

HOUSING LOANS INSURANCE AMENDMENT ACT 1977

No. 39 of 1977

An Act to amend the *Housing Loans Insurance Act 1965*.

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

1. (1) This Act may be cited as the *Housing Loans Insurance Amendment Act 1977*.¹ Short title,
&c.

(2) The *Housing Loans Insurance Act 1965*² is in this Act referred to as the Principal Act.

2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment.

(2) Section 21 shall come into operation on 1 July 1977.

3. The title of the Principal Act is amended by adding after the word “Housing” the words “, and for purposes connected therewith”. Title.

4. Section 4 of the Principal Act is amended—

(a) by inserting before the definition of “appraised value” in sub-section (1) the following definition:—

“ ‘agency contract’ means a contract approved by the Corporation that makes provision for an approved lender to act—

(a) in relation to a loan in respect of which a contract of insurance is proposed to be entered into between the lender, not being an approved lender, and the Corporation—as the agent of the lender;

(b) in relation to a loan to which a contract of insurance relates, being a loan that is secured by an approved security—as the agent of a person, not being an approved lender—

(i) to whom the approved security has been or is to be transferred or assigned or in whom that security has become vested; and

(ii) to whom the contract of insurance has been, or is to be, assigned; or

Interpret-
ation.

- (c) in relation to a loan to which a contract of insurance relates, being a loan that is not secured by an approved security—as the agent of a person, not being an approved lender—
 - (i) to whom the right of repayment of the loan has been, or is to be, transferred or assigned; and
 - (ii) to whom the contract of insurance has been, or is to be, assigned;”;
- (b) by omitting from the definition of “approved bank” in sub-section (1) the words “the Reserve Bank of Australia or a” and substituting the words “a trading bank within the meaning of sub-section (1) of section 5 of the *Banking Act* 1959 or another”;
- (c) by omitting the definition of “approved security” in sub-section (1) and substituting the following definition:—
 - “ ‘approved security’ means—
 - (a) a first legal mortgage or a mortgage that will, upon registration under a law of a State or Territory, constitute a first legal mortgage;
 - (b) a mortgage registered under a law of a State or Territory and having priority subject only to a first legal mortgage or to a first legal mortgage and another mortgage or other mortgages so registered; or
 - (c) a mortgage that will, upon registration under a law of a State or Territory, take priority subject only to a first legal mortgage, or to a first legal mortgage and another mortgage or other mortgages that are so registered,and includes, in relation to such prescribed interests as the regulations specify in respect of a particular kind of security, a security of that kind;”;
- (d) by inserting after the definition of “dwelling-house” in sub-section (1) the following definition:—
 - “ ‘General Reserve’ means the reserve continued in existence under the name ‘Housing Loans Insurance Corporation General Reserve’ by section 31A;”;
- (e) by omitting the definition of “insurable loan” in that sub-section and substituting the following definition:—
 - “ ‘insurable loan’ means a loan—
 - (a) made for any one or more of the following purposes, that is to say, of enabling the borrower—
 - (i) to acquire a prescribed interest in land;

- (ii) to develop land, or complete the development of land, as residential land, being land in which the borrower has a prescribed interest;
 - (iii) to acquire a prescribed interest in land and to develop the land, or complete the development of the land, as residential land;
 - (iv) to acquire a prescribed interest in land and construct, or complete the construction of, a dwelling-house on the land;
 - (v) to construct a dwelling-house, or complete the construction of a dwelling-house, on land in which the borrower has a prescribed interest;
 - (vi) to acquire a prescribed interest in land on which there is a dwelling-house;
 - (vii) to alter, improve or extend a dwelling-house constructed on land in which the borrower has a prescribed interest;
 - (viii) to meet expenses in respect of the provision or improvement of roads, kerbing, guttering or footpaths in connexion with the land in which the borrower has a prescribed interest, being land on which there is a dwelling-house or on which a dwelling-house is being constructed; or
 - (ix) to discharge a mortgage, charge or other encumbrance over land in which the borrower has a prescribed interest; and
- (b) the repayment of which (except in the case of a loan made for the purpose of sub-paragraph (vii) or (viii) of paragraph (a) and in accordance with terms and conditions approved by the Corporation) is secured by an approved security over the interest of the borrower in the land;”;
- (f) by omitting from paragraph (c) of the definition of “prescribed interest” in sub-section (1) the word “or” (last occurring);
- (g) by adding after paragraph (d) of the definition of “prescribed interest” in sub-section (1) the following word and paragraph:—
- “or (e) any right in relation to land, not being an interest in land, that is declared by the regulations to be deemed to be a prescribed interest for the purposes of this Act;”;
- (h) by inserting after the definition of “the Deputy Chairman” in sub-section (1) the following definition:—

