in a case where a trader's plate is affixed to the vehicle pursuant to the provisions of the Motor Traffic Act, 1909, as amended, or the regulations made thereunder—the trader to whom such plate is in issue;
- (d) in any other case—any person who solely or jointly or in common with any other person, is entitled to the immediate possession of the vehicle.

“Passenger conveyed for hire or reward” when used with reference to a motor vehicle means any person being conveyed in the vehicle for hire or reward or any person who has been conveyed in the vehicle for hire or reward and is leaving or is about to leave the vehicle or any person who is entering or is about to enter the vehicle for the purpose of being conveyed therein for hire or reward.

“Policy of Insurance” means a policy complying with the provisions of this Act.

“Prescribed” means prescribed under this Act or regulations.

“Registered” means registered under the Motor Traffic Act, 1909, as amended, or the Transport Act 1930, as amended and “registration” has a corresponding meaning.

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*The Motor Vehicles (Third Party Insurance).*

4

“This Act” includes the regulations made under this Act.

“Trader’s plate” means a special number plate issued to a manufacturer or repairer of or dealer in motor vehicles in accordance with the regulations under the Motor Traffic Act, 1909, as amended, and, in a case where a pair of such plates has been so issued, includes such pair of plates.

(2) This Act shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment thereof would, but for this subsection, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

5. (1) (a) The owner of a motor vehicle shall insure himself and keep himself insured to the extent provided by this Act under a policy of insurance in or to the effect of the prescribed form and issued by an authorised insurer against liability to pay damages in respect of the death of or bodily injury to any person arising out of or caused by the use of such motor vehicle.

Owner must insure.

(b) The owner of a motor vehicle shall not use it or cause or permit it to be used unless a policy of insurance is in force in relation to such motor vehicle.

(c) Any person who fails to comply with the provisions of this section shall be liable to a penalty not exceeding *one hundred* pounds or to imprisonment for a period not exceeding *twelve* months or to both such penalty and imprisonment.

6. (1) Except as provided in subsection two of this section, the liability of an authorised insurer for claims under a policy of insurance shall be unlimited as to amount.

Extent of liability.

(2) The liability of an authorised insurer under a policy of insurance may be limited to two thousand pounds for any claim made by or in respect of any passenger conveyed for hire or reward in the motor vehicle

Limitation as regards paying passengers.

The Motor Vehicles (Third Party Insurance).

vehicle to which the policy of insurance relates and to twenty thousand pounds for all claims arising out of the same accident made by or in respect of passengers so conveyed. Such amounts shall be inclusive of all costs incidental to any such claim or claims.

(3) The liability of the authorised insurer under a policy of insurance need not extend to indemnify the owner or driver against any claim made in respect of the death of or bodily injury to— Exclusions.

(a) any person (not being a passenger conveyed for hire or reward) driving, being conveyed in, entering or alighting from or about to enter or alight from, the motor vehicle to which the policy of insurance relates; Non-paying passengers.

(b) any person who is living with the owner or driver as a member of his family; Members of family.

(c) any person in the employment of the owner or driver where the death of or injury to such person is caused by or arises out of and in the course of such employment. Employees.

7. (a) For the purposes of this Act and of every policy of insurance, every person other than the owner who is driving a motor vehicle with or without the authority of the owner shall be deemed to be the agent of the owner acting within the scope of his authority in relation to such motor vehicle. Presumption of agency.

(b) Subject to subsection (c) of this section where there is in force a policy of insurance relating to a motor vehicle, the provisions of this Act with respect to the indemnification of the owner under the policy of insurance shall, with such adaptations as are necessary, extend and apply with respect to any person (other than the owner) who is driving such motor vehicle with or without the authority of the owner. Indemnification of persons other than the owner.

