

AUSTRALIAN CAPITAL TERRITORY

No. 28 of 1980

WORKMEN'S COMPENSATION SUPPLEMENTATION FUND ORDINANCE 1980

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AUSTRALIAN CAPITAL TERRITORY

No. 28 of 1980

An Ordinance to establish the Workmen's Compensation Supplementation Fund for the payment of certain workmen's compensation claims and for related purposes

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act* 1910.

Dated this third day of September 1980.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

R. ELLICOTT
Minister of State for the Capital Territory

WORKMEN'S COMPENSATION SUPPLEMENTATION FUND ORDINANCE 1980

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Workmen's Compensation Supplementation Fund Ordinance* 1980.¹

Interpretation

2. In this Ordinance, unless the contrary intention appears—

“Chairman” means the Chairman of the Committee;

“Committee” means the Insurers Advisory Committee established by section 13;

“Companies Ordinance” means the *Companies Ordinance* 1962;

“employer” has the same meaning as in the *Workmen's Compensation Ordinance*;

- “employer’s policy” means a policy of insurance or indemnity obtained by an employer in pursuance of section 18 of the Workmen’s Compensation Ordinance, but does not include a policy of insurance or indemnity of the kind commonly known as a householder’s policy containing a provision relating to the liability of the employer under, or independently of, that Ordinance for any injury to, or the death of, a workman employed by him;
- “Fund” means the Workmen’s Compensation Supplementation Fund of the Australian Capital Territory established by section 3;
- “insurer” means, an insurer who is approved by the Minister under section 18 of the Workmen’s Compensation Ordinance;
- “liquidator”, in relation to an insurer, includes official manager, receiver or receiver and manager;
- “Manager” means the Manager of the Fund appointed by the Minister under section 8;
- “member” means a member of the Committee, and includes the Chairman;
- “supervising insurer”, in relation to a claim made under this Ordinance, means an insurer appointed by the Manager under section 30 to be the supervising insurer in relation to that claim;
- “the Court” means the Court of Petty Sessions;
- “workman” has the same meaning as in the Workmen’s Compensation Ordinance;
- “Workmen’s Compensation Ordinance” means the *Workmen’s Compensation Ordinance* 1951.

PART II—THE WORKMEN’S COMPENSATION SUPPLEMENTATION FUND

Establishment of Fund

3. (1) A fund is hereby established to be known as the Workmen’s Compensation Supplementation Fund of the Australian Capital Territory.

(2) The Fund shall consist of—

- (a)** moneys received by the Manager under Part IV or Part VI;
- (b)** income derived from the investment of moneys of the fund;
- (c)** moneys recovered by or on behalf of the Manager under this Ordinance;
- (d)** moneys borrowed for the Fund; and
- (e)** such other moneys as may lawfully be paid into the Fund.

(3) The Manager shall pay all moneys constituting the Fund into one or more bank accounts maintained by him at a bank or banks in the Territory.

(4) Each bank account maintained by the Manager under sub-section (3) shall contain in its title the words “Workmen’s Compensation Supplementation Fund Account”.

Investment of moneys of Fund

4. (1) Subject to sub-section (2), the Manager shall invest in any manner in which trust funds may for the time being be invested under the *Trustee Ordinance* 1957 those moneys of the Fund that are not, in the opinion of the Manager, immediately required for the purpose of making payments out of the Fund in accordance with this Ordinance.

(2) The Manager shall not invest moneys of the Fund in any manner that does not return interest at a rate at least equal to the rate of interest paid in relation to interest bearing deposits by banks operating in the Territory.

Borrowing for Fund

5. The Manager may, with the consent of the Minister, borrow moneys for the Fund.

Audit

6. (1) The Manager shall keep full and proper records and accounts in relation to the moneys constituting the Fund.

(2) The Manager shall cause the accounts of the Fund to be audited annually, or at such times as the Minister may direct, by an auditor who is a registered company auditor within the meaning of the *Companies Ordinance*.

(3) The Manager shall, within 28 days after receiving the report of each audit under this section, forward a copy of the report to the Minister.