“ ‘the Deputy Managing Director’ means the Deputy Managing Director of the Corporation; ”; and

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

“(4) A reference in this Act to the development of land as residential land shall be read as a reference to—

- (a) the subdivision, or re-subdivision, of the land into blocks upon which dwelling-houses can be constructed, including the carrying out of such works as are necessary or convenient to be carried out upon, or in relation to, the land for the purpose of enabling the land to be so subdivided or re-subdivided; or
- (b) the carrying out, otherwise than in connexion with the subdivision or re-subdivision of the land of such works as are necessary or convenient to be carried out upon, or in relation to, the land for the purpose of enabling the land to be used for the construction of dwelling-houses.”.

Approved
lenders.

5. Section 5 of the Principal Act is amended—

- (a) by omitting sub-section (1); and
- (b) by omitting from sub-section (2) the words “, being a person included in an approved class of lenders,”.

Member-
ship of
Corporation.

6. Section 7 of the Principal Act is amended by omitting sub-section (5).

Dis-
qualification
from
member-
ship.

7. Section 8 of the Principal Act is amended by omitting from sub-section (1) all the words from and including the words “the purpose of” to the end of the sub-section and substituting the words “the purpose of financing the development of land as residential land, the erection, improvement or purchase of dwelling-houses or the discharge of mortgages over land on which dwelling-houses have been, or are being, constructed”.

8. After section 8 of the Principal Act the following section is inserted:—

Acting
Chairman
and Deputy
Chairman.

“8A. (1) Where the Chairman is absent from duty or from Australia or there is a vacancy in the office of Chairman, the Deputy Chairman shall act as Chairman and Managing Director during the absence or until the filling of the vacancy.

“(2) Where the Deputy Chairman is, or is expected to be, absent from duty or from Australia or there is, or is expected to be, a vacancy in the office of Deputy Chairman, the Minister may appoint a person who is eligible for appointment as a member to act as the Deputy Chairman during the period of the absence or until the filling of the vacancy.

“(3) A person acting as Deputy Chairman in pursuance of an appointment under sub-section (2) shall, while so acting, also act as the Deputy Managing Director.

“(4) If the Deputy Chairman or a person acting as Deputy Chairman is, by virtue of sub-section (1), at any time acting as the Chairman, the office of Deputy Chairman shall, during the period of his so acting, be deemed, for the purposes of sub-section (2), to be vacant.

“(5) A person appointed under sub-section (2) holds office on such terms and conditions as the Minister determines.

“(6) The Minister may at any time terminate the appointment of a person appointed under sub-section (2).

“(7) The appointment of a person appointed to act as Deputy Chairman under sub-section (2) ceases to have effect if he resigns by writing under his hand addressed to the Minister.

“(8) Sections 10 and 13 apply in relation to a person appointed under sub-section (2) in like manner as they apply in relation to a member.

“(9) The validity of anything done by a person appointed under sub-section (2) shall not be called into question on the ground that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.

“(10) A reference in sub-section (1) to the Deputy Chairman includes a reference to a person acting as the Deputy Chairman in pursuance of an appointment under sub-section (2).”.

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

Meetings of
the
Corporation.

“(10) In this section—

- (a) a reference to the Chairman shall be read as including a reference to a person acting as the Chairman;
- (b) a reference to the Deputy Chairman shall be read as including a reference to a person acting as the Deputy Chairman; and
- (c) a reference to a member shall be read as including a reference to a person appointed under sub-section (2) of section 8A who is acting as the Chairman or as the Deputy Chairman.”.

10. Section 12 of the Principal Act is repealed and the following section substituted:—

“12. (1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal.