(c) If the owner of a motor vehicle incurs any liability under this Act whilst such motor vehicle is in charge of any other person, not being—

(i) a member of the family of the owner living with the owner as a member of his household; or

(ii)

296

*The Motor Vehicles (Third Party Insurance).*

- (ii) a person licensed to drive a motor vehicle in accordance with the provisions of the Motor Traffic Act, 1909, as amended, and using such vehicle with the authority of the owner; or
- (iii) an employee of the owner in charge of the vehicle under a bona fide belief that he had the authority of the owner,

the authorised insurer shall be entitled to recover from such person in charge of the said motor vehicle as aforesaid by way of damages the amount paid in satisfaction of the liability of the owner or such amount as the court may determine.

8. (1) (a) Any body corporate or unincorporate carrying on the business of motor vehicle accident insurance in New South Wales may apply to the Commissioner to be approved as an authorised insurer.

Approval of insurers.

(b) Any person or association of persons granting cover or receiving premiums, proposals or requests in respect of insurance business on behalf of or for transmission to any person or association of persons outside New South Wales shall be deemed for the purpose of this subsection to be a body carrying on the business of insurance in New South Wales.

(2) The Commissioner may refuse to grant such approval or may grant such approval subject to such conditions (if any) as he thinks fit.

(3) Notice of such approval and of any such conditions shall be published in the Gazette and such approval shall take effect on a date specified for the purpose in such notice.

(4) The Commissioner may at any time cancel such approval or may vary any conditions of such approval and such cancellation or variation shall take effect on a date specified for the purpose in a notice published in the Gazette.

(5) Any authorised insurer may by notice in writing to the Commissioner withdraw from insurance business in terms of this Act: Provided that such notice of withdrawal shall not take effect until a date specified by notice published in the Gazette.

Withdrawal from insurance business.

297

7

*The Motor Vehicles (Third Party Insurance).*

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(6) A cancellation of approval or variation of conditions or a notice of withdrawal as aforesaid shall not affect any policy of insurance issued before such cancellation, variation or notice takes effect.

(7) There shall be an appeal to a judge of the District Court whose decision shall be final against— Appeal.

- (a) the refusal by the Commissioner to grant any approval under this section;
- (b) any condition imposed by the Commissioner in respect of any approval under this section or any variation of any such condition;
- (c) the cancellation by the Commissioner of any approval as an authorised insurer.

The regulations may prescribe the manner of appeal and the court to which it is to be brought.

**9.** (1) A motor vehicle shall not be registered nor shall the registration of a motor vehicle be renewed or transferred unless and until there is produced to the Commissioner a certificate in the prescribed form issued by an authorised insurer that a policy of insurance complying with the provisions of this Act has been or will be issued to the applicant for registration, renewal or transfer (as the case may be) in relation to such motor vehicle for the whole of the period for which such registration will be or is effective and for seven days after the expiration of such period. Motor vehicle not to be registered, etc., without evidence of insurance.

(2) A trader's plate shall not be issued or transferred to any trader unless and until there is produced to the Commissioner a certificate in the prescribed form issued by an authorised insurer that a policy of insurance complying with the provisions of this Act has been or will be issued to the applicant for the issue or transfer (as the case may be) of the trader's plate in relation to each and every motor vehicle to which such trader's plate may be affixed at any time during the period for which the trader's plate will be or has been issued and for seven days after the expiration of such period. Trader's plate not to be issued, etc., without evidence of insurance.

**10.**

298

**10.** (1) A policy of insurance issued by an authorised insurer in respect of a motor vehicle or a trader's plate may be cancelled by the authorised insurer—

Cancellation of policy.

- (a) not less than fourteen days after service on the Commissioner of notice that the authorised insurer intends to cancel the policy of insurance; or
- (b) at any time if another policy of insurance relating to the same motor vehicle or trader's plate and commencing immediately upon the cancellation of such firstmentioned policy is immediately substituted therefor; or
- (c) under such circumstances as may be prescribed by the regulations,

but such policy may not otherwise be cancelled by the authorised insurer.

(2) On receipt of the notice mentioned in paragraph (a) of the last preceding subsection the Commissioner may cancel the registration of the motor vehicle or may request the trader to whom the trader's plate is in issue to deliver forthwith to the Commissioner such trader's plate and any current registration label issued in connection therewith.

(3) If such trader fails to comply with such request he shall be guilty of an offence under this Act.

