

# **NORTHERN TERRITORY OF AUSTRALIA**

## **TERRITORY INSURANCE OFFICE ACT**

As in force at 1 July 2008

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 1 July 2008. Any amendments that commence after that date are not included.

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## TERRITORY INSURANCE OFFICE ACT

**An Act to establish the Territory Insurance Office to carry out certain insurance business and other related activities in the Territory, and provide financial business and other services, and for other purposes**

### Part I Preliminary

#### 1 Short title

This Act may be cited as the *Territory Insurance Office Act*.

#### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3 Interpretation

(1) In this Act, unless the contrary intention appears:

**Board** means the Board of the Office.

**Chairman** means the Chairman of the Board.

**Chief Executive Officer** means the person holding or acting in the office of Chief Executive Officer referred to in section 19.

**commercial business** means the part of the Office's business that is not the MAC business.

**Deputy Chairman** means the Deputy Chairman of the Board.

**Determinations** means the Determinations made under section 33A.

**financial service** means the acceptance of deposits and the making of loans and investments, and all matters relating thereto.

**Fund** means the Motor Accidents (Compensation) Fund established by section 22B.

**insurance** includes assurance, additional insurance, counter insurance, treaty and internal insurance, and re-insurance, guarantee and surety, but does not include life insurance other than insurance in respect of death in or as a result of an accident involving a motor vehicle or life insurance on an agency basis.

**MAC business** means the part of the Office's business that relates to the administration of the MAC scheme.

**MAC member**, see section 10(2).

**MAC scheme** means the scheme of compensation established by the *Motor Accidents (Compensation) Act*.

**member** means a member of the Board and includes the Chief Executive Officer on and from his or her appointment to the Board.

**Office** means the Territory Insurance Office established by this Act.

**statement of corporate intent**, for a financial year, means a statement of corporate intent prepared for that year that is in force under section 8A.

- (2) A person is an associate of another person if:
- (a) they are partners;
  - (b) one is a spouse, de facto partner, parent or child of the other;
  - (c) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust;
  - (d) one is a body corporate or other entity (whether inside or outside Australia) and the other is a director or member of the governing body of the body or entity;
  - (e) one is a body corporate or other entity (whether inside or outside Australia) and the other is a person who has a legal or equitable interest in 5% or more of the share capital of the body or entity; or
  - (f) a chain of relationships can be traced between them under any one or more of the paragraphs of this subsection.

## **Part II                    The Territory Insurance Corporation**

### **4                    Establishment of the Office**

- (1) There is hereby established a Territory Insurance Office.
- (2) The Office:
  - (a) is a body corporate;
  - (b) shall have a common seal; and
  - (c) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Office affixed to a document and shall assume that it was duly affixed.

### **5                    Functions of Office**

The functions of the Office are:

- (a) to act as an insurer in respect of the assets and prospective liabilities of the Territory and statutory corporations;
- (b) to transact workers compensation insurance in respect of persons required by the *Workers Rehabilitation and Compensation Act*, or any Act replacing that Act, to insure;
- (c) to administer a motor accident compensation scheme in accordance with an Act or an agreement between the Office and the person or body responsible for the scheme;
- (d) to carry out such functions in relation to the management and control of moneys and other assets of the Territory and statutory corporations, and on such terms and conditions, as the Minister in writing directs;
- (da) to provide such financial services as are approved by the Minister;
- (e) to transact such general business of insurance as the Minister directs;
- (f) to promote and participate in the promotion of road and industrial safety; and

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- (g) such other functions as are, from time to time, imposed upon it by or under any other Act.

## **6 Powers of the Office**

- (1) Subject to this Act, the Office has power to do all things that are necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions.
- (2) Without limiting the generality of subsection (1), the Office may, for the purpose of carrying out its functions or exercising its powers, including the powers conferred on it elsewhere in this or any other Act:
  - (a) establish branches in any part of the Territory;
  - (b) appoint persons in or outside the Territory as its agents;
  - (c) act as insurance brokers;
  - (d) enter into contracts;
  - (e) acquire, hold and dispose of real or personal property, rights, privileges, permits, licences and authorities;
  - (f) acquire an interest in any body corporate carrying on insurance business, or providing financial services, in the Territory;
  - (g) improve any real or personal property owned by or under the control of the Office;
  - (h) take action to encourage the rehabilitation of disabled persons, including conducting or participating in the management or control of rehabilitation facilities, and the making of arrangements for the provision of rehabilitation services, in the Territory;
  - (j) undertake, either alone or in conjunction with other persons or organizations, safety campaigns, safety exhibitions and safety courses, publish and disseminate safety literature and information and carry out research into the causes, incidence, cost and methods of prevention of accidents, personal injuries and occupational diseases;
  - (k) receive grants of money from the Territory;
  - (m) borrow money from such sources, (including the Territory or an authority of the Territory) and upon such terms and conditions, as are approved by the Minister;

- (ma) accept deposits, make loans and investments, pay and charge interest and impose fees and other charges approved by the Board;
- (n) invest its money in any investment available to the Public Trustee under the *Public Trustee Act* and in investments or investments of a class of investments approved by the Minister;
- (o) establish reserves for the carrying out of its functions and meeting its liabilities; and
- (p) subject to any Act, fix premium and contribution rates in respect of any business of insurance or compensation scheme carried on or administered by it.

