

Version No. 020

State Insurance Office Act 1984

Act No. 10089/1984

Version incorporating amendments as at 15 July 1999

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An Act to establish the State Insurance Office as a body corporate under the Management and Control of a Board of Management, to provide for Insurance Business to be undertaken by the State Insurance Office, to repeal the **State Insurance Office Act 1975** and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

PART I—PRELIMINARY

1. Short title

This Act may be cited as the **State Insurance Office Act 1984**.

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

* * * * * S. 3
repealed by
No. 13/1989
s. 11(1).

4. Definitions

* * * * * S. 4(1)(2)
repealed by
No. 15/1994
s. 4(1)(a).

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S. 4(3) def. of
"appointed
director"
repealed by
No. 15/1994
s. 4(1)(b).

(3) In this Act unless inconsistent with the context or subject-matter—

* * * * *

"**Board**" means the State Insurance Office Board of Management constituted under this Act;

"**Chairman**" means the Chairman of the Board;

"**director**" means a director of the Board;

S. 4(3) def. of
"Fund"
repealed by
No. 13/1989
s. 4(a).

* * * * *

"**General Manager**" means the General Manager of the Office;

S. 4(3) def. of
"life insurance
business"
inserted by
No. 13/1989
s. 4(b),
repealed by
No. 15/1994
s. 4(1)(b).

* * * * *

"**Office**" means the State Insurance Office constituted and incorporated under this Act;

"**repealed Act**" means the **State Insurance Office Act 1975** as amended.

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PART II—STATE INSURANCE OFFICE¹

5. State Insurance Office

- (1) For the purposes of this Act there shall be an office to be known as the State Insurance Office.
- (2) The Office shall be a body corporate and shall—
 - (a) have perpetual succession and a common seal; and
 - (b) be capable in law of—
 - (i) suing and being sued in that name;
 - (ii) for the purposes of this Act, purchasing, taking, holding, selling, leasing, taking on lease, mortgaging, exchanging or disposing of real or personal property; and
 - (iii) doing or suffering all other acts or things which a body corporate may by law do or suffer.
- (3) The objectives of the State Insurance Office shall be—
 - (a) to earn a commercial return from its activities and investments;
 - (c) to satisfy the needs of the Government of Victoria for specialist insurance services provided on a commercial basis.
- (4) The State Insurance Office Board of Management which may exercise all the powers of the Office shall ensure that the Office is managed and operated in an efficient and economic manner.

* * * * *

S. 5(3)(b)
repealed by
No. 15/1994
s. 5(1).

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S. 5(7)
amended by
No. 13/1989
s. 5(a)(b),
substituted by
No. 15/1994
s. 5(2).

S. 5(8)
amended by
No. 15/1994
s. 5(3).

S. 7(1)
substituted by
No. 15/1994
s. 5(4),
amended by
No. 46/1998
s. 7(Sch. 1).

- (5) Notwithstanding anything in this or any other Act the Minister may at any time give a direction to the Board concerning the policies it is to give effect to.
- (6) The Board shall give effect to any direction given to it by the Minister as soon as possible and shall report to the Minister on the action taken by it to give effect to the direction.
- (7) The Board shall consist of 5 directors appointed by the Governor in Council, of whom one shall be appointed as the Chairman of the Board and one shall be appointed as the Deputy Chairman of the Board.
- (8) A director appointed pursuant to section 5(7) shall be paid—
 - (a) such remuneration as is fixed from time to time by the Governor in Council; and
 - (b) such travelling and other allowances and expenses as are fixed from time to time by the Governor in Council.

6. Common seal

- (1) The common seal of the Office—
 - (a) shall be kept in such custody as the Board directs; and
 - (b) shall not be used except as authorized by the Board.
- (2) All courts shall take judicial notice of the common seal of the Office affixed to any document.

7. Appointment of directors

- (1) The **Public Sector Management and Employment Act 1998** does not apply to a director in respect of the office of director.

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- (2) A director shall be appointed for such period as is specified in the instrument of his appointment and shall be eligible for re-appointment.

8. Acting Chairman

- (1) Where the Chairman is unable whether by reason of illness, absence or otherwise to perform the duties of his office or the office of Chairman is vacant—
- (a) the Deputy Chairman shall act in his place; or
 - (b) where the Deputy Chairman is unable, whether by reason of illness, absence or otherwise to act in the place of the Chairman or there is no Deputy Chairman, the Minister may appoint one of the other directors to act in the place of the Chairman.
- (2) A person appointed under this section to act in another person's place shall while so acting—
- (a) have all the powers and perform all the duties of the person for whom he is acting; and
 - (b) be paid—
 - (i) such remuneration as is fixed from time to time by the Governor in Council; and
 - (ii) such travelling and other allowances and expenses as are fixed from time to time by the Governor in Council.