**11.** (1) There shall be an appeal to a judge of the District Court whose decision shall be final against—

Appeal against refusal to issue a policy.

- (a) the refusal of an authorised insurer to issue a policy of insurance;
- (b) the cancellation by an authorised insurer of a policy of insurance.

The regulations may prescribe the manner of appeal and the court to which it is to be brought.

(2) Such judge may—

- (a) order that the policy of insurance shall be issued or continued subject to payment of the prescribed premium or a higher premium specified in the order; or
- (b) may make any such other order in the premises as to the judge may seem fit.

**12.**



299

12. (1) (a) Where the owner of a motor vehicle in respect of which there is in force a policy of insurance sells or ceases to have the possession of such vehicle he shall forthwith forward to the authorised insurer notice in writing setting out—

Provision for sale or passing possession of motor vehicle.

- (i) the full name and address of the purchaser or person who has acquired such possession; and
- (ii) such other particulars as may be prescribed.

(b) Where a person purchases or acquires the possession of a motor vehicle in respect of which there is in force a policy of insurance he shall within seven days after such purchase or acquisition forward to the authorised insurer notice in writing setting out—

- (i) the facts of such purchase or acquisition; and
- (ii) such other particulars as may be prescribed.

(c) This subsection shall not apply to a passing of possession of a motor vehicle—

- (i) under any hiring (not being a hiring under a hire-purchase agreement) or under any lending of a motor vehicle where the period of such hiring or lending does not exceed three months; or
- (ii) to an agent for the purpose of sale or disposal, or to a bailee for the purpose of alteration, repair, renovation, garaging, storing or any other similar purpose not involving the use of the vehicle for the benefit of the bailee.

(2) Where a person purchases or, within the meaning of subsection one of this section, acquires the possession of a motor vehicle in respect of which there is in force a policy of insurance, such policy shall enure in favour of such person notwithstanding a failure by any person to comply with the requirements of subsection one of this section.

(3) Where the owner or the person who has acquired the possession of the motor vehicle in respect of which there is in force a policy of insurance fails to comply with the requirements of such subsection the authorised insurer may recover from such owner or person as damages due to it all sums paid by the authorised insurer

in satisfaction of any liability arising under the policy of insurance between the date of the sale or passing of immediate possession of the motor vehicle and the date on which such policy of insurance terminates or such other amount as the court may order.

**13.** (1) Where any liability arises under a policy of insurance the insurer may not avoid such liability on the grounds that— No avoidance of policy.

- (a) the policy was obtained by misrepresentation or non-disclosure whether material or otherwise; or
- (b) the insured or any other person has failed to observe any term or condition of such policy.

(2) The authorised insurer may recover as damages from the insured or other person indemnified under such policy and in respect of whom such liability arose, all sums which the insurer has paid in respect of any liability so arising and which, but for the provisions of subsection one of this section, would not have been payable or such other amount as the court may order. Insurer may recover.

**14.** (1) Where a driver of a motor vehicle has caused death or bodily injury by negligence in the use of such motor vehicle and the identity of the vehicle or driver cannot be ascertained any person who could have obtained a judgment in respect of such death or bodily injury so caused may obtain by action against a nominal defendant appointed by the Minister the judgment which he could have obtained against the driver or owner of such motor vehicle. Unidentified vehicles.

(2) No action may be commenced against a nominal defendant pursuant to this section unless notice of the claim and a statement of the grounds thereof is given to the Minister within one month of the date of the accident giving rise to such claim.

(3) The amount of any judgment awarded against a nominal defendant shall not be recoverable against such nominal defendant but shall be paid by all those who were authorised insurers at the date of the accident giving rise to the liability in such proportions as the amount of premiums collected by each such authorised insurer

insurer during a period determined by the Commissioner for that purpose bears to the total amount of premiums collected by all authorised insurers during the same period.

**15.** Where any person has obtained a judgment against the owner or driver of a motor vehicle in respect of death or bodily injury caused by or arising out of the use of a motor vehicle and such motor vehicle was not insured pursuant to this Act and such owner or driver as the case may be has failed within one month to satisfy such judgment, the amount of such judgment shall be paid by all those who were authorised insurers at the date of the accident giving rise to the liability in such proportions as the amount of premiums collected by each such authorised insurer during a period determined by the Commissioner for that purpose bears to the total amount of premiums collected by all authorised insurers during the same period.