Payments out of Fund

7. The Manager may pay out of the Fund—

- (a) any amounts required by this Ordinance to be paid in settlement of any claim made under this Ordinance;
- (b) the amount of any costs or fees payable under this Ordinance to the liquidator of an insurer or to a supervising insurer and such other costs and expenses as are incurred by the Manager in the settlement of claims made under this Ordinance;
- (c) any amount payable under section 25;
- (d) any amount required to be paid by way of repayment or interest in relation to any moneys borrowed by the Manager, in accordance with this Ordinance, for the Fund; and
- (e) the amount of any costs and expenses incurred in, or in connection with, the administration of the Fund.

PART III—ADMINISTRATION

Appointment of Manager

8. (1) The Fund shall be under the direction, control and management of the Manager, who shall be appointed by the Minister.

(2) Subject to this Ordinance, the Manager holds office for such period as is specified in the instrument of his appointment and is eligible for re-appointment.

(3) The Manager may resign his office by writing signed by him and delivered to the Minister.

Acting Manager

9. (1) The Minister may appoint a person to act as Manager—

- (a) during a vacancy in the office of Manager, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Manager is absent from duty or from the Territory or, for any other reason, is unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) Where a person is acting as Manager in accordance with paragraph (1)(b) and the office of Manager becomes vacant while that person is so acting, then, subject to sub-section (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(4) The Minister may at any time terminate the appointment of a person to act in accordance with sub-section (1).

(5) The appointment of a person under this section ceases to have effect if he resigns the appointment by writing signed by him and delivered to the Minister.

(6) While a person is acting as Manager in accordance with this section, he has, and may exercise, all the powers and shall perform all the functions of the Manager.

(7) The validity of any thing done by a person purporting to act in accordance with this section shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

Evidence

10. (1) All courts, judges and persons acting judicially shall take judicial notice of the signature of any person who holds or has held the office of Manager or of a person who is or has been appointed to act under section 9 and of the fact that that person holds or has held that office or appointment.

(2) For the purposes of this Ordinance, a document that purports to be signed by the Manager or a person appointed to act under section 9 shall be taken to be so signed unless the contrary is proved.

Removal of Manager from office

11. (1) The Minister may at any time remove the Manager from office for misbehaviour or physical or mental incapacity.

(2) If the Manager—

- (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (b) is convicted in Australia of an offence punishable by imprisonment for one year or longer,

the Minister shall remove the Manager from office.

Powers of Manager

12. (1) The Manager has power to do all things that are necessary or convenient to be done for or in connection with the performance of his functions under this Ordinance and in particular, without limiting the generality of the foregoing—

- (a) to appoint insurers as supervising insurers for the purposes of the investigation and negotiation of the terms of settlement of claims made under this Ordinance;
- (b) to take any necessary action to recover moneys payable into the Fund and such debts as may be incurred against the Fund;
- (c) to enter into agreements for the purpose of borrowing moneys for the Fund in accordance with this Ordinance;
- (d) to incur any necessary legal and other costs in actions pursuant to the operation of the Fund;
- (e) to refund any moneys that are refundable under this Ordinance; and
- (f) to invest moneys of the Fund in accordance with this Ordinance.

Insurers Advisory Committee

13. (1) A Committee is hereby established to be known as the Insurers Advisory Committee.

(2) The function of the Committee is to advise the Manager, as required under this Ordinance or at the request of the Manager, in the performance of his functions or the exercise of his powers under this Ordinance.

Members of Committee

14. (1) The Committee shall consist of 3 members nominated by the approved insurers or a majority of them.

(2) Each member of the Committee—

- (a) shall be appointed by the Minister;

- (b) shall, subject to this Ordinance, hold office for such period as is specified in the instrument of his appointment; and
- (c) shall be eligible for re-appointment.

(3) Where a vacancy occurs in the membership of the Committee as the result of a member ceasing to hold office at any time before the expiration of the period of his appointment, the Minister may appoint a person nominated in accordance with sub-section (1) for the unexpired portion of the period of that member's appointment.

Chairman

15. (1) The members shall, from time to time as occasion requires, elect one of their number to be the Chairman of the Committee.

(2) The Chairman holds office for a period of one year from the date of his election, unless he sooner ceases to be a member, and is eligible for re-election.

(3) Where a Chairman is elected in accordance with sub-section (1), the Chairman shall notify the Minister in writing of his election as Chairman.

(4) The Chairman may resign his office of Chairman by writing under his hand delivered to the Minister.

Remuneration

16. (1) Subject to this section, a member is not entitled to be paid in respect of duties or functions performed by him under this Ordinance.

