

**GOVERNMENT INSURANCE (AMENDMENT) ACT,
1978, No. 153**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 153, 1978.

An Act to amend the Government Insurance Act, 1927, to place the Government Insurance Office of New South Wales under the management of a board instead of a general manager and for other purposes. [Assented to, 29th December, 1978.]

See also Statutory and Other Offices Remuneration (Government Insurance) Amendment Act, 1978.

Government Insurance (Amendment).

BE it enacted by the Queen'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 "Government Insurance Short title. (Amendment) Act, 1978".

2. (1) This section and section 1 shall commence on the Commence-
date of assent to this Act. ment.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Government Insurance Act, 1927, is amended in the Amendment
manner set forth in Schedule 1. of Act No.
18, 1927.

4. (1) In this section, "appointed day" means the day Savings,
appointed and notified under section 2 (2). transitional
and other
provisions.

(2) The office of General Manager of the Government Insurance Office of New South Wales is hereby abolished.

(3) The person who immediately before the appointed day held the office of General Manager of the Government Insurance Office of New South Wales and who ceased to hold that office by reason of the operation of subsection (2) is not entitled to be paid any remuneration or compensation by reason of his so ceasing to hold that office.

(4) A reference in any Act or statutory instrument, or in any other instrument, or in any contract or agreement, to the General Manager of the Government Insurance Office of New South Wales shall be construed as a reference to the Government Insurance Office of New South Wales Board.

Government Insurance (Amendment).

(5) A delegation made by the General Manager of the Government Insurance Office of New South Wales under section 3B (8) of the Government Insurance Act, 1927, and in force immediately before the appointed day shall, until revoked by the Government Insurance Office of New South Wales Board, be deemed to have been made by that Board pursuant to section 3BB of the Government Insurance Act, 1927, as amended by this Act.

Sec. 3.

SCHEDULE 1.

AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927.

(1) Section 2—

Omit the section, insert instead :—

Interpre-
tation.

2. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Board” means the Government Insurance Office of New South Wales Board established by section 3B;

“Chairman” means the Chairman of the Board appointed under section 3BA (3);

“full-time member” means a full-time member of the Board appointed under section 3BA (2) (a);

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

“insurance” includes assurance, additional insurance, counter insurance, treaty and internal insurance, re-insurance, guarantee and surety;

“member” means a full-time member or part-time member;

“Office” means the Government Insurance Office of New South Wales established by section 3;

“part-time member” means a part-time member of the Board appointed under section 3BA (2) (b);

“regulation” means a regulation made under this Act.

(2) (a) Section 3 (5)—

Omit the subsection.

(b) Section 3 (6)—

Omit the subsection, insert instead :—

(6) The common seal of the Office shall be affixed to any document only in the presence of at least 2 members with an attestation by the signatures of those members of the fact and date of the affixing of the seal.

Government Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

(3) Sections 3B, 3BA, 3BB, 3BC—

Omit section 3B, insert instead :—

Establish-
ment of
Government
Insurance
Office of
New South
Wales
Board to
manage
Office.

3B. (1) There is hereby established a Government Insurance Office of New South Wales Board.

(2) The Office shall, subject to subsection (3), be managed by the Board and all acts and things done in the name of, or on behalf of, the Office by the Board, or with the authority of the Board, shall be deemed to have been done by the Office.

(3) In the exercise or performance of its powers, authorities, duties and functions (except in relation to the contents of a report or recommendation made by it), the Board shall be subject to the control and direction of the Minister.

Provisions
relating to
constitution
and pro-
cedure of
Board.

3BA. (1) The Board shall consist of 5 members appointed by the Governor.

(2) Of the members—

(a) three shall be appointed as full-time members;
and

(b) two shall be appointed as part-time members.

(3) One full-time member shall, in and by the instrument of his appointment or by a subsequent instrument, be appointed by the Governor as Chairman of the Board.

