

State Insurance Office (Sale) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 6 June 1991

(Brought in by Mr Roper and Mr Kennan)

A BILL

to amend the **State Insurance Office Act 1984** and for other purposes

State Insurance Office (Sale) Act 1991

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The purposes of this Act are—

- 5 (a) to facilitate the sale of the State Insurance Office;
 and
- (b) to prohibit the Transport Accident Commission
 from acquiring an interest in certain companies
 owned by the State Insurance Office or in a business
10 carried on by the State Insurance Office or any such
 company.

Section headings appear in bold italics and are not part of the Act
(see **Interpretation of Legislation Act 1984**).

2. Commencement

This Act comes into operation on a day or days to be proclaimed.

PART 2—AMENDMENT OF STATE INSURANCE OFFICE ACT 1984

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No.10089.
As amended
by Nos 10191,
50/1988,
13/1989,
65/1990.

3. Principal Act

In this Part, the **State Insurance Office Act 1984** is called the Principal Act.

4. Functions of Office

In section 20 (1) of the Principal Act, after “(1)” insert 10
“Except as otherwise provided by this Act.”

5. New sections 20A-20E inserted

After section 20 of the Principal Act, insert—

“20A. Formation of companies

- (1) The Office may be a member of, and may form, 15
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. 20

- (1) In addition to its other powers under this Act,
the Office may sell, assign, transfer or otherwise
dispose of the whole or any part of its assets,
liabilities, undertaking or business to—
 - (a) SIO Insurance Limited; or 25
 - (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.

- 5 (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) 10 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.
- 15 (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.
- 20 (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. 25
- (5) Each report under sub-section (4) must include—
- 30 (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;
- 35 (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

State Insurance Office (Sale)

(e) any other material facts, terms or conditions concerning the transactions.

(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. 5
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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. 15

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

(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. 25

(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. 30

20E. Indemnity

5 (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 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.

10 (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
15 necessary extent appropriated accordingly.”.

6. State Insurance Fund

At the end of section 21 (4) of the Principal Act, insert—

“and

20 (c) amounts payable in the exercise of powers under
section 20B.”.

7. Contracts guaranteed

In section 22 of the Principal Act, for sub-section (1)
substitute—

25 “(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
30 on insurance, when all the shares in the
company or corporation were beneficially
held by the Office—

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.” 5

8. New section 22A inserted

After section 22 of the Principal Act insert—

“22A. Limitation on liability

No liability arises under an indemnity given under section 20E in excess of a total liability under that section of \$40 000 000.” 10

9. Payment of dividends

(1) In section 27 of the Principal Act—

- (a) omit “In respect of each financial year”;
- (b) in sub-section (1), omit “for payment to the Consolidated Fund”; 15
- (c) in sub-section (2), after “Fund” insert “or the Victorian Debt Retirement Fund”.

(2) After section 27 (2) of the Principal Act, insert—

- “(3) The Treasurer must cause the amounts received by the Treasurer under sub-section (1) in each financial year to be paid— 20
 - (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.” 25

PART 3—STAFF OF SIO

10. Staff of 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 30

5 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.

10 (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.

20 (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.

25 (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.

30 (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—

35 (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 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. 5

- (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 staff member or, by notice in writing given to the secretary to the Public Service Board, electing that this sub-section not apply, whichever first occurs. 10
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- (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)— 25
 - (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 30
 - (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**. 35

(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”.

5 (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.

10 (11) In this section—

“**continuing staff member**” means a staff member who—

(a) is an officer of the public service; and

(a) is employed in an acquired business by the purchaser of that acquired business.

15 “**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;

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

“**Staff member**” means a person who, immediately before the appointed day—

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(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.

30 **PART 4—AMENDMENT OF TRANSPORT ACCIDENT ACT 1986**

11. New section 28A inserted

After section 28 of the **Transport Accident Act 1986**, insert—

“28A. Commission not to acquire interest in SIO company

- (1) The Commission must not, whether alone or jointly with any other person, or as a result of any arrangement or understanding with another person, directly or indirectly acquire, or offer to acquire, an interest in an SIO company or in any business carried on by an SIO company or in any existing business of the State Insurance Office. 5 10
- (2) It is a defence to a prosecution of the Commission for a contravention of this section if it is proved that the contravention was due to inadvertence or mistake or to the person not being aware of a relevant fact or occurrence. 15
- (3) An acquisition of shares is not invalid because of a contravention of this section.
- (4) The Commission must sell any shares, other securities or business or interest in shares, other securities or business, acquired in contravention of this section within a reasonable time after it becomes aware of the contravention. 20
- (5) Any person may apply to the Supreme Court for an order that the Commission comply with sub-section (4). 25
- (6) The question whether or not the Commission has acquired an interest of a kind referred to in sub-section (1) may be determined as if the provisions of the Corporations Law of Victoria (particularly Divisions 2 and 5 of Part 1.2 and sections 51 and 609) applied for the purposes of this section, with such adaptations as are necessary for the application of those provisions to interests of that kind. 30 35

(7) For the purposes of this section—

5 “existing business of the State Insurance Office” means the assets, liabilities, undertaking and business of the State Insurance Office as at 1 August 1991;

 “SIO company” means—

10 (a) a company referred to in section 20B of the **State Insurance Office Act 1984**; or

15 (b) a body corporate or other person with an interest in a company referred to in that section or in a business carried on by such a company or by the State Insurance Office.”.