Remuner-
ation and
allowances.

“(2) A member shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.”.

Managing
Director and
Deputy
Managing
Director.

11. Section 15 of the Principal Act is amended by adding at the end thereof the following sub-sections:—

“(3) There shall be a Deputy Managing Director of the Corporation who shall, in accordance with the directions of the Managing Director, assist the Managing Director in the management of the business of the Corporation.

“(4) The Deputy Chairman shall, by virtue of his office, be the Deputy Managing Director.”.

Corporation
to carry on
certain
insurance
business.

12. Section 17 of the Principal Act is amended—

(a) by omitting from sub-section (2) the words “an approved” and substituting the word “a”;

(b) by inserting after sub-section (2) the following sub-section:—

“(2A) The Corporation shall not enter into a contract of insurance under sub-section (2) unless—

(a) the lender is an approved lender; or

(b) an agency contract is in force in relation to the loan in respect of which the contract of insurance is to be entered into.”;

(c) by omitting from sub-section (3) the words “an approved” and substituting the word “a”; and

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

“(5) A contract of insurance that is entered into with a lender who is not an approved lender may be cancelled by the Corporation if, at any time after the contract is entered into, an agency contract is not in force in relation to the loan to which that contract of insurance relates.”.

Powers of
Corporation
in relation to
trans-
ferred
securities.

13. Section 19 of the Principal Act is amended—

(a) by inserting in sub-paragraph (ii) of paragraph (b) of sub-section (1), after the words “the Corporation for”, the words “an amount not exceeding”; and

(b) by omitting sub-sections (5) and (6) and substituting the following sub-section:—

“(5) Where, in pursuance of sub-section (1) or (2), the Corporation disposes of its rights under a security to a person, the Corporation is empowered to enter into a contract of insurance under section 17 with that person in respect of so much of the loan secured by the security as is then outstanding as if that amount were the amount of an insurable loan made, or proposed to be made, by that person.”.

14. Sections 20 to 23 (inclusive) of the Principal Act are repealed and the following section is substituted:—

“20. The Minister may, from time to time, by instrument in writing, direct the Corporation not to enter into contracts of insurance in respect of a class of insurable loans specified in the direction, and the Corporation shall comply with that direction.”.

Limitations
in respect of
contracts of
insurance.

15. Section 24 of the Principal Act is amended—

- (a) by inserting in sub-section (1), after the words “contract of insurance”, the words “in relation to an insurable loan that is secured by an approved security”;
- (b) by omitting from paragraph (a) of sub-section (1) the words “by which the loan is secured”; and
- (c) by omitting sub-section (2) and substituting the following sub-sections:—

Corporation
may make
payment
under
contract
notwith-
standing that
the lender
does not
fully exercise
his rights in
certain cases.

“(2) A contract of insurance in relation to an insurable loan that is secured by an approved security may include provision for the making of a payment by the Corporation under the contract where the lender has not exercised any of his rights under the approved security.

“(3) The Corporation may enter into an agreement with a lender, in relation to a contract of insurance entered into before the commencement of this sub-section, for the substitution for a provision included in that contract in pursuance of sub-section (2) as in force immediately before the commencement of this sub-section of a provision of the kind authorized by sub-section (2) as subsequently in force, and such an agreement is enforceable notwithstanding the absence of any consideration for the making of the agreement.

“(4) A contract of insurance in relation to an insurable loan that is not secured by an approved security may include provision for the making of a payment by the Corporation under the contract notwithstanding that the lender insured by the contract has not exercised any rights he has against the borrower or another person personally, whether by virtue of an express or implied covenant or agreement to repay the loan and other moneys payable in accordance with the terms and conditions on which the loan was made, or otherwise.

“(5) In this section, a reference to a lender who has not exercised any rights shall include a reference to a lender who has exercised some, but not all, of those rights.”.

Premiums,
&c., to be
charged by
Corporation.

16. (1) Section 26 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-sections:—

“(3) The Corporation may refund, in circumstances relating to the cessation or reduction of the liability of the Corporation under a contract, part of the premium paid in relation to the contract.

“(4) The Corporation shall carry out its operations as efficiently as possible and the premiums charged by the Corporation and the other charges made by it shall be at the lowest possible rates having regard to the duty imposed on the Corporation by sub-section (5).