(4) Schedules 2 and 3 have effect.

Government Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

3BB. (1) The Board may, by resolution, delegate to a **Delegation.** member or an officer or employee of the Office the exercise or performance of such of the Board's powers, authorities, duties or functions (other than this power of delegation) as are specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

(2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstance.

(4) Notwithstanding any delegation under this section, the Board may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Board and shall be deemed to have been done or suffered by the Board.

(6) An instrument purporting to be signed by a delegate of the Board in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed under seal pursuant to section 3 (6) and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Board under this section.

Government Insurance (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

Disclosure
of interest
by members.

3BC. (1) If a member has a pecuniary interest, direct or indirect, in a contract or proposed contract with the Office or in any other matter in which the Office is concerned and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement thereof, disclose his interest and shall not take part in the consideration or discussion of or vote on any question with respect to the contract, proposed contract or other matter.

(2) For the purposes of this section, a person shall be treated as having an indirect interest in a contract, proposed contract or other matter if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter.

(3) Notwithstanding subsection (2)—

- (a) that subsection does not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;
- (b) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body; and

Government Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

(c) a member of a company having not less than 25 members shall not be treated as having an interest in any contract or proposed contract with the Office or in any other matter in which the Office is concerned by reason only that the contract or proposed contract is with or the other matter concerns the company.

(4) In the case of a man and his wife who are living together, the interest of one spouse shall, if known to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.

(5) A general notice in writing by a member to an officer of the Office nominated by the Board to the effect that he or his spouse is a member or is in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6) The officer referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection (5) and the book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Board from time to time.

(7) Subject to subsection (8), a member contravenes this subsection if he fails to comply with the provisions of subsection (1), unless he proves that he did

Government Insurance (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

not know that a contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

Penalty : \$400.

(8) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of members referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the members as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.

(9) The Board may, by resolution, provide for the exclusion of any member from a meeting of the Board while any proposal, in respect of any contract, proposed contract or other matter in which that member has an interest as referred to in this section, is under consideration.

(10) In this section, "shares" includes stock.

(4) (a) Section 3c (1)—

Omit "(other than the General Manager)".

(b) Section 3c (2)—

Omit "The General Manager", insert instead "For the purpose of the conduct of the business of the Office, the Office".

Government Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

- (c) Section 3c (2)—
Omit “he”, insert instead “it”.

- (5) Section 4 (2), (2A)—
Omit “the Schedule to this Act” wherever occurring, insert
instead “Schedule 1”.

- (6) Section 4A (1)—
Omit “General Manager”, insert instead “Office”.

- (7) Section 5B (2)—
Omit “the division”, insert instead “a division”.

- (8) Section 5c (1) (e)—
Omit the paragraph, insert instead :—
 - (e) in any other manner—
 - (i) approved by the Treasurer; or
 - (ii) determined by the Office in accordance with
such directions as may be given to the Office
by the Treasurer,

- (9) (a) Section 10B—
Omit “the General Manager” where firstly occurring,
insert instead “a member”.

Government Insurance (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

(b) Section 10B—

Omit “the General Manager” where secondly and thirdly occurring, insert instead “the Office”.

(10) Section 11 (2)—

Omit “the General Manager”, insert instead “the members”.

(11) Section 15—

Omit the section.

(12) (a) Section 18—

Omit “the General Manager and no matter or thing done by any person whomsoever acting under the direction of the General Manager shall”, insert instead “the Office, and no matter or thing done by a member or by any person acting under the direction of the Office, shall”.

(b) Section 18—

Omit “them or any of them”, insert instead “a member or a person so acting”.

(13) Section 19—

After section 18, insert :—

19. Proceedings for an offence against this Act may be disposed of in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Government Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

(14) Schedule, heading—

After "SCHEDULE", insert "1".

(15) Schedules 2, 3—

At the end of the Act, insert :—

SCHEDULE 2.

Sec. 3BA
(4).