(2) A member is entitled to reimbursement for any expenses reasonably incurred by him in the performance of his duties or functions under this Ordinance.

Removal of member from office

17. (1) The Minister may at any time remove a member from office for misbehaviour or physical or mental incapacity.

(2) The Minister shall remove a member from office—

- (a) if the member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) if the member is convicted in Australia of an offence punishable by imprisonment for one year or longer;
- (c) if the member is absent, without leave granted under section 19, from 3 consecutive meetings of the Board; or
- (d) if he is requested to do so by a majority of insurers present at a meeting of insurers convened by the Manager.

Meetings

18. (1) A meeting of the Committee shall be convened by the Chairman.

(2) The Minister may, by notice in writing given to each member, direct that a meeting of the Committee be held at the time and place specified in the notice.

(3) The Chairman shall preside at all meetings of the Committee and has a deliberative vote only.

(4) At a meeting of the Committee a quorum is constituted by 2 members, of whom one is the Chairman.

(5) Questions arising at a meeting of the Committee shall be determined by a majority of the votes of the members present and voting.

(6) Subject to this Ordinance, the procedure of the Committee shall be as the Committee determines.

Leave of absence

19. (1) The Minister may grant leave of absence to the Chairman upon such terms and conditions as the Minister determines.

(2) The Chairman may grant leave of absence to another member for such period, not exceeding one year, and upon such terms and conditions as the Chairman determines.

Vacancy in membership

20. The performance of the functions of the Committee is not affected by reason only of there being a vacancy in the membership of the Committee.

Protection of Manager and members of Committee

21. An action or proceeding, civil or criminal, does not lie against the Manager or a member of the Committee for or in respect of any act or thing done in good faith by the Manager or the member in his capacity as the Manager or member, as the case may be.

PART IV—SURCHARGE ON EMPLOYER'S POLICIES

Employers to pay surcharge

22. (1) An employer who obtains from an insurer an employer's policy on or after the commencement of this Ordinance shall pay to the insurer the prescribed surcharge in relation to that policy.

(2) An employer who has obtained from an insurer an employer's policy before the commencement of this Ordinance, being an insurer's policy that is in force at the commencement of this Ordinance, shall pay to the insurer an amount that is a proportion, calculated in accordance with sub-section (4), of the prescribed surcharge in relation to that policy.

(3) For the purposes of this section, the prescribed surcharge in relation to an employer's policy is an amount equal to 10% of the amount of the premium payable in respect of the policy—

- (a) in the case of an employer's policy referred to in sub-section (1)—at the rate in force on the day specified in the policy as the day on which insurance cover begins under the policy; or
- (b) in the case of an employer's policy referred to in sub-section (2)—at the rate in force at the commencement of this Ordinance,

or such lesser percentage of the second-mentioned amount as may be determined by the Minister by notice published in the *Gazette*.

(4) The proportion of the prescribed surcharge payable by an employer to whom sub-section (2) applies shall be calculated in accordance with formula $\frac{A}{366}$, where A is the number of days in the period commencing on the date of commencement of this Ordinance and ending on the day on which the policy expires.

(5) The prescribed surcharge payable by an employer to whom sub-section (1) applies shall be paid—

- (a) where the employer pays any moneys to an insurer by way of premium in respect of an employer's policy before the day on which insurance cover begins under the policy or the policy is renewable—on the day on which those moneys are paid;
- (b) where the employer pays any additional moneys to an insurer by way of premium, being a payment made as the result of an adjustment of premium—on the day on which those moneys are paid; or
- (c) in any other case—on the day on which insurance cover begins under the policy or the policy is renewable.

(6) The amount payable by an employer to whom sub-section (2) applies shall be paid not later than the day on which premiums in respect of the employer's policy are adjusted by the insurer.

Exempt employers to pay surcharge

23. (1) An employer who is granted an exemption under sub-section 18 (2) of the Workmen's Compensation Ordinance, whether before or after the commencement of this Ordinance, shall pay to the Manager within one month after the commencement of this Ordinance, or within one month after the granting of the exemption, whichever is the later, and thereafter once in each succeeding period of 12 months, an amount assessed by the Manager on the advice of the Committee.

(2) The amount assessed by the Manager under sub-section (1) shall be an amount equal to the amount of the surcharge that would have been payable by the employer under this Ordinance in relation to an employer's policy but for the exemption granted to him under sub-section 18 (2) of the Workmen's Compensation Ordinance.