“(5) The Corporation shall pursue a policy directed towards securing revenue sufficient to meet all its expenditure and provision for expenditure properly chargeable to revenue, and to permit the payment to the Commonwealth, in addition to the payment of income tax, of a reasonable return on the capital of the Corporation.”.

(2) Sub-section (3) inserted in section 26 of the Principal Act by sub-section (1) of this section applies in respect of premiums paid under contracts of insurance entered into either before or after the commencement of this section.

Terms and
conditions of
employ-
ment.

17. Section 29 of the Principal Act is amended by omitting sub-section (2).

Corporation
guaranteed
by Common-
wealth.

18. Section 30 of the Principal Act is amended by inserting after the words “the Corporation” (first occurring) the words “other than moneys due in respect of moneys borrowed under section 31D”.

19. Section 31 of the Principal Act is repealed and the following sections are substituted:—

Capital of
the
Corporation.

“31. The capital of the Corporation at any time is the sum of—

- (a) an amount of \$5,000,000 transferred to the capital account of the Corporation in pursuance of sub-section (2) of section 31A;
- (b) any amounts paid to the Corporation by the Treasurer after the commencement of this section out of moneys appropriated by the Parliament for the purpose of providing further capital for the Corporation; and
- (c) any amounts transferred from the General Reserve to the capital account of the Corporation in pursuance of directions given under sub-section (4) of section 31A,

less the sum of any amounts of capital repaid to the Commonwealth by the Corporation after the commencement of this section.

“31A. (1) The reserve referred to in section 35 of the *Housing Loans Insurance Act* 1965 as amended and in force immediately before the date of commencement of this section continues in existence, on and after that date, by force of this section, as a general reserve under the name “Housing Loans Insurance Corporation General Reserve”.

General Reserve.

“(2) As soon as practicable after the commencement of this section, the Corporation shall—

- (a) pay to the Commonwealth, out of the General Reserve, an amount of \$4,500,000; and
- (b) transfer to the capital account of the Corporation, out of the General Reserve, an amount of \$5,000,000.

“(3) There shall be transferred to the General Reserve the balance (if any) of the profits of the Corporation for a financial year after the payment by the Corporation to the Commonwealth of such amounts out of those profits as the Minister determines under sub-section (1) of section 31B.

“(4) The Minister may from time to time direct the Corporation to transfer a specified amount from the General Reserve to the capital account of the Corporation, and the Corporation shall comply with such a direction.

“(5) In giving a direction under sub-section (4), the Minister shall have regard to any advice that the Corporation has furnished to him in relation to the financial affairs of the Corporation.

“31B. (1) Interest is not payable to the Commonwealth on the capital of the Corporation but the Corporation shall pay to the Commonwealth, out of the profits of the Corporation for the financial year that commenced on 1 July 1976 and for each succeeding year, such amount as the Minister determines.

Payments to the Commonwealth.

“(2) The capital of the Corporation is repayable to the Commonwealth at such times and in such amounts as the Minister determines.

“(3) In the making of a determination under sub-section (1) or (2), regard shall be had to any advice that the Corporation has furnished to the Minister in relation to the financial affairs of the Corporation.

“31C. (1) The Corporation shall, from time to time during a financial year, pay to the Commonwealth such an amount, or such amounts, as the Minister directs on account of the amount that is expected to become payable by the Corporation in respect of that financial year in accordance with a determination of the Minister under sub-section (1) of section 31B.

Interim dividends.

“(2) The Minister shall not make a direction under sub-section (1) during a financial year unless he has given the Corporation a reasonable opportunity to furnish to him particulars of its estimated profits for that financial year and any advice that the Corporation wishes to furnish to

him concerning its financial affairs and has had regard to any particulars and advice so furnished to him.

“(3) Where the amount, or the total of the amounts, paid by the Corporation to the Commonwealth during a financial year under sub-section (1) of this section exceeds the amount (if any) determined by the Minister under sub-section (1) of section 31B to be payable by the Corporation to the Commonwealth in respect of that year, the amount of the excess shall be treated as having been paid by the Corporation to the Commonwealth under sub-section (1) of this section during the next succeeding financial year.