PROVISIONS WITH RESPECT TO THE CONSTITUTION OF THE BOARD.

1. A person who is of or above the age of 65 years shall not be appointed as a member or to act in the office of a member under clause 7.

2. (1) Subject to this Act—

- (a) a full-time member shall hold office for such term, not exceeding 7 years, as is specified in the instrument of his appointment and is eligible for re-appointment from time to time;
- (b) a part-time member shall hold office for such term, not exceeding 2 years, as is specified in the instrument of his appointment and is eligible for re-appointment from time to time; and
- (c) the Chairman shall hold office for such term, not exceeding 7 years, as may be specified in the instrument of his appointment as Chairman and is eligible for re-appointment from time to time.

Terms of
office of
members
and Chair-
man.

(2) The Chairman shall cease to hold office as such if he ceases to be a full-time member.

3. A full-time member shall devote the whole of his time to the duties of his office.

Full-time
member to
devote
whole of
his time
to the
duties
of his
office.

Government Insurance (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.
**Provisions
relating to
part-time
members.**

4. (1) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office or not to engage in any paid employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to part-time members under clause 5 (2).

(2) The office of part-time member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

**Remunera-
tion of
members.**

5. (1) Each full-time member is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(2) Each part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

**Public
Service
Act, 1902,
not to
apply.**

6. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a member and a member shall not, in his capacity as a member, be subject to the provisions of that Act during his term of office.

**Appoint-
ment of
substitutes
to act
during
absence of
Chairman
or other
member.**

7. (1) The Minister may appoint a person (being a full-time member) to act in the office of the Chairman or appoint any person (including a part-time member) to act in the office of a full-time member or appoint any person to act in the office of a part-time member while the Chairman or that full-time or part-time member, as the case may be, is absent from his office through illness or any other cause, and that person while so acting—

- (a) shall have and may exercise and perform the powers, authorities, duties and functions of the member in whose office he is appointed to act; and
- (b) shall be deemed to be the Chairman or a full-time or part-time member, according to whether he is appointed to act in the office of the Chairman or of a full-time or part-time member.

Government Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

(2) A part-time member is, for the purposes of subclause (1) of this clause, deemed to be absent from his office if he is acting in the office of a full-time member pursuant to subclause (1) of this clause.

(3) A member is, for the purposes of subclause (1) of this clause, deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 10.

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of the Chairman or of a full-time or part-time member, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by the Chairman or that full-time or part-time member, as the case may be.

8. (1) The Board may from time to time appoint an officer of Deputy the Office as a deputy member or appoint officers of the Office as members. deputy members.

(2) A deputy member appointed under subclause (1) of this clause shall have and may exercise and perform such of the powers, authorities, duties and functions of the Board as may be delegated to him pursuant to section 3BB.

(3) A deputy member appointed under subclause (1) of this clause shall be paid out of the funds of the Office such allowances as are fixed by the Board from time to time, in addition to his remuneration as an officer of the Office.

9. (1) A member shall be deemed to have vacated his office—
(a) if he dies; Vacation
of office.
(b) if he resigns his office by writing under his hand addressed to the Governor;
(c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his remuneration, allowances or estate for their benefit;
(d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

Government Insurance (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

- (e) if, being a full-time member, he absents himself from duty for a period exceeding 28 consecutive days except on leave granted by the Minister;
- (f) if, being a part-time member, he is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, unless on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (g) if he is convicted in New South Wales of a crime or an offence punishable by imprisonment for 12 months or longer, or if he is convicted elsewhere than in New South Wales of a crime or an offence which, if committed in New South Wales, would be a crime or an offence so punishable;
- (h) if he is removed from office by the Governor under subclause (2) of this clause;
- (i) on his attaining the age of 65 years; or
- (j) if, being a full-time member, he engages in New South Wales or elsewhere in paid employment outside the duties of his office under this Act without the approval of the Minister.