S. 8(1)(b)
amended by
No. 15/1994
s. 5(5)(a).

9. Acting directors

- (1) Where a director is unable to perform the duties of his office, the Governor in Council may appoint a person to act in the place of that director during the period of inability.

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- (2) A person appointed under this section to act in the place of a director shall while so acting—
 - (a) have all the powers and perform all the duties of the director for whom he is acting; and
 - (b) be entitled to be paid such remuneration, travelling and other allowances and expenses as are from time to time fixed by the Governor in Council.
- (3) The Governor in Council may at any time terminate an appointment under sub-section (1).
- (4) Where a person has been appointed under this section to act in the place of a director during a period of inability of that director and that director ceases to hold office without having resumed the performance of the duties of his office, the period of appointment of the person so appointed shall be deemed to continue until the appointment is terminated by the Governor in Council or until the expiration of the period of twelve months after the date on which the director for whom he is acting ceases to hold office, whichever first occurs.

10. Vacancy in office of directors

- (1) The office of a director shall become vacant—
 - (a) if he is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence;
 - (b) if he becomes bankrupt or his property becomes in any manner subject to control under the law relating to bankruptcy;
 - (c) if he is absent from three consecutive meetings of the Board without leave granted by the Minister;
 - (d) if he is removed from office under sub-section (2);

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- (e) if he resigns his office by writing signed by him and delivered to the Governor;
- (f) at the expiration of his term of office;
- (g) if he dies;

S. 10(1)(g) amended by No. 42/1995 s. 224(Sch. 2 item 36.1(a)).

* * * * *

S. 10(1)(h) repealed by No. 42/1995 s. 224(Sch. 2 item 36.1(b)).

- (2) The Governor in Council may at any time remove a director from office.

S. 10(2) amended by No. 15/1994 s. 5(5)(b).

11. Meetings of the Board

- (1) The Chairman may, at any time, convene a meeting of the Board to be held at a place and time determined by him and shall convene a meeting at least once in each period of 3 months.
- (2) The Chairman shall preside at any meeting of the Board at which he is present.
- (3) If the Chairman is not present at the time fixed for the commencement of a meeting of the Board, the Deputy Chairman shall preside at that meeting.
- (4) A majority of directors shall constitute a quorum at a meeting of the Board.
- (5) A question arising at a meeting of the Board shall be determined by a majority of votes of the directors present and voting on that question and, in the event of an equality of votes, the Chairman or other director presiding at the meeting shall have a casting vote in addition to his first vote.

S. 11(1) amended by No. 15/1994 s. 5(5)(c).

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- (6) Notice of the time and place of a meeting of the Board convened by the Chairman shall be given by the Chairman to the General Manager who shall be entitled to be present and sit with the Board and take part in the meetings of the Board but the General Manager shall not be entitled to vote on any question unless he be a director.
- (7) An act or decision of the Board shall not be invalid by reason only of—
 - (a) a defect or irregularity in or in connexion with the appointment of a member;
 - (b) a vacancy in the membership of the Board including a vacancy arising because of the failure to appoint an original director;
 - (c) in the case of a person appointed to act as a director, on the ground that the occasion for his so acting had not arisen or had ceased; or
 - (d) the absence of the General Manager from a meeting of the Board.
- (8) Subject to this Act the Board may regulate its own proceedings.

12. Pecuniary interests of directors

- (1) A director who has any pecuniary interest in a matter being considered or about to be considered by the Board or in any other matter in which the Office is concerned shall as soon as practicable after the relevant facts have come to his knowledge, declare the nature of his interest at a meeting of the Board.
- (2) A declaration made by a director under subsection (1) shall be recorded in the minutes of the meeting at which the declaration is made.

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- (3) After a declaration is made by a director under sub-section (1)—
 - (a) that director shall not be present during any deliberation of the Board with respect to the matter;
 - (b) that director shall not be entitled to vote on the matter; and
 - (c) if that director does vote on the matter, his vote shall be disallowed.
- (4) This section does not apply where the interest of the director consists only of being a member or creditor of a company which has an interest in a contract or proposed contract with the Office if the interest of the director may properly be regarded as not being a material interest.

* * * * *

S. 12(5)
repealed by
No. 15/1994
s. 5(5)(d).

* * * * *

S. 13
repealed by
No. 65/1990
s. 4(5).

14. Transitional provision

- (1) The Office constituted under this Act is the successor in law of the Insurance Commissioner referred to in section 65 of the **Workers Compensation Act 1958** and of the State Accident Insurance Office formerly established under Division 6 of Part III of the **Workers Compensation Act 1958** and the State Motor Car Insurance Office formerly established under Division 2 of Part V of the **Motor Car Act 1958** and of the Insurance Commissioner appointed or the State Insurance Office established under the Repealed Act.