Borrowing
by the
Corporation.

“31D. (1) The Corporation may, with the approval of the Treasurer, borrow moneys that are from time to time necessary for the exercise of its powers or the performance of its duties or functions under this Act.

“(2) The Treasurer may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend to the Corporation, at such rate of interest and on such other terms and conditions as he determines, moneys that the Corporation is authorized to borrow under sub-section (1).

“(3) The Corporation may give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

“(4) The Treasurer may, on behalf of the Commonwealth, guarantee the repayment by the Corporation of amounts borrowed under this section otherwise than from the Commonwealth and the payment of interest on amounts so borrowed.

“(5) The Corporation shall not borrow moneys except in accordance with this section.”.

20. Sections 33 to 37 (inclusive) of the Principal Act are repealed and the following sections substituted:—

Application
of moneys.

“33. Subject to section 34, the moneys of the Corporation shall be applied only—

- (a) in payment or discharge of the costs, expenses and other obligations of the Corporation;
- (b) in payment of remuneration and allowances payable to any person appointed or employed under this Act; and
- (c) in making payments to the Commonwealth as provided by this Act.

Investment
of moneys.

“34. (1) The moneys of the Corporation not immediately required for the purposes of the Corporation may be invested—

- (a) on deposit with an approved bank;

- (b) in public securities within the meaning of section 42 of the *Superannuation Act 1976*;
- (c) with the approval of the Treasurer and subject to such conditions (if any) as he determines—in a loan to (including deposit with), or in the shares of, a permanent building society;
- (d) in any manner for the time being allowed by an Act, or by a law of a State or Territory, for the investment of trust moneys in Australia;
- (e) in a loan to (including deposit with) a prescribed dealer in the short-term money market; or
- (f) in any other manner for the time being approved by the Treasurer.

“(2) In sub-section (1)—

‘permanent building society’ means a society registered or incorporated as a building society, co-operative housing society or similar society under the law in force in a State or Territory relating to such societies, other than a society which, under its rules, is to terminate at a specified date, on the occurrence of a specified event or on the attainment of a specified result;

‘share’, in the relation to a permanent building society, means a share in the capital of the society, and includes stock.

“35. For the purposes of this Act, the profits of the Corporation for a financial year are the amount (if any) remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure and provision for expenditure properly chargeable against that revenue. Profits of the Corporation.

“36. The Corporation shall cause to be kept proper accounts and records of the transactions and affairs of the Corporation in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Corporation and over the incurring of liabilities by the Corporation. Proper accounts to be kept.

“37. The Corporation shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year, and, if so directed by the Minister, for any other period, and shall submit those estimates to the Minister not later than such date as the Minister directs. Estimates.

“37A. The Corporation shall not, except with the approval of the Minister, enter into a contract (not being a contract entered into by the Corporation by virtue of powers conferred on it by section 17, 19 or 34) involving the payment or receipt by the Corporation of an amount exceeding \$250,000, or, if a higher amount is prescribed by the regulations, that higher amount. Contracts.

Audit.

“37B. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Corporation and records relating to assets of, or in the custody of, the Corporation and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

“(2) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

“(3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

“(4) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Corporation relating directly or indirectly to the receipt or payment of moneys by the Corporation or to the acquisition, receipt, custody or disposal of assets by the Corporation.

“(5) The Auditor-General or a person authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

“(6) The Auditor-General or a person authorized by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

“(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.”

21. (1) Section 38 of the Principal Act is repealed and the following section substituted:—

Taxation.

“38. (1) The Corporation shall pay all rates, taxes and charges under any law of the Commonwealth, a State or a Territory.

“(2) The Corporation is not a public authority for the purposes of paragraph (d) of section 23 of the *Income Tax Assessment Act 1936*.

“(3) Securities issued by the Corporation are not public securities or Commonwealth securities for the purposes of the *Income Tax Assessment Act 1936*.

