

INSURANCE (APPLICATION OF LAWS) ACT 1986 No. 13

NEW SOUTH WALES



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INSURANCE (APPLICATION OF LAWS) ACT 1986 No. 13

NEW SOUTH WALES



Act No. 13, 1986

An Act to provide for the application of certain Commonwealth insurance legislation to State insurance. [Assented to 29 April 1986.]

Insurance (Application of Laws) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Insurance (Application of Laws) Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

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

Interpretation

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

“applied provision” means a provision of—

- (a) the Insurance Contracts Act 1984 of the Commonwealth;
- (b) the Insurance (Agents and Brokers) Act 1984 of the Commonwealth; or
- (c) an instrument in force under either of those Acts,

being a provision that, pursuant to this Act, applies as a law of New South Wales;

“regulation” means a regulation made under this Act.

(2) An applied provision shall be construed in accordance with the Acts Interpretation Act 1901 of the Commonwealth, as in force from time to time.

(3) Without affecting the generality of section 14A of the Interpretation Act 1897, this Act shall be construed as operating to the full extent of, but so as not to exceed, the legislative power of Parliament.

Crown bound

4. (1) This Act and the applied provisions bind the Crown in right of New South Wales and also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Crown, whether in right of New South Wales or otherwise, liable to be prosecuted for an offence against an applied provision.

Application of Insurance Contracts Act 1984 of the Commonwealth, etc.

5. (1) Except to the extent to which the regulations otherwise provide and subject to any modifications specified in the regulations, the provisions of—

- (a) the Insurance Contracts Act 1984 of the Commonwealth, as in force from time to time; and
- (b) any instrument in force under that Act,

apply as laws of New South Wales to and in respect of all contracts of insurance and proposed contracts of insurance entered into, or proposed to be entered into, in the course of State insurance, including contracts and proposed contracts entered into, or proposed to be entered into, by the State and some other insurer as joint insurers.

(2) Subsection (1) does not operate so as to apply section 5 or 9 (2) of the Insurance Contracts Act 1984 of the Commonwealth as a law of New South Wales.

Application of Insurance (Agents and Brokers) Act 1984 of the Commonwealth, etc.

6. (1) Except to the extent to which the regulations otherwise provide and subject to any modifications specified in the regulations, the provisions of—

- (a) the Insurance (Agents and Brokers) Act 1984 of the Commonwealth, as in force from time to time; and
- (b) any instrument in force under that Act,

apply as laws of New South Wales to and in respect of—

- (c) State insurance;

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(d) all contracts of insurance and proposed contracts of insurance entered into, or proposed to be entered into, by the State and some other insurer as joint insurers; and

(e) conduct in connection with contracts and proposed contracts of the kind referred to in paragraph (d).

(2) Subsection (1) does not operate so as to apply section 3 or 8 of the Insurance (Agents and Brokers) Act 1984 of the Commonwealth as a law of New South Wales.

Exclusion of G.I.O. insurance funds administration business

7. The applied provisions do not apply to or in respect of the insurance funds administration business of the Government Insurance Office of New South Wales (that is, business of the kind referred to in section 5B (1) (b) of the Government Insurance Act 1927) or to or in respect of that Office in its conduct of that business.

Recovery of penalties

8. (1) Proceedings for an offence against an applied provision may be dealt with summarily—

(a) before a Local Court constituted by a Magistrate; or

(b) before the Supreme Court in its summary jurisdiction.

(2) Where proceedings for an offence against an applied provision are dealt with before a Local Court constituted by a Magistrate, the maximum pecuniary penalty that may be imposed in respect of the offence is \$5,000 or the pecuniary penalty indicated in the provision in respect of the offence, whichever is the lesser.

(3) Where proceedings for an offence against an applied provision are dealt with before the Supreme Court in its summary jurisdiction, the maximum pecuniary penalty that may be imposed in respect of the offence is the pecuniary penalty indicated in the provision in respect of the offence.

Regulations

9. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) A provision of a regulation may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind;
or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
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