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- (2) Any proceedings instituted by or against the Insurance Commissioner (whether referring to him personally or as Insurance Commissioner or both) or against the State Accident Insurance Office or the State Motor Car Insurance Office before the commencement of the provisions of this Act may be continued and concluded after the said commencement in all respects as if the proceedings were instituted by or against the Office after the commencement of this section.
- (3) Any reference in any other Act or law or in any document enacted or made prior to the commencement of this Act to the "Insurance Commissioner" shall be read and construed as a reference to the Office.
- (4) Any reference in any other Act or law or in any document to the "State Accident Insurance Office" or the "State Motor Car Insurance Office" or the "State Insurance Office" shall be read and construed as a reference to the Office.
- (5) Any reference in any other Act or law or in any document to the "State Accident Insurance Fund" or the "State Motor Car Insurance Fund" or to the "State Insurance Fund" established under the repealed Act shall be read and construed as a reference to the State Insurance Fund established under this Act.

15. Continuation in office of person appointed under the State Insurance Act 1975

The person holding the office of Insurance Commissioner under the Repealed Act immediately prior to the commencement of this Act shall be appointed the first General Manager of the Office and shall be entitled to continue in office for the remainder of the term for which he was appointed pursuant to the provisions of the Repealed Act.

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16. General Manager

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| <p>(1) The appointment to the office of the General Manager shall be made by the Board.</p> | <p>S. 16(1)
substituted by
No. 15/1994
s. 6(1).</p> |
| <p>(2) The General Manager shall respectively—</p> <p style="padding-left: 20px;">(a) hold office—</p> <p style="padding-left: 40px;">(i) for the period (not exceeding five years) that is specified in his instrument of appointment and shall be eligible to be re-appointed; and</p> <p style="padding-left: 40px;">(ii) on the terms and conditions specified in his instrument of appointment;</p> <p style="padding-left: 20px;">(b) be entitled to be paid—</p> <p style="padding-left: 40px;">(i) the remuneration fixed from time to time by the Board; and</p> <p style="padding-left: 40px;">(ii) the travelling and other allowances and expenses fixed from time to time by the Board;</p> | <p>S. 16(2)
amended by
No. 15/1994
s. 6(2)(a)(c).</p> |
| <p style="text-align: center;">* * * * *</p> | <p>S. 16(2)(b)(i)
amended by
No. 15/1994
s. 6(2)(b).</p> <p>S. 16(2)(b)(ii)
amended by
No. 15/1994
s. 6(2)(b).</p> <p>S. 16(2)(c)(d)
repealed by
No. 15/1994
s. 6(2)(c).</p> |
| <p>(3) The Board may at any time remove or suspend the General Manager from office.</p> | <p>S. 16(3)
amended by
No. 15/1994
s. 6(2)(d)(e).</p> |
| <p>(4) The General Manager may resign his office by writing signed by him and delivered to the Board.</p> | <p>S. 16(4)
amended by
No. 15/1994
s. 6(2)(d)(e).</p> |

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S. 16(5)
amended by
No. 15/1994
s. 6(2)(d).

- (5) If the General Manager—
- (a) engages in Victoria or elsewhere in paid employment outside the duties of his office without the approval of the Minister;
 - (b) becomes bankrupt or his property becomes in any manner subject to control under the law relating to bankruptcy;
 - (c) is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence;
 - (d) becomes incapable of performing his duties;
 - (e) retires, is removed from office under subsection (3) or resigns his office;

* * * * *

S. 16(5)(f)
repealed by
No. 42/1995
s. 224(Sch. 2
item 36.2).

(g) dies—

his office shall become vacant.

- (6) Where a General Manager was immediately prior to his appointment under this Act an officer within the meaning of the **State Superannuation Act 1988** or any corresponding previous enactment he shall, notwithstanding his appointment, be deemed to continue subject to that Act, to be an officer within the meaning of that Act.

- (7) If a person appointed as General Manager or a Deputy General Manager—

- (a) was immediately prior to his or her appointment an employee in the public service; or
- (b) having formerly been employed in the public service, was engaged or employed in any office or capacity in which he or she was

S. 16(6)
amended by
Nos 50/1988
s. 93(2)(Sch. 2
Pt 2 item 54),
15/1994
s. 6(2)(d).

S. 16(7)
amended by
No. 15/1994
s. 6(2)(d)(f),
substituted by
No. 46/1998
s. 7(Sch. 1).

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eligible to be employed in the public service on the termination of such engagement or employment—

that person is entitled to be employed in the public service at the termination of his or her term of office under this Act with a classification and emolument corresponding with or higher than those which he or she last held or received in the public service immediately prior to his or her appointment or to his or her engagement or appointment (as the case requires) as if the whole period of his or her service under this Act and (if the case requires) in any other such office or capacity had been a period of service in the public service.

17. Control and administration of the Office

- (1) The General Manager shall have control of the day to day administration of the affairs of the Office in accordance with the policies and directions given to him by the Board.
- (2) The Board shall give directions as to the carrying out of its objectives and functions of the Office under this Act.