“(4) The provisions of the *Income Tax Assessment Act 1936* that relate to depreciation apply in relation to the Corporation as if—

- (a) the Corporation had, at all times, been liable to pay taxes on income under the laws of the Commonwealth and depreciation had been allowed in assessments accordingly;

- (b) the Corporation had not, in relation to the first year of income in respect of which it was so liable, exercised the option referred to in paragraph (b) of sub-section (1) of section 56 of that Act; and
- (c) in the case of a unit of property owned by the Corporation that became so owned before 1 July 1976, the Commissioner had, for the purposes of the calculation of the first depreciation that would have been allowed in respect of that unit after the Corporation had been so liable to pay taxes on income, made such estimate of the effective life of the unit as, in the opinion of the Commissioner, would have been the appropriate estimate,

except that, for the purpose of calculating, in respect of any property of the Corporation, the sum referred to in sub-section (2) of section 59 of that Act, the Corporation shall not be treated as having been allowed any amount as depreciation that has not in fact been allowed.”.

(2) The amendment made by sub-section (1)—

- (a) has effect, and shall be deemed to have had effect, for the purposes of the *Income Tax Assessment Act* 1936, in respect of income derived by the Corporation on or after 1 July 1976;
- (b) does not make the Corporation liable to any taxes or charges under a law of a State or Territory in respect of—
 - (i) any act or thing done, or any contract of insurance entered into, by the Corporation before 1 July 1977;
 - (ii) any instrument executed by any person before 1 July 1977; or
 - (iii) any policy of insurance issued by the Corporation on or after 1 July 1977 in respect of a liability, by way of insurance, undertaken by the Corporation before that date;
- (c) does not make a person other than the Corporation liable to any tax or charge under a law of a State or Territory—
 - (i) in respect of a policy of insurance issued by the Corporation in another State or Territory, whether before or after 1 July 1977, in respect of a liability, by way of insurance, undertaken by the Corporation before that date; or
 - (ii) in respect of any act or thing done by any person, whether before or after 1 July 1977, in relation to a policy of insurance of a kind referred to in paragraph (i); and
- (d) does not make the Corporation liable to pay an amount of tax or charge under a law of a State or Territory, being a tax or charge in respect of a licence relating to the carrying on by the Corporation of insurance business in that State or Territory, that exceeds the amount of tax that it would be liable to pay under that law in respect of the licence if it had not carried on any insurance business before 1 July 1977 but had commenced to carry on insurance business on that date.

(3) Without limiting the application of paragraph (2)(b) or (2)(d), the amendment made by sub-section (1) does not make the Corporation liable to pay an amount of tax or charge under a law of a State or Territory that it would have become liable to pay before 1 July 1977 (including such an amount that it would have been entitled to pay on or after 1 July 1977) if the amendment had come into force on 4 May 1965.

(4) Without limiting the application of sub-section (1), no provision of this Act shall be taken to exclude the application to and in relation to the Corporation of a law of a State or Territory in so far as that law has the effect of prohibiting a person from carrying on, or affecting the right of a person to carry on, insurance business by reason only of his failure to comply with that law in relation to the payment of an amount of money by way of stamp duty or otherwise.

(5) Tax is not payable under a law of a State or Territory in respect of a policy of reinsurance issued, whether before, on or after 1 July 1977, in respect of a liability or liabilities, by way of insurance, undertaken by the Corporation before that date.

(6) For the purposes of sub-sections (2), (3), (4) and (5)—

- (a) the *Australian Capital Territory Stamp Duty Act* 1969;
- (b) the *Australian Capital Territory Tax (Insurance Business) Act* 1969;
- (c) the *Australian Capital Territory Tax (Purchases of Marketable Securities) Act* 1969; and
- (d) the *Australian Capital Territory Tax (Sales of Marketable Securities) Act* 1969,

shall each be taken to be laws of the Australian Capital Territory and not laws of the Commonwealth.

22. Sections 39 and 40 of the Principal Act are repealed and the following sections substituted:—

Annual
report.

“39. (1) The Corporation shall, as soon as practicable after each 30 June, prepare and furnish to the Minister, for presentation to the Parliament, a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

“(2) The report shall set out—

- (a) all directions given by the Minister to the Corporation under section 20, sub-section (4) of section 31A or sub-section (1) of section 31C; and
- (b) all determinations made by the Minister under sub-section (4) of section 25 or sub-section (1) or (2) of section 31B,

during the year to which the report relates.