Payments of amounts by insurer

24. (1) An insurer shall, within 14 days after the end of each month—

- (a) pay to the Manager all amounts received by him in pursuance of section 22 during that month; and
- (b) forward to the Manager a statement in writing setting out the amounts received by the insurer by way of premium in respect of employer's policies during that month and such other particulars, if any, as are prescribed.

(2) A statement under paragraph (1) (b) shall be certified by a statutory declaration made by the appropriate officer of the insurer.

(3) The Manager, or a person appointed in writing by the Manager, may, at any reasonable hour of the day, enter the premises of an insurer and inspect any books or documents of the insurer relating to—

- (a) any amounts received by the insurer in pursuance of section 22 or by way of premium in respect of employer's policies; or
- (b) any statement forwarded to the Manager by the insurer under this section.

(4) The Manager, or a person appointed by the Manager under this section, is not authorized to remain on any premises or inspect any books or documents if, on being requested by the person in charge of the premises to produce evidence in writing of his appointment as Manager or his appointment under this section, as the case may be, he fails to do so.

(5) A person shall not obstruct, threaten or intimidate the Manager, or a person appointed by the Manager under this section, in the exercise of his powers or functions under this section.

Penalty: \$500.

Refunds

25. (1) Where an employer is entitled to receive from an insurer a refund of any amount paid by way of premium in respect of an employer's policy, the insurer shall, in addition to any amount paid to the employer by way of refund of premium, pay to the employer by way of refund of the surcharge paid by the employer under section 22 an amount that represents a proportionate part of that surcharge.

(2) Where an insurer pays an amount to an employer by way of refund under sub-section (1), the Manager shall, on application by the insurer, pay to the insurer out of the Fund an amount equal to the amount so paid by the insurer.

(3) Where the Manager finds that there has been an overpayment into the Fund of any amount payable under this Ordinance, the Manager shall cause to be paid out of the Fund to the person who made the overpayment a refund of the amount by which the amount payable was so overpaid.

PART V—PAYMENT OF CLAIMS

Claims against insurers and the Fund

26. (1) Where, before or after the commencement of this Ordinance—

- (a) a final judgment has been given, or an order or award has been made, against an employer in respect of his liability under the Workmen's Compensation Ordinance, or in respect of his liability independently of that Ordinance, for an injury to, or the death of, a workman employed by him;
- (b) the liability of the employer under the judgment, order or award is covered by an employer's policy; and
- (c) the insurer who issued that policy is dissolved under a law of the Territory or of a State or another Territory or is unable to provide the indemnity required by the policy to be provided,

the person in whose favour the judgment was given or the order or award was made may make a claim—

- (d) where the insurer is dissolved—against the Fund; or
- (e) in any other case—against the insurer,

for payment of the amount of the judgment, order or award.

(2) Where, before or after the commencement of this Ordinance—

- (a) a person is entitled to make a claim against an employer, not being a claim relating to a judgment, order or award referred to in sub-section (1), that the employer is liable to pay compensation in accordance with the Workmen's Compensation Ordinance for an injury to, or the death of, a workman employed by him;
- (b) the liability of the employer to pay the compensation is covered by an employer's policy; and
- (c) the insurer is dissolved under a law of the Territory or of a State or another Territory or is unable to provide the indemnity required by the policy to be provided,

the person may make a claim—

- (d) where the insurer is dissolved—against the Fund; or
- (e) in any other case—against the insurer,

for payment of the amount of the compensation.

(3) A claim made against an insurer under sub-section (1) or (2)—

- (a) shall be in writing; and
- (b) shall be lodged with the liquidator of the insurer, together with a copy of any judgment, order or award to which the claim relates.

(4) A claim made against the Fund under sub-section (1) or (2)—

- (a) shall be in writing; and
- (b) shall be lodged with the Manager, together with a copy of any judgment, order or award to which the claim relates.

- (5) For the purposes of sub-section (2), "compensation" includes—
- (a) an amount in settlement of a claim for compensation; and
 - (b) an amount payable under section 11 of the Workmen's Compensation Ordinance.

Liquidator to forward claims to Manager

27. Where a claim against an insurer is lodged with the liquidator of an insurer under sub-section 26 (3), the liquidator shall forthwith—

- (a) forward a copy of the claim to the Manager; and
- (b) furnish the Manager with such information and documents (including any judgment, order or award) relating to the claim and to the employer's policy as are in the possession of the liquidator.