18. Acting General Manager

- (1) Where the General Manager is unable whether on account of illness or otherwise, to perform the duties of his office or the office becomes vacant, the Board may appoint a person to act in the place of the General Manager during the period of inability or vacancy.
- (2) A person appointed under this section to act as the General Manager shall while so acting—
 - (a) have all the powers and perform all the duties of the General Manager; and

S. 18(1)
amended by
No. 15/1994
s. 6(2)(g)(i)
(ii)(h).

S. 18(2)
amended by
No. 15/1994
s. 6(2)(g)(i).

S. 18(2)(a)
amended by
No. 15/1994
s. 6(2)(g)(i).

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S. 18(2)(b)(i)
amended by
No. 15/1994
s. 6(2)(g)(ii).

S. 18(2)(b)(ii)
amended by
No. 15/1994
s. 6(2)(g)(ii).

No. 6419
s. 65(2).

S. 19
substituted by
Nos 15/1994
s. 7, 46/1998
s. 7(Sch. 1).

S. 20(1)
amended by
No. 68/1991
s. 4.

S. 20(1)(c)
repealed by
No. 15/1994
s. 8(a).

(b) be entitled to be paid—

(i) such remuneration as is fixed from time to time by the Board; and

(ii) such travelling and other allowances and expenses as are fixed from time to time by the Board.

19. Employees

Any employees that are necessary for the purposes of the Office may be employed under Part 3 of the **Public Sector Management and Employment Act 1998**.

20. Functions of the Office

(1) Except as otherwise provided by this Act, the functions of the Office shall be—

(a) to undertake and carry on in Victoria or elsewhere the general business of insurance including any form of insurance for the time being undertaken or carried on, whether in Victoria or elsewhere, by any person engaged in the business of insurance;

(b) without any further or other authority than the provisions of this section to be an approved insurer for the purposes of the **Workers Compensation Act 1958**;

* * * * *

(d) subject to sub-section (3), to perform such other functions or to engage in such other activities as are authorized by the Minister or are authorized or required by any Act or law.

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- (2) For the purposes of sub-section (1)(a) "**insurance**" includes assurance, additional insurance, treaty and internal insurance, and re-insurance, guarantee and surety and, in relation to any particular form of insurance, is not limited by reference to the practice, usage, form and procedure for the time being followed by other persons engaged in the like business.
- (2A) Notwithstanding sub-section (1)(a), the Office shall not carry on the business of insurance for the purpose of providing insurance or indemnity to indemnify an employer against liability to a worker or a worker's dependants in respect of the death of or injury to the worker arising out of or in the course of employment in Victoria except in relation to liability under—
- (a) section 125(1)(a) of the **Accident Compensation Act 1985**; or
- (b) any industrial award applicable to the worker for the difference between the weekly award wages payable to the worker and the sum of a weekly payment under the **Accident Compensation Act 1985** and any weekly earnings of the worker after the injury while the worker is totally or partially incapacitated.
- (2B) In sub-section (2A), "**employer**" and "**worker**" have the same meanings respectively as they have in the **Accident Compensation Act 1985**.
- (3) The Office shall not be required to perform any function or engage in any activity referred to in sub-section (1)(d) where the Minister is satisfied after considering any representation made by the Board that performing that function or engaging in that activity would place the Office at an economic or commercial disadvantage with other insurers.

S. 20(2A)
inserted by
No. 10191
s. 276.

S. 20(2B)
inserted by
No. 10191
s. 276.

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s. 20A

S. 20(5)
amended by
No. 13/1989
s. 6.

S. 20A
inserted by
No. 68/1991
s. 5.

S. 20B
inserted by
No. 68/1991
s. 5.

- (4) In the course of carrying out its functions under this Act the Board may do all such things as it considers are incidental to or conducive to the carrying out of those functions.
- (5) The Board shall cause, unless the Minister otherwise determines, the provisions of any Act of the Commonwealth relating to insurance and any regulations thereunder to be observed by the Office and for the purposes of the application of any such Act or regulation, a reference in such an Act or regulation to the Commissioner shall be deemed to be a reference to the Minister.
- (6) The Minister shall not make any determination under sub-section (5) so as to confer a commercial advantage on the Office.

20A. Formation of companies

- (1) The Office may be a member of, and may form, or participate in the formation of, a body corporate.
- (2) The Office is to be taken always to have had the powers referred to in sub-section (1).

20B. Office may dispose of assets etc.

- (1) In addition to its other powers under this Act, the Office may sell, assign, transfer or otherwise dispose of the whole of any part of its assets, liabilities, undertaking or business to—
 - (a) SIO Insurance Limited; or
 - (b) SIO Life Insurance Limited; or
 - (c) SIO Agencies Limited; or
 - (d) SIO Workers Compensation Limited—being a company limited by shares within the meaning of the Corporations Law of Victoria, all the shares in which are beneficially held by the Office.