Uninsured  
vehicles.

**16.** (1) Where any payment is made (whether or not with an admission of liability) by an authorised insurer, under or in consequence of a policy of insurance in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle, and the person who has so died or been bodily injured received treatment at a hospital, whether as an in-patient or as an out-patient, in respect of the fatal or other bodily injury so caused or arising, there shall after notice in writing of a claim in accordance with the next succeeding subsection be paid by the authorised insurer to such hospital, the amount owing to such hospital in affording such treatment after deducting from such amount any monies actually received by the hospital for such treatment; and the liability (if any)—

Payments to  
hospitals.

- (a) of the owner or driver of such motor vehicle in respect of such death or bodily injury; and
- (b) of such authorised insurer to such owner or driver in respect of the policy of insurance—

shall be deemed to be reduced accordingly to the extent of the amount required to be paid by the authorised insurer to the hospital under this section.

(2)

(2) Notice in writing that a claim will be made under this section shall be given by such hospital to the authorised insurer within one month after the commencement of the treatment in respect of which such claim is being made and a claim for the amount due shall be made as soon as practicable thereafter.

Notice of claim for expenses to be given by hospital to insurer.

(3) The amount to be paid in accordance with this section by the authorised insurer to the hospital in respect of any such fatal or bodily injury shall not exceed three guineas per week or fifty pounds, whichever is the less, for each person so treated as an in-patient or for an out-patient such amount as may be prescribed in respect of each attendance. Such amounts may differentiate between particular classes of treatment.

(4) If any person who is entitled to claim damages in respect of bodily injury received by that person or in respect of the death of or bodily injury to any other person, caused by or arising out of the use of a motor vehicle fails to do so, and such person or such other person has received hospital treatment in respect of such injury, the hospital may recover from the authorised insurer by whom the policy of insurance in relation to such motor vehicle was issued, the amount owing to such hospital in affording such treatment subject to subsections two and three of this section, after deducting from such amount any monies actually received by the hospital for such treatment.

(5) For the purposes of this section—

“Hospital treatment” means treatment at any hospital whether as an in-patient or out-patient and includes maintenance as a patient at the hospital and the provision or supply by the hospital of nursing attendance and medicines, medical or surgical supplies or other curative apparatus and any other ancillary service.

“Hospital” means an institution referred to in the Schedule to the Public Hospitals Act, 1929-36, as amended.

**17.** (1) Where any payment is made (whether or not with an admission of liability) by an authorised insurer, under or in consequence of a policy of insurance, in respect

Payments to doctors.

respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle, and the person who has so died or been bodily injured received treatment by a legally qualified medical practitioner in respect of the fatal or other bodily injury so caused or arising, there shall after notice in writing of a claim in accordance with the next succeeding subsection of this section, be paid by the authorised insurer to such medical practitioner such amounts in respect of such treatment as may be prescribed; and the liability (if any)—

- (a) of the owner or driver of such motor vehicle in respect of such death or bodily injury; and
- (b) of such authorised insurer to such owner or driver in respect of the policy of insurance—

shall be deemed to be reduced accordingly to the extent of the amount required to be paid by the authorised insurer to the medical practitioner under this section.

(2) Notice in writing that a claim will be made under this section shall be given by such medical practitioner within one month after the commencement of the treatment aforesaid and a claim for the amount shall be made as soon as practicable thereafter.