(2) The Governor may remove a member from office for misbehaviour or incompetence.

**Filling of
casual
vacancies.**

10. On the occurrence of a vacancy in the office of a member otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to the vacant office—

- (a) where the person's predecessor was a full-time member— for such term, not exceeding 7 years, as is specified in the instrument of his appointment; or
- (b) where the person's predecessor was a part-time member— for the residue of the term of office of the predecessor.

*Government Insurance (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

11. (1) In this clause—

“statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation of rights of full-time member previously public servant, etc.

(2) Subject to subclause (3) of this clause and to the terms of his appointment, where a full-time member was, immediately before his appointment as a full-time member—

- (a) an officer of the Public Service;
- (b) an officer of the Teaching Service, within the meaning of the Teaching Service Act, 1970;
- (c) a contributor to a superannuation scheme;
- (d) an officer employed by a statutory body; or
- (e) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (f) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (g) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a full-time member; and
- (h) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity.

as if he had continued to be such an officer, contributor or person during his service as a full-time member and—

- (i) his service as a full-time member shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- (j) he shall be deemed to be an officer or employee, and the Office shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

Government Insurance (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

(3) If a full-time member would, but for this subclause, be entitled under subclause (2) of this clause to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme he shall not be so entitled upon his becoming (whether upon his appointment as a full-time member or at any later time while he holds office as a full-time member) a contributor to any other superannuation scheme, and the provisions of subclause (2) (j) of this clause cease to apply to or in respect of him and the Office in any case where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) of this clause does not prevent the payment to a full-time member upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of the scheme.

(5) A full-time member shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Full-time member entitled to re-appointment to former employment in certain cases.

12. (1) In this clause—

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as a full-time member, an officer of the Public Service or an officer of the Teaching Service, within the meaning of the Teaching Service Act, 1970—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as a full-time member, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which the person belonged immediately before his appointment as a full-time member), as the case may be, of the statutory body are entitled to retire;

“statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule.

Government Insurance (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

(2) A person who ceases to be a full-time member, otherwise than pursuant to clause 9 (1) (paragraph (b) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as a full-time member, he was—

- (a) an officer of the Public Service—to some office in the Public Service;
- (b) an officer of the Teaching Service, within the meaning of the Teaching Service Act, 1970—to some office within the Teaching Service; or
- (c) an officer or employee of a statutory body—to some office in the service of the statutory body,

not lower in classification and salary than that which he held immediately before his appointment as a full-time member.

13. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule. **Declaration of statutory bodies.**

SCHEDULE 3.

Sec. 3BA
(4).

PROVISIONS RELATING TO MEETINGS OF THE BOARD.

1. Meetings of the Board may be convened by the Chairman or by any 2 members. **Convening of meetings.**

2. (1) The number of members which shall constitute a quorum at any meeting of the Board shall be 3. **Quorum.**

(2) Any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and perform all of the powers, authorities, duties and functions of the Board.

3. (1) The Chairman shall preside at all meetings of the Board at which he is present. **Presiding member.**

(2) If the Chairman is not present at a meeting of the Board, a member elected by the members present shall preside at the meeting.

Government Insurance (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE GOVERNMENT INSURANCE ACT, 1927—
continued.

(3) The member presiding at a meeting of the Board has a deliberative vote.

(4) In the event of an equality of votes at a meeting of the Board at which the Chairman is presiding, the Chairman also has a casting vote.

(5) In the event of an equality of votes at a meeting of the Board at which the Chairman is not presiding, the matter shall be postponed to the next meeting of the Board.

**Decision
of Board.**

4. Subject to clause 3 (4), a decision of a majority of the members present and voting at a duly convened meeting of the Board at which a quorum is present shall be a decision of the Board.

**General
procedure.**

5. The procedure for the calling of, and for the conduct of business at, meetings of the Board shall, subject to any procedure that is specified in this Schedule, be as determined by the Board.