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- (2) In addition to its other powers under this Act, the Office, with the approval in writing of the Treasurer, may sell, assign, transfer or otherwise dispose of the whole or any part of its assets, liabilities, undertaking or business, subject to and in accordance with the conditions (if any) to which the approval is subject, to a person declared by the Treasurer, by notice published in the Government Gazette, to be an approved purchaser for the purposes of this section.
 - (3) The exercise of powers conferred by sub-sections (1) and (2) has effect despite anything to the contrary in this Act, and even if, as the result of the exercise of those powers, the Office is no longer able to carry out the whole or any part of its functions under this Act.
 - (4) The Office must cause a report on the exercise of its powers under this section to be submitted to the Treasurer within 60 days after the completion of a sale, assignment, transfer or other disposal of the whole or any substantial part of the Office's assets, liabilities, undertaking or business.
 - (5) Each report under sub-section (4) must include—
 - (a) a statement of the date upon which the transactions concerned were completed;
 - (b) a description of the assets, liabilities, undertaking or business the subject of the transactions concerned;
 - (c) details of the consideration for the transactions concerned and of any other money payable in respect of the transaction;
 - (d) a summary of the effect of any guarantees or indemnities provided; and
 - (e) any other material facts, terms or conditions concerning the transactions.
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- (6) The Treasurer must cause a copy of each report under sub-section (4) to be laid before each House of the Parliament within 14 sitting days of that House after it is received by the Treasurer together with a statement of the manner of application of the proceeds of the transactions to which the report relates and any other related receipts.

20C. Office not to transfer shares in subsidiary without consent

The Office must not transfer, or agree to transfer, any shares in a company referred to in section 20B(1), or in any other company to which it has sold, assigned, transferred or otherwise disposed of any assets, liabilities, undertaking or business under section 20B, unless the Treasurer has given consent in writing to the transfer or agreement.

20D. Subsidiary company not to dispose of Office assets etc.

- (1) A company referred to in section 20B(1) must not, while all its shares are beneficially held by the Office, sell, assign, transfer or otherwise dispose of the whole or any part of any assets, liabilities, undertakings or business of the Office acquired as a result of powers exercised under that section without the written approval of the Treasurer.
- (2) Nothing in sub-section (1) applies to any thing done by a company in the ordinary course of carrying on the business or a part of the business of the Office acquired by the company.

20E. Indemnity

- (1) The Treasurer, on behalf of the Government of Victoria, may by instrument on such terms and conditions (including payment of fees) as the Treasurer determines indemnify the Office or any other person in respect of the whole or any part of

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the liability of the Office or any liability arising in relation to the business that is or has been carried on by the Office or by a company while all its shares were beneficially held by the Office.

- (2) Any sums required by the Treasurer in fulfilling any liability arising under an indemnity given under this section must be paid out of the Consolidated Fund which is hereby to the necessary extent appropriated accordingly.

21. State Insurance Fund

- (1) For the purposes of this Act there shall be a fund to be known as the "State Insurance Fund".
- (2) The Office shall open and maintain accounts with the State Bank or any other bank or banks for the time being approved by the Treasurer of Victoria for the purposes of this section and shall maintain at all times one such account to be used for the purposes of the State Insurance Fund.
- (3) Into the State Insurance Fund shall be paid all premiums and other money received by the Office under this or any other Act.

S. 21(2) amended by No. 13/1989 s. 7(1).

S. 21(3) substituted by No. 13/1989 s. 7(2), amended by No. 15/1994 s. 8(b).

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S. 21(3)(a)(b) repealed by No. 15/1994 s. 8(b).

- (4) Out of the State Insurance Fund shall be paid—
(a) all payments for discharging—

S. 21(4) substituted by No. 13/1989 s. 7(2).

- (i) the liabilities of the Office arising under any Act or law or under any policy, contract or agreement; and

S. 21(4)(a)(i) amended by No. 15/1994 s. 8(c).

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S. 21(4)(b)
amended by
Nos 68/1991
s. 6, 15/1994
s. 8(d).

S. 21(4)(c)
inserted by
No. 68/1991
s. 6.

S. 21(5)
amended by
No. 13/1989
s. 7(3).

S. 21(6)
amended by
No. 13/1989
s. 7(3).

S. 21(8)
substituted by
No. 13/1989
s. 7(4).

Ss 21A–21F
inserted by
No. 13/1989
s. 8,
repealed by
No. 15/1994
s. 8(e).

- (ii) liabilities of the State Accident Insurance Office, the State Motor Car Insurance Office, the State Insurance Office or the Insurance Commissioner arising before the commencement of this Act; and
- (b) the cost of administering this Act and of discharging any function of the Office under this or any other Act; and
- (c) amounts payable in the exercise of powers under section 20B.
- (5) Upon the commencement of this Act the balances standing to the credit of the State Insurance Fund established under the Repealed Act shall be carried to the credit of the State Insurance Fund.
- (6) Upon the commencement of this Act all liabilities incurred in respect of the State Insurance Fund established under the Repealed Act prior to the commencement of this Act shall be borne by the State Insurance Fund.
- (7) All securities and deposits held at the commencement of this Act by the Insurance Commissioner shall by the operation of this Act be vested in the Office.
- (8) The Office may invest money standing to the credit of the State Insurance Fund in accordance with the powers conferred on the Office under the **Borrowing and Investment Powers Act 1987²**.