“(3) Before furnishing financial statements to the Minister, the Corporation shall submit them to the Auditor-General who shall report, to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial transactions and the state of affairs of the Corporation;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Corporation during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

“(4) The Minister shall cause a copy of the report and financial statements of the Corporation, together with a copy of the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

“40. (1) The Corporation shall, upon request by the Minister, furnish to the Minister such reports, documents and information concerning its operations as the Minister specifies. Further reports.

“(2) A request under sub-section (1) shall not require reports, documents or information to be furnished to the Minister with respect to the affairs of an individual person.

“(3) The Corporation shall, at all times, keep the Minister informed concerning the operations of the Corporation.

“40A. Where the Minister requests the Corporation to furnish to him, in respect of a period of 3 months ending on 31 March, 30 June, 30 September or 31 December, a return, in accordance with the form approved by him, with respect to— Quarterly return of contracts.

- (a) contracts of insurance entered into by the Corporation in that period of 3 months; and
- (b) contracts of insurance entered into by the Corporation and not discharged before the end of that period of 3 months,

the Corporation shall comply with the request as soon as practicable after the request is made.”

23. (1) Section 42 of the Principal Act is repealed and the following section substituted:—

“42. (1) Subject to this section, a contract of insurance may be assigned, in such manner as is prescribed— Assignment of contracts of insurance.

- (a) in a case where the loan to which the contract of insurance relates is secured by an approved security—to the person to whom

the approved security is transferred or assigned or in whom that security becomes vested; or

- (b) in a case where the loan to which the contract of insurance relates is not so secured—to the person to whom the right of repayment of the loan is transferred or assigned.

“(2) A contract of insurance that is assigned to a person who is not an approved lender may be cancelled by the Corporation if at, or at any time after, the time when the assignment takes effect an agency contract is not in force in relation to the loan in respect of which the contract of insurance was entered into.”.

(2) A term of a contract of insurance entered into in relation to an insurable loan by the Corporation before the date on which this Act receives the Royal Assent that provides that the contract may be cancelled if it is assigned to a person, other than an approved lender, in respect of whom there is not at any time in force in relation to that loan an approved agency contract within the meaning of section 42 of the *Housing Loans Insurance Act* 1965 or of that Act as amended and in force from time to time, has effect, on and after that date, as if an agency contract within the meaning of the Principal Act as amended by this Act that is entered into by that first-mentioned person were such an approved agency contract.

Secrecy.

24. Section 43 of the Principal Act is amended—

- (a) by inserting in sub-section (1) after the words “the Managing Director”, the words “, the Deputy Managing Director”;
- (b) by omitting from sub-section (1) the words “or imprisonment for 12 months”; and
- (c) by adding at the end thereof the following sub-section:—
 - “(3) In sub-section (1)—
 - (a) a reference to a member of the Corporation shall be read as including a reference to a person appointed under sub-section (2) of section 8A who is acting as the Chairman or as the Deputy Chairman; and
 - (b) a reference to the Managing Director or to the Deputy Managing Director shall be read as including a reference to a person appointed under sub-section (2) of section 8A who is acting as the Managing Director or as the Deputy Managing Director, as the case may be.”.

False statements.

25. Section 44 of the Principal Act is repealed.

Regulations.

26. Section 47 of the Principal Act is amended by omitting paragraphs (b) and (c) of sub-section (2) and substituting the following word and paragraph:—

“or (b) declaring interests in land to be prescribed interests for the purposes of this Act.”.

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

Formal
amendments.

SCHEDULE

Section 27

FORMAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting any number expressed in words that is used to identify a section of that Act and substituting that number expressed in figures:—

Sections 4 (1) (definition of “part-time member”) and 11 (2) (a) (i) and (c) (i).

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

Sections 4 (1) (definition of “part-time member”), 11 (2) (a) (i) and (c) (i) and 43 (2).

3. The Principal Act is further amended by omitting from sub-section (4) of section 5 of that Act the words “of this section”.

NOTES

1. Act No. 39 1977; assented to 7 June 1977.
2. Act No. 10, 1965, as amended. For previous amendments *see* Act No. 93, 1966; No. 216, 1973 (as amended by No. 20, 1974); and No. 37, 1976.