

# LIFE INSURANCE AMENDMENT ACT 1978

## No. 177 of 1978

An Act to amend the *Life Insurance Act* 1945.

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

Short title,  
&c.

1. (1) This Act may be cited as the *Life Insurance Amendment Act* 1978.<sup>1</sup>

(2) The *Life Insurance Act* 1945<sup>2</sup> is in this Act referred to as the Principal Act.

Commence-  
ment

2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup>

3. After section 9 of the Principal Act the following sections are inserted:

Terms and  
conditions of  
appointment

“9A. (1) Subject to this Part, the Commissioner holds office for such period, not exceeding 7 years, as is specified in the instrument of his appointment and on such terms and conditions as the Governor-General determines, but is eligible for re-appointment.

“(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as Commissioner and a person shall not be appointed or re-appointed as Commissioner for a period that extends beyond the date on which he will attain the age of 65 years.

“(3) A person who is a director or employee of a body corporate that carries on life insurance business in Australia, or of a body corporate related to such a body corporate, shall not be appointed as the Commissioner.

“(4) For the purposes of sub-section (3), the question whether bodies corporate are related to each other shall be determined in the same manner as the question whether corporations, within the meaning of the *Companies Ordinance* 1962 of the Australian Capital Territory, are related to each other would be determined under that Ordinance if, in section 6 of that Ordinance—

(a) the reference to a corporation controlling more than half of the voting power of another corporation were a reference to a corporation controlling more than one-quarter of the voting power of another corporation; and

- (b) the reference to a corporation holding more than half of the issued share capital of another corporation were a reference to a corporation holding more than one-quarter of the issued share capital of another corporation.

“9B. (1) The Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed. Remuneration and allowances

“(2) The Commissioner shall be paid such allowances as are prescribed.

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

“9C. The Treasurer may grant leave of absence to the Commissioner upon such terms and conditions as to remuneration or otherwise as the Treasurer determines. Leave of absence

“9D. (1) The Commissioner shall not—

- (a) be a director or employee of a body corporate of a kind referred to in sub-section 9A (3); or
- (b) except with the approval of the Treasurer, engage in paid employment outside the duties of his office.

Outside employment and interests

“(2) The Commissioner shall give written notice to the Treasurer of all direct and indirect pecuniary interests that he has or acquires in any life insurance business carried on in Australia or in any body corporate carrying on any such business.

“9E. (1) If a person appointed as the Commissioner is, at the time of his appointment, an officer of the Australian Public Service, the Governor-General may, by writing under his hand, direct that this section applies in relation to the appointment. Public servant appointed as Commissioner may continue in office as public servant

“(2) Where this section applies in relation to the appointment of an officer of the Australian Public Service as the Commissioner—

- (a) the duties of the Commissioner shall, during the period of the appointment, be deemed to form part of the officer's duties as an officer of the Australian Public Service, except that, in the performance of his duties as Commissioner, the officer is subject only to the directions of the Treasurer as provided by sub-section 9 (2);
- (b) the officer shall hold office as Commissioner during the pleasure of the Governor-General;
- (c) the officer shall not be paid remuneration or allowances under this Act;

- (d) the performance by the officer of the duties of his office in the Australian Public Service shall not be taken to be engaging in paid employment outside the duties of the office of Commissioner for the purposes of sub-section 9D (1); and
- (e) section 9F does not apply in relation to the officer.

Termination  
of  
appointment

“9F. (1) The Governor-General may terminate the appointment of the Commissioner for misbehaviour or physical or mental incapacity.

“(2) If the Commissioner—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) contravenes sub-section 9D (1); or
- (c) is absent from duty, except on leave of absence granted by the Treasurer, for 14 consecutive days or for 28 days in any 12 months,

the Governor-General shall, by notice published in the *Gazette*, declare that the office of the Commissioner is vacant, and thereupon the office shall be deemed to be vacant.

Resignation

“9G. The Commissioner may resign his office by writing signed by him and delivered to the Governor-General.

Acting Com-  
missioner

“9H. (1) The Treasurer may appoint a person (in this section referred to as an ‘Acting Commissioner’) to act as the Commissioner during any period, or during all periods—

- (a) when the Commissioner is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his office; or
- (b) when there is a vacancy in the office of Commissioner.

“(2) An Acting Commissioner appointed by reason of the office of the Commissioner being vacant shall not continue in office after the expiration of 12 months after the occurrence of the vacancy.

“(3) The Treasurer may—

- (a) subject to this Part, determine the terms and conditions of appointment of an Acting Commissioner; and
- (b) at any time terminate such an appointment.

“(4) The appointment of an Acting Commissioner ceases to have effect if he resigns the appointment by writing under his hand addressed to the Treasurer.

“(5) Sections 9C, 9D and 9E apply in relation to an Acting Commissioner in like manner as they apply in relation to the Commissioner.

“(6) While the appointment of an Acting Commissioner remains in force, he has, and may exercise, all the powers, and shall perform all the functions, of the Commissioner.

“(7) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.”.

4. Section 10 of the Principal Act is amended by omitting all the words before “Treasurer” and substituting “The”. Actuarial  
advice

5. After section 10 of the Principal Act the following section is inserted:

“10A. The staff necessary to assist the Commissioner shall be persons employed under, or whose services are made available in accordance with arrangements made under, the *Public Service Act* 1922.”. Staff

6. (1) The person who, immediately before the date of commencement of this Act, held office as the Life Insurance Commissioner under section 9 of the Principal Act shall be deemed, for the purposes of that Act as amended by this Act, to have been appointed under section 9 of the Principal Act as so amended to hold that office for a period commencing on that date and ending at the expiration of the period of 7 years that commenced on the day on which he commenced to hold that office under section 9 of the Principal Act. Transitional

(2) Subject to any determinations or regulations made for the purposes of section 9B of the Principal Act as amended by this Act, the person referred to in sub-section (1) shall be paid remuneration and allowances in respect of the office of Life Insurance Commissioner at the rates at which remuneration and allowances were respectively payable to him in respect of that office immediately before the commencement of this Act.

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## NOTES

1. Act No. 177, 1978; assented to 28 November 1978.
2. Act No. 28, 1945, as amended. For previous amendments *see* Acts Nos. 65 and 80, 1950; No. 94, 1953; No. 3, 1958; No. 93, 1959; No. 29, 1961; No. 145, 1965; No. 78, 1973; No. 216, 1973 (as amended by No. 20, 1974); and No. 32, 1977.