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22. Contracts guaranteed by State

No. 6419 s. 67.

- (1) Every policy, contract or arrangement of insurance—
- (a) made under this Act by the Office; or
 - (b) made by a company referred to in section 20B(1) or any other corporation carrying on insurance, when all the shares in the company or corporation were beneficially held by the Office—

S. 22(1) substituted by No. 68/1991 s. 7.

is guaranteed by the Government of Victoria.

- (1A) A guarantee under sub-section (1) continues in force despite the transfer by the Office, company, corporation or any other person, of liabilities in respect of the policy, contract or arrangement of insurance to which the guarantee applies.

S. 22(1A) inserted by No. 68/1991 s. 7.

- (2) Any moneys which the Treasurer on the advice of the Board at any time certifies to be required to secure any payment legally payable under and pursuant to any such policy contract or arrangement and which cannot be met out of the fund and in respect of which it is not practicable to obtain financial accommodation under section 28 are hereby appropriated accordingly out of the Consolidated Fund.

S. 22(2) amended by Nos 13/1989 s. 9(a)(b), 15/1994 s. 8(f).

- (3) Any moneys so appropriated by the Treasurer shall be deemed to be an advance to the fund referred to in sub-section (2) and shall remain a charge thereon to be recouped when funds are available.

S. 22(3) amended by No. 13/1989 s. 9(c).

22A. Limitation on liability

S. 22A inserted by No. 68/1991 s. 8.

No liability arises under an indemnity given under section 20E in excess of a total liability under that section of \$40 000 000.

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23. Property of the office

- (1) All property acquired for the purposes of this Act and all property being used immediately prior to the commencement of this section for the purposes of or for the efficient working of the Office shall be vested in the Office.

S. 23(2)
repealed by
No. 15/1994
s. 8(g).

* * * * *

Ss 24, 25
repealed by
No. 31/1994
s. 4(Sch. 2
item 82.1).

* * * * *

26. Additional auditing

The Office may engage a registered company auditor to carry out such inspections and audits as it thinks necessary.

27. Payment of dividends

- (1) The Office shall at such time and in such manner as is determined by the Treasurer of Victoria pay to the Treasurer—

- (a) such amount by way of dividend out of profits or accumulated profits as is determined by the Treasurer of Victoria after consultation with the Board; and

S. 27(1)(b)
repealed by
No. 15/1994
s. 8(h).

* * * * *

S. 27(2)
amended by
No. 68/1991
s. 9(1)(c).

- (2) Notwithstanding anything in this or any other Act, the financial statements prepared by the Office in respect of a financial year shall record in such manner as the Treasurer may direct the payment of a dividend required to be transferred to the Consolidated Fund or the Victorian Debt Retirement Fund pursuant to this section.

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(3) The Treasurer must cause the amounts received by the Treasurer under sub-section (1) in each financial year to be paid—

S. 27(3)
inserted by
No. 68/1991
s. 9(2).

(a) as to not more than \$40 000 000, to the Consolidated Fund; and

(b) as to the remainder, into the Victorian Debt Retirement Fund.

28. Borrowing powers³

S. 28
substituted by
No. 13/1989
s. 10.

(1) The Office may obtain financial accommodation in accordance with the powers conferred on the Office under the **Borrowing and Investment Powers Act 1987**.

(2) Any money paid out of the Consolidated Fund to fulfill any liability under a guarantee in respect of financial accommodation obtained by the Office is—

S. 28(2)
amended by
No. 15/1994
s. 8(i).

(a) deemed to be an advance to the Office; and

(b) a charge on the State Insurance Fund;

S. 28(2)(b)
substituted by
No. 15/1994
s. 8(i).

(3) In this section "**financial accommodation**" has the same meaning as in the **Borrowing and Investment Powers Act 1987**.

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PART III—GENERAL

29. Bond as to payment of money into court

In the performance of its functions the Office may for the purposes of and in accordance with any rule of any court in that behalf execute and lodge with the proper officer of the court a bond conditioned for the payment into court by the Office of a sum of money in satisfaction of any claim.

30. Power to office to act as agent for Treasurer

- (1) The Treasurer may, subject to this Act, authorize the Office to administer any funds or functions which the Treasurer determines to be appropriate to be administered by the Office.

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- (3) The Treasurer shall arrange for the payment of any costs or expenses incurred by the Office in carrying out any arrangements made under subsection (1).
- _____

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Sch.

* * * * *

Sch.
amended by
No. 13/1989
s. 11(2),
repealed by
No. 15/1994
s. 4(2).