Payments of claims against insurers relating to judgments, &c.

28. (1) Subject to this section, where the Manager receives from the liquidator of an insurer a claim made against the insurer under sub-section 26 (1), the Manager shall—

- (a) pay to the liquidator out of the Fund—
 - (i) such amount as is necessary to enable the liquidator to satisfy the claim; and
 - (ii) such further amount as is agreed between the Manager and the liquidator for payment of the costs of the liquidator in satisfying the claim; and
- (b) furnish to the liquidator all documents in the possession of the Manager relating to the claim.

(2) On receipt of an amount paid by the Manager under sub-paragraph (1) (a) (i), the liquidator shall pay the amount to the claimant in satisfaction of the claim.

(3) Where the Manager receives from the liquidator of an insurer a claim referred to in sub-section (1) and the insurer is dissolved under the law of the Territory or of a State or another Territory before the Manager makes a payment to the liquidator in accordance with that sub-section, the Manager shall pay to the claimant out of the Fund such amount as is necessary to satisfy the claim.

Payment of claims against Fund relating to judgments, &c.

29. Where a claim made against the Fund is lodged with the Manager under sub-section 26 (4), the Manager shall pay to the claimant out of the Fund such amount as is necessary to satisfy the claim.

Manager to appoint supervising insurer in certain cases

30. (1) Where—

- (a) the Manager receives from the liquidator of an insurer a claim made against an insurer under sub-section 26 (2); or
- (b) a claim is made against the Fund under that sub-section,

the Manager shall appoint an insurer to be the supervising insurer in relation to the claim.

- (2) A supervising insurer appointed under sub-section (1)—
 - (a) shall investigate the claim to which his appointment relates;
 - (b) shall negotiate the terms of settlement of the claim, either by payment of a lump sum or by weekly payments, in accordance with the Workmen's Compensation Ordinance;
 - (c) may exercise any right of the insurer arising from or relating to the employer's policy; and
 - (d) has power to do all things that are necessary or convenient to be done for or in connection with the performance of his duties or functions under this section.

(3) Sub-section (2) does not authorize a supervising insurer to pay any amounts for the purpose of satisfying a claim or to recover any amounts due to an insurer against whom a claim is made under this Ordinance.

Fee payable to supervising insurer

31. (1) The Manager shall pay to a supervising insurer out of the Fund, in relation to each claim to which the supervising insurer's appointment relates—

- (a) such amount by way of a fee; and
- (b) such further amount by way of reimbursement of moneys expended by the supervising insurer in the performance of his duties or functions under this Ordinance,

as is agreed between the Manager and the supervising insurer.

(2) A supervising insurer is not entitled to be paid any amount in respect of the performance of his duties or functions under this Ordinance other than the amounts referred to in sub-section (1).

Report of supervising insurer

32. Where a supervising insurer completes the negotiation of the terms of settlement of a claim, he shall forward to the Manager a report in writing setting out the terms of the settlement together with any information or documents in his possession relating to the claim and the terms of settlement.

Approval of terms of settlement by Court

33. (1) Where the terms of settlement of a claim negotiated by a supervising insurer provide for payment of a lump sum to the claimant, the Manager shall apply to the Court for approval of the terms of the settlement.

(2) On application by the Manager under sub-section (1), the Court may, if it is of the opinion that the terms of settlement are just, approve the terms of settlement to which the application relates.

(3) Jurisdiction to hear and determine applications under this section is vested in the Court.

Approval of terms of settlement by Manager

34. Where the terms of settlement of a claim negotiated by a supervising insurer provide for the making of weekly payments to the claimant, the Manager may, if he is of the opinion that the terms of the settlement are just, approve the terms of the settlement.

Payment of claims against insurer where terms of settlement are approved

35. (1) Subject to this section, where the terms of settlement of a claim made against an insurer under sub-section 26 (2) are approved by the Court or by the Manager, as the case requires, the Manager shall—

- (a) pay to the liquidator of the insurer out of the Fund—
 - (i) such amount as is necessary to enable the liquidator to satisfy the claim in accordance with the approved terms of settlement; and
 - (ii) such further amount as is agreed between the Manager and the liquidator for payment of the costs of the liquidator in satisfying the claim; and
- (b) forward to the liquidator all documents in the possession of the Manager relating to the claim.