**18.** (1) Where—

- (a) any registered nurse renders emergency treatment in respect of bodily or fatal injury to any person caused by or arising out of the use of a motor vehicle; or
- (b) the person so injured is immediately after such injury conveyed in any vehicle the property of any body of persons corporate or unincorporate carrying on ambulance services otherwise than for private profit;

Payments to nurses and ambulances in respect of emergency treatment.

and any payment is made (whether or not with an admission of liability) by an authorised insurer under or in consequence of a policy of insurance under this Act in respect of the death of or bodily injury to such person—there shall (if notice in writing of a claim under this section is given by such nurse or body to the authorised insurer

insurer within one month after the occurrence out of which the death or bodily injury arose) be paid by the authorised insurer (as the case may be)—

- (i) to such body an amount based on the distance such vehicle is required to travel at the rate of one shilling and sixpence per mile but not being less than ten shillings and sixpence in the case of any such person, in respect of the conveyance of such person;
- (ii) to such nurse an amount not exceeding the sum of one guinea in respect of each person to whom such treatment is given, together with travelling expenses reasonably incurred;

and the liability (if any)—of the owner or driver of such motor vehicle in respect of such death or bodily injury; and of such authorised insurer to such owner or driver in respect of the policy of insurance—shall be deemed to be reduced accordingly to the extent of the amount required to be paid by the authorised insurer under this section.

(2) In this section “emergency treatment” means such treatment or examination as may be immediately required as the result of any injury as aforesaid.

**19.** (1) On the happening of any accident affecting a motor vehicle to which a policy of insurance relates and resulting in the death of or bodily injury to any person it shall be the duty of the owner as soon as practicable after such accident or if the owner was not driving the motor vehicle at the time of the accident as soon as practicable after he first becomes aware of the accident to notify in writing the authorised insurer of the fact of such accident, with particulars as to the date, nature and circumstances thereof and thereafter to give all such other information and to take all such steps as the authorised insurer may reasonably require in relation thereto, whether or not any claim has actually been made against the owner on account of such accident.

Duties of owner on happening of accident.

(2) Notice of every claim made or intended to be made or action brought or complaint laid against the owner or to the knowledge of the owner made or brought against

against any other person on account of any such accident shall be forthwith thereafter given by the owner to the authorised insurer with such particulars as the authorised insurer may reasonably require.

(3) (a) The owner of any motor vehicle shall not without the written consent of the authorised insurer enter upon or incur the expense of litigation as to any matter or thing in respect of which he is indemnified under a policy of insurance nor shall he without such consent make any offer, promise, payment or settlement or any admission of liability as to any such matter.

(b) If at the time of the happening of any accident as aforesaid a person other than the owner is driving the motor vehicle without the authority of the owner no offer, promise, payment or settlement or any admission of liability by such person shall be admissible as evidence in any civil proceedings against the owner.

(4) If the owner fails to give any notice or otherwise fails to comply with the requirements of this section in respect of any matter, the authorised insurer shall be entitled to recover from him as damages due to it an amount equal to the total amount, including costs, paid by the authorised insurer in respect of any claim in relation to such matter or such other amount as the court may determine.

**20.** If, at the time of the happening of any accident affecting a motor vehicle to which a policy of insurance relates and resulting in the death of or bodily injury to any person, the person driving the motor vehicle is not the owner thereof, such person shall forthwith notify in writing the owner or authorised insurer of the fact of such accident and if such person fails to notify the fact of such accident as aforesaid, or after notice in writing in that behalf by the authorised insurer—

Duties of driver on happening of accident.

(a) fails to furnish the authorised insurer with particulars as to the date, nature and circumstances of the accident, and thereafter to give all such information and to take all such steps

as

306

as the authorised insurer may reasonably require in relation thereto, whether or not any claim has actually been made against such person on account of the accident; or

(b) fails to give forthwith to the authorised insurer notice of every claim made or action brought or complaint laid against him on account of the accident, with such particulars as the authorised insurer may reasonably require; or

(c) without the written consent of the authorised insurer—

(i) enters upon or incurs the expense of litigation as to any matter or thing in respect of which he is indemnified under the policy of insurance; or Not to enter into litigation, etc.

(ii) makes any offer, promise, payment or settlement or any admission of liability as to any such matter—

the authorised insurer shall be entitled to recover from him as damages due to it an amount equal to the total amount, including costs, paid by the authorised insurer in respect of any claim in relation to such matter or such other amount as the court may determine. Insurer may recover.