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Endnotes

ENDNOTES

1. General Information

The **State Insurance Office Act 1984** was assented to on 22 May 1984 and came into operation on 18 September 1984: Government Gazette 18 September 1984 page 3219.

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **State Insurance Office Act 1984** by Acts and subordinate instruments.

Accident Compensation Act 1985, No. 10191/1985

Assent Date: 30.7.85
Commencement Date: S. 276 on 31.8.85 (at 4 p.m.): Government Gazette 30.8.85 p. 3401
Current State: This information relates only to the provision/s amending the **State Insurance Office Act 1984**

State Superannuation Act 1988, No. 50/1988

Assent Date: 24.5.88
Commencement Date: S. 93(2)(Sch. 2 Pt 2 item 54) on 1.7.88: Government Gazette 1.6.88 p. 1487
Current State: This information relates only to the provision/s amending the **State Insurance Office Act 1984**

State Insurance Office (Amendment) Act 1989, No. 13/1989

Assent Date: 9.5.89
Commencement Date: 9.5.89
Current State: All of Act in operation

Victorian Public Offices Corporation (Repeal) Act 1990, No. 65/1990

Assent Date: 20.11.90
Commencement Date: 20.11.90
Current State: All of Act in operation

State Insurance Office (Sale) Act 1991, No. 68/1991 (as amended by No. 15/1994)

Assent Date: 19.11.91
Commencement Date: 20.11.91: Government Gazette 20.11.91 p. 3146
Current State: All of Act in operation

State Insurance Office (Amendment) Act 1994, No. 15/1994

Assent Date: 3.5.94
Commencement Date: 3.5.94
Current State: All of Act in operation

Financial Management (Consequential Amendments) Act 1994, No. 31/1994

Assent Date: 31.5.94
Commencement Date: S. 4(Sch. 2 items 82.1, 82.2) on 1.1.95: Government Gazette 28.7.94 p. 2055
Current State: This information relates only to the provision/s amending the **State Insurance Office Act 1984**

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Equal Opportunity Act 1995, No. 42/1995

Assent Date: 14.6.95
Commencement Date: S. 224 on 5.10.95: Government Gazette 28.9.95
p. 2731; Sch. 2 items 36.1, 36.2 on 1.1.96:
Government Gazette 21.12.95 p. 3571
Current State: This information relates only to the provision/s
amending the **State Insurance Office Act 1984**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s
amending the **State Insurance Office Act 1984**

3. Explanatory Details

¹ Pt 2: Sections 10 and 10A of the **State Insurance Office (Sale) Act 1991**, No. 68/1991 (as amended by No. 15/1994) read as follows:

10. Staff at SIO

- (1) If a purchaser acquires the whole or a part of the business carried on, or formerly carried on, by SIO (in this section called "the acquired business"), the purchaser becomes the employer of the staff members determined by the Board of SIO to have been engaged in the acquired business immediately before the relevant day in relation to that acquired business on terms and conditions determined by the Minister that are no less favourable than the terms and conditions on which the staff member was employed immediately before that relevant day.
- (2) A continuing staff member engaged in an acquired business becomes an unattached officer of the public service with a classification and emolument not less than that which the continuing staff member had in the public service immediately before the relevant day in relation to the acquired business, upon the expiration of one month after notice in writing is given to the secretary to the Public Service Board by the continuing staff member or the purchaser of the acquired business of an election that the continuing staff member become an unattached officer.
- (3) A continuing staff member or a purchaser may not give notice under sub-section (2) before the expiration of three months after the relevant day in relation to the acquired business, or after the second anniversary of the relevant day.

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- (4) If a staff member becomes an unattached officer under sub-section (2), the period of the staff member's service with the purchaser is to be taken to be service in the public service.
- (5) Until the second anniversary of the relevant day in relation to an acquired business, a continuing staff member engaged in the acquired business who has not, by notice in writing given to the secretary to the Public Service Board elected that this sub-section not apply—
- (a) may apply for appointment to an office in the public service; or
 - (b) may appeal against the provisional promotion or transfer in that service of a person to an office—
- as if he or she were an officer within the meaning of the **Public Service Act 1974**.
- (6) A staff member engaged in an acquired business who, before the relevant day in relation to that business, was a member of the State Superannuation Fund continues, subject to the **State Superannuation Act 1988**, to be a member of that Fund until the second anniversary of that relevant day or ceasing to be a continuing staff member or, by notice in writing given to the secretary to the Public Service Board, elected that this sub-section not apply, whichever first occurs.
- (7) A staff member engaged in an acquired business who, on the relevant day in relation to that business, had at least 12 years of recognised service within the meaning of the **State Superannuation Act 1988** and was at least 42 years of age may elect at the end of the period of two years after the relevant day to continue, subject to that Act, to be a member of the State Superannuation Fund until ceasing to be a
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continuing staff member or, by notice in writing given to the secretary to the Public Service Board, elected that this sub-section not apply, whichever first occurs.