(2) On receipt of an amount paid by the Manager under sub-paragraph (1) (a) (i), the liquidator shall pay the amount to the claimant in satisfaction of the claim in accordance with the approved terms of settlement.

(3) Where an insurer against whom a claim is made under sub-section 26 (2) is dissolved under the law of the Territory or of a State or another Territory before the Manager makes a payment to the liquidator of the insurer under sub-section (1), the Manager shall, where the terms of settlement of the claim are approved by the Court or the Manager, as the case requires, pay to the claimant out of the Fund such amount as is necessary to satisfy the claim in accordance with the approved terms of settlement.

Payment of claims against Fund where terms of settlement are approved

36. Where the terms of settlement of a claim made against the Fund under sub-section 26 (2) are approved by the Court or by the Manager, as the case requires, the Manager shall pay to the claimant out of the Fund such amount as is necessary to satisfy the claim in accordance with the approved terms of settlement.

Liquidators to account to Manager

37. (1) A liquidator who receives any amounts in pursuance of section 28 or 35, shall, within 14 days after the expiration of the period of 3 months from the date on which the first amount was so received and thereafter within 14 days after the expiration of each subsequent period of 3 months, forward to the Manager a statement in writing setting out the amounts so received by the liquidator and all payments made by him of those amounts in pursuance of this Ordinance during that period of 3 months.

(2) A statement under sub-section (1) shall be certified as correct by an auditor who is a registered company auditor within the meaning of the Companies Ordinance.

Effect of payment of claims

38. Where an amount is paid to a claimant under this Ordinance in settlement of a claim made under this Ordinance, the payment operates to discharge the liability of the Fund.

PART VI—MISCELLANEOUS

Power of liquidator of insurer

39. The liquidator of an insurer may exercise his powers under section 236 of the Companies Ordinance with respect to any claim, judgment, order or award arising out of or in relation to any employer's policy issued by the insurer as if—

- (a) the reference in section 236 of that Ordinance to the authority of the Court or of the committee of inspection were a reference to the authority of the Manager; and
- (b) the words "subject to the provisions of section two hundred and ninety-two of this Ordinance" were omitted from paragraph 236 (1) (b) of that Ordinance.

Payment into Fund of moneys recovered by liquidator

40. (1) Where—

- (a) an insurer is, under a contract of re-insurance, insured against liability in respect of employer's policies issued by the insurer and such liability is incurred by the insurer;
- (b) any part of the liability of the insurer is met by moneys paid out of the Fund in pursuance of this Ordinance; and
- (c) an amount in respect of that part of the liability of the insurer is received by the liquidator of the insurer from the re-insurer,

the amount so received from the re-insurer shall, after the deduction of any expenses of or incidental to getting in that amount, be paid by the liquidator to the Manager, in priority to all payments in respect of the debts referred to in sub-section 292 (1) of the Companies Ordinance, for payment into the Fund.

(2) Where the liquidator of an insurer recovers any amount due to the insurer as a consequence of the payment, with moneys paid out of the Fund, of any part of any claim, judgment, order or award arising out of or in relation to any employer's policy issued by the insurer, the amount so recovered shall, after the deduction of any expenses of or incidental to the recovering of that amount, be paid by the liquidator to the Manager in priority to all payments in respect of debts referred to in sub-section 292 (1) of the Companies Ordinance, for payment into the Fund.

(3) This section shall have effect notwithstanding any agreement to the contrary whether made before or after the commencement of this Ordinance.

Rights of Manager against insurer

41. Where—

- (a) an insurer is unable to provide to an employer the indemnity required to be provided by an employer's policy issued by the insurer;
- (b) any part of the employer's liability is met by moneys paid out of the Fund in pursuance of this Ordinance; and
- (c) those moneys, or part of those moneys are not recovered by the Manager under section 40,

the Manager shall have the same rights against the insurer as the employer to the extent that those moneys, or part of those moneys are not so recovered.

Liquidator to notify Manager of dissolution

42. Where the liquidator of an insurer applies to a Court under the law of the Territory or of a State or another Territory for an order that the insurer be dissolved, the liquidator shall notify the Manager in writing of the making of the application and shall serve on the Manager a copy of any order made by the Court on the application.

Regulations

43. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 11 September 1980.