**21.** (1) For the purposes of any policy of insurance the authorised insurer—

(a) may undertake the settlement of any claim against the owner or against any person indemnified under the policy of insurance; Insurer may take over proceedings, etc.

(b) may take over during such period as it thinks proper the conduct and control on behalf of the owner or such person of any proceedings taken or had to enforce such claim or for the settlement of any question arising with reference thereto;

(c) may defend or conduct such proceedings in the name of the owner or such person and on his behalf; and

(d)



307

(d) shall indemnify the owner or such person against all costs and expenses of or incidental to any such proceedings while the insurer retains the conduct and control thereof.

(2) The owner or such person shall sign all such warrants and authorities as the insurer requires for the purpose of enabling the authorised insurer to have the conduct and control of any such proceedings.

**22.** (1) Any provision, stipulation, covenant or condition in any agreement (whether made before or after the commencement of this Act) which negatives, limits or modifies or purports to negative, limit or modify the operation of the provisions of this Act or of any policy of insurance shall be void and of no effect.

No contract-  
ing out of  
Act.

(2) In any action brought or complaint laid against the owner of a motor vehicle or other person indemnified under a policy of insurance or against an authorised insurer in respect of an accident resulting in the death of or bodily injury to any person being at the time of the accident a passenger conveyed for hire or reward in such motor vehicle, it shall not be a defence that the contract of carriage had negatived, limited or modified the liability of the owner or of any other person to pay damages in respect of accidents due to the negligence or wilful default of the owner or his servants or agents.

Where any person who incurs any liability to pay damages in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle, and who is indemnified under a policy of insurance in respect of such liability fails within one month to satisfy a judgment awarding damages (including costs, if any) against him the person entitled to the damages may recover, subject to any limitation provided in this Act, by action against the authorised insurer, the amount of the judgment or (as the case may be) so much thereof as is not satisfied.

Judgment  
may be re-  
covered  
against  
insurer.

**23.** Where any company incurs liability in respect of the death of or bodily injury to any person arising out of the use of a motor vehicle and, either before or after the event

Provision  
concerning  
winding-up,  
etc., of com-  
pany.

event giving rise to the claim, a winding-up order is made or a resolution for voluntary winding-up is passed with respect to the company or a receiver or manager of the company's business or undertaking is duly appointed or possession is taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in or subject to the charge, the company's rights against the insurer under the policy of insurance in respect of the liability shall, notwithstanding anything in any Act or rule of law to the contrary, be transferred to and vest in the third party to whom the liability was so transferred.

**24.** Where a judgment is obtained in any action against an owner or other person indemnified under a policy of insurance for payment of damages in respect of the death of or bodily injury to any person as well as for damages for other loss the Court shall as part of such judgment declare what portion of the sum awarded by such judgment is in respect of death or bodily injury and any costs which may be awarded as part of such judgment shall for the purpose of fixing the liability of the authorised insurer for costs be apportioned.

Court to apportion damages.

**25.** (1) The Governor may appoint a Premiums Committee consisting of—

Premiums Committee.

- (a) The Commissioner, who shall be chairman;
- (b) The Government Statistician;
- (c) Two members representing insurance companies carrying on the business of motor vehicle accident insurance in New South Wales;
- (d) Two members representing motorists.

(2) Subject to the regulations, the committee may regulate its own procedure.

**26.** (1) The Governor may upon the recommendation of the Premiums Committee, or of a majority of the members thereof, constituted under this Act make regulations for or with respect to the rates of premiums to be paid in respect of policies of insurance.

Premiums may be prescribed.

(2) Different rates of premiums may be prescribed in respect of different classes of motor vehicles, having

having regard to the purposes for which such motor vehicles are used or the areas in which such motor vehicles are mainly used or otherwise.

**27.** (1) Where after a premium has been paid in respect of any policy of insurance an additional premium becomes due and payable in respect thereof, the owner of the motor vehicle to which such policy relates shall, before the vehicle is used, pay such additional premium to the authorised insurer.

When additional premium becomes payable.

(2) The authorised insurer may recover any such additional premium as a debt due to it.

(3) If the owner fails to comply with subsection one of this section he shall be guilty of an offence against this Act.