- (8) A staff member engaged in an acquired business who has not made an election under sub-section (7) and who, before the relevant day in relation to that business was a member of the State Superannuation Fund may, if he or she is a continuing staff member at the end of the period of two years after that relevant day and has not made an election under sub-section (5), (6) or (7)—
- (a) make an election under section 69 of the **State Superannuation Act 1988** as if the staff member had become eligible to be a member of an approved superannuation scheme; or
 - (b) make an election that the State Superannuation Board transfer to another superannuation fund to which the purchaser contributes on behalf of that staff member an amount equal to the benefit which, in the event of retrenchment of that member, would have become payable under section 44 or section 57 of the **State Superannuation Act 1988**.
- (9) For the purposes of this section, section 90(3) of the **State Superannuation Act 1988** has effect as if after "Consolidated Fund" there were inserted "or the State Superannuation Fund" and as if a reference to an employing authority included a reference to a purchaser referred to in sub-section (1) of this section and a reference to an officer included a reference to a staff member referred to in that sub-section.
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(10) For the purposes of this section, a continuing staff member engaged in an acquired business in accordance with sub-section (1) is deemed to be authorised under section 54 of the **Public Service Act 1974** to be so engaged.

(11) In this section and section 10A—

"continuing staff member" means a staff member who—

- (a) is an officer of the public service; and
- (b) is employed in an acquired business by the purchaser of that acquired business;

"relevant day", in relation to an acquired business, means the day of completion of the sale, assignment, transfer or other disposal to the purchaser of the acquired business of assets, liabilities, undertakings or business of SIO constituting that acquired business;

"SIO" means the State Insurance Office constituted under the **State Insurance Office Act 1984**;

"staff member" means a person who, immediately before the relevant day—

- (a) is the General Manager or Deputy General Manager of SIO; or
- (b) is an officer or employee of the public service appointed or employed for the purposes of SIO.

10A. Resignation of continuing staff member

- (1) If a person, being a continuing staff member employed in an acquired business, makes an election under section 10(5) (whether before or after the commencement of section 10 of the **State Insurance Office (Amendment) Act 1994**), the person—
 - (a) resigns as an officer of the public service; and
 - (b) resigns as an officer for the purposes of the **State Superannuation Act 1988**; and
 - (c) ceases to be a continuing staff member—
on the making of that election.
- (2) For the purposes of sub-section (1) an election by a continuing staff member that section 10 not apply to that member is deemed to be an election under section 10(5).
- (3) If a person to whom sub-section (1) applies had made an election ("the first election") under section 69(4) of the **State Superannuation Act 1988** as in force immediately before the enactment of the **Public Sector Superannuation (Administration) Act 1993** to be entitled to a cash benefit equal to a refund of contributions and interest at the prescribed rate—
 - (a) that person is entitled to make an election ("the second election") under section 46 of the **State Superannuation Act 1988** (in the case of a revised scheme member) or section 58 of that Act (in the case of a new scheme member) within 1 month after the commencement of section 10 of the **State Insurance Office (Amendment) Act 1994**; and

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- (b) any amount of cash benefit payable to the person under the second election must be reduced by the amount of cash benefit received by the person under the first election.
- (4) If a person to whom sub-section (1) applies had made an election under section 69(4) of the **State Superannuation Act 1988** as in force immediately before the enactment of the **Public Sector Superannuation (Administration) Act 1993** to be entitled to a deferred retirement benefit—
 - (a) section 69(5) of the **State Superannuation Act 1988** as in force immediately before the commencement of section 10 of the **State Insurance Office (Amendment) Act 1994** applies to that person; and
 - (b) that person is entitled to make an election under section 69(5) within 1 month after that commencement.
- (5) This section applies despite anything to the contrary in any other Act or instrument.

² S. 21(8): Section 13(2) of the **State Insurance Office (Amendment) Act 1989**, No. 13/1989 reads as follows:

13. Transitional provisions

- (2) Section 21(8) of the Principal Act, as in force immediately before the commencement of section 7(4), continues to apply to or in respect of the investment of money or exercise of powers made before the commencement of section 7(4) as if section 7(4) had not been enacted.
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³ S. 28: Section 13(1) of the **State Insurance Office (Amendment) Act 1989**, No. 13/1989 reads as follows:

13. Transitional provisions

- (1) Section 28 of the Principal Act, as in force immediately before the commencement of section 10, continues to apply to or in respect of—
- (a) money borrowed or re-borrowed, loans, advances and financial accommodation obtained and financial arrangements entered into and any other thing done under borrowing powers or powers to obtain financial accommodation conferred by the Principal Act before the commencement of section 10; and
 - (b) money borrowed or re-borrowed, loans, advances and financial accommodation obtained and any other thing done under borrowing powers or powers to obtain financial accommodation conferred by the Principal Act after that commencement, pursuant to arrangements entered into before that commencement—

as if section 10 had not been enacted.