(4) The policy of insurance shall continue in force notwithstanding failure by the owner of the vehicle to pay such additional premium.

**28.** (1) Every authorised insurer shall furnish to the Commissioner in respect of a period specified by the Commissioner in that behalf, returns in the prescribed form and verified as prescribed setting forth such particulars as may be prescribed.

Returns to be furnished by authorised insurers.

(2) The Commissioner or any person authorised by the Commissioner may make an investigation with respect to any return by any authorised insurer furnished or required to be furnished pursuant to this section and for the purpose of such investigation any authorised insurer shall upon reasonable notice produce for inspection any book, contract, record, document or paper and shall allow copies or extracts therefrom to be taken.

**29.** (1) Any person who is guilty of an offence against this Act for which no penalty is specifically provided shall be liable to a penalty not exceeding *twenty* pounds.

General penalty.

(2) Any penalty imposed by this Act or the regulations may be recovered before a stipendiary or police magistrate or any two justices in petty sessions.

Recovery of penalties.

(3) Any penalty so recovered shall be paid to the Consolidated Revenue Fund.

30. No proceeding or conviction for any act by this Act declared to be an offence against this Act shall affect any remedy which any person aggrieved or injured by such act may be entitled to at law or in equity against the person who has committed such act or against his estate.

Conviction not to affect civil remedy.

31. (1) The Governor 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 to carry this Act into effect.

(2) The 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 the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part thereof shall thereupon cease to have effect.

(3) A regulation may impose a penalty not exceeding *twenty* pounds for any breach thereof or for any failure to observe or comply with any term, provision, condition, stipulation in or attaching to any policy of insurance.

(4) A regulation may be of general or specially limited application and may apply to all cases principally, to any class of cases or to any particular case.

(5) A regulation may be made to apply either to all motor vehicles or to any specified class of motor vehicles.

(6) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner either generally or for any

any class of cases or in any particular case, or may confer on the Minister or the Commissioner or other prescribed person any power or authority necessary or convenient for carrying into effect all or any of the provisions of the regulations.

**32.** (1) In pursuance of the power conferred by section thirty-one of this Act and without limiting the generality of that power, the Governor may make regulations with respect to—

- (a) matters relevant to the Premiums Committee, including the periods for which members of the committee shall hold office, provision for persons to act as deputies for such members, removal of members from office, the filling of vacancies on the committee, nominations of persons for appointment to or to fill vacancies on the committee, the procedure in respect of any meeting of the committee, quorums, and the circumstances under which the chairman of the committee may give a casting vote;
- (b) matters necessary or convenient to be prescribed to enable the Premiums Committee to make a recommendation or the Governor to make a regulation with regard to the rates of premiums to be paid in respect of policies of insurance;
- (c) the notification in the Gazette of rates of premiums or maximum rates of premiums as prescribed from time to time, in respect of policies of insurance;
- (d) the exemption, subject to such conditions as may be specified, of persons from all or any of the obligations imposed by or under this Act in respect of—
  - (i) motor vehicles owned by the Crown;
  - (ii) motor vehicles owned by the council of a city, municipality, or shire or a county council established under any Act;
  - (iii)

- (iii) motor vehicles or specified classes of motor vehicles which are owned by persons ordinarily resident outside New South Wales and which are temporarily in that State;
  - (iv) any other specified classes of motor vehicles;
  - (e) the form of policies of insurance, including the terms, provisions, conditions and stipulations, conditions of liability or indemnity, or otherwise;
  - (f) the furnishing by prescribed persons of prescribed returns;
  - (g) the cancellation of policies of insurance and the granting of refunds, subject to such conditions as may be prescribed, of portion of premiums in cases where policies of insurance are cancelled;
  - (h) requirements to be observed in a case where pursuant to section ten of this Act a registration is cancelled or a request is made that a trader's plate be surrendered to the Commissioner;
  - (i) the form of and the particulars to be set out in notices to be given pursuant to this Act and requirements or conditions to be observed in relation to such notices;
  - (j) the circumstances under which the Commissioner may cancel an approval of an authorised insurer.
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