## **7 Directions of Minister**

- (1) Except as provided by or under this or any other Act, the Office, in the performance of its functions and the exercising of its powers, is subject to the written directions of the Minister.
- (2) The Minister shall, within 6 sitting days of the Legislative Assembly after giving a direction under subsection (1), lay a copy of the direction before the Assembly.
- (3) A record of all directions given under subsection (1) in a financial year shall be included in the report of the Office for that year prepared under section 10 of the *Financial Management Act*, as applying by virtue of section 27.

## **8 Sound insurance principles to be followed**

Subject to section 7 and to the requirements of any other Act, in the carrying out of the business of insurance the Office shall follow sound insurance principles.

### **8A Statements of corporate intent – timetable and procedure**

- (1) The Board must, for each financial year, prepare:
  - (a) a written statement of corporate intent for the commercial business; and
  - (b) a written statement of corporate intent for the MAC business.
- (2) In preparing the statements, the Board must:
  - (a) consult with the Minister; and

- (b) make changes to the statements as agreed between the Minister and the Board.
- (3) The Board must give the statements to the Minister:
  - (a) not later than one month before the beginning of that year; or
  - (b) by another date agreed between the Minister and the Board.
- (4) The Board may, with the Minister's agreement, change a statement at any time.
- (5) The Minister may, by written notice, direct the Board to change a statement as specified in the direction.
- (6) The Office must comply with the direction.
- (7) The Board must give a copy of each changed statement to the Minister as soon as practicable after making the changes.
- (8) The Minister must table in the Legislative Assembly a copy of any of the following within 6 sitting days after receiving it:
  - (a) a statement given to the Minister under subsection (3);
  - (b) a changed statement given to the Minister under subsection (7).
- (9) The Minister must table in the Legislative Assembly a copy of each direction given under subsection (5) within 6 sitting days after giving it.
- (10) Before tabling a document under subsection (8) or (9), the Minister:
  - (a) must ask the Board to consider whether it contains any commercially sensitive information; and
  - (b) may delete from it any such information (whether as a result of the Board's advice or not); and
  - (c) may allow the document (whether including the deleted information or not) to be made available to a specified person or body.

## **8B Statements of corporate intent – contents**

- (1) A statement of corporate intent prepared under section 8A(1)(a) for a financial year must, for that year and each of the 2 following financial years, specify the following information:
  - (a) the Office's objectives for the commercial business;



- (b) the nature and scope of the commercial business;
  - (c) the material risks faced by the Office for the commercial business;
  - (d) the strategies for minimising the risks;
  - (e) the strategies for improving the Office's financial performance for the commercial business;
  - (f) the financial targets (including capital targets) and other measures for judging the Office's performance for the commercial business;
  - (g) the accounting policies to be applied in the Office's accounts for the commercial business;
  - (h) any other matters that the Minister and the Board wish to include in the statement for the commercial business.
- (2) A statement of corporate intent prepared under section 8A(1)(b) for a financial year must, for that year and each of the 2 following financial years, specify the following information:
- (a) the Office's objectives for the MAC business;
  - (b) the nature and scope of the MAC business;
  - (c) the material risks faced by the Office for the MAC business;
  - (d) the strategies for achieving the Office's objectives for the MAC business;
  - (e) the strategies for minimising the risks mentioned in paragraph (c);
  - (f) the financial targets (including solvency targets) and other measures for judging the Office's performance for the MAC business;
  - (g) the accounting policies to be applied in the Office's accounts for the MAC business;
  - (h) any other matters that the Minister and the Board wish to include in the statement for the MAC business.

### **8C Statements of corporate intent – reports**

- (1) The Office must, within 3 months after the end of each financial year or by a later time approved by the Minister, give the Minister a report for each statement of corporate intent for that year.

- (2) The report must:
  - (a) specify the Office's performance by reference to the statement; and
  - (b) identify any significant departures from the statement; and
  - (c) specify the reasons for the departures.
- (3) The Minister must table in the Legislative Assembly a copy of the report within 6 sitting days after receiving it.
- (4) Before tabling a copy of the report, the Minister:
  - (a) must ask the Board to consider whether it contains any commercially sensitive information; and
  - (b) may delete from it any such information (whether as a result of the Board's advice or not).

## **Part III                      The Board**

### **9                      Office to be controlled by the Board**

- (1) The affairs of the Office shall be conducted by the Board.
- (2) All acts and things done in the name of or on behalf of the Office by or with the authority of the Board shall be deemed to have been done by the Office.

### **10                      Composition of Board**

- (1) The Board shall consist of not less than 6 members appointed by the Minister and may, during the Minister's pleasure, include the Chief Executive Officer.
- (2) One member (other than the Chief Executive Officer) must be appointed solely for the MAC scheme (the **MAC member**).
- (3) The Minister may appoint a person (the **nominee**) to attend a Board meeting on behalf of the MAC member.
- (4) In a Board meeting, the MAC member or nominee may only deliberate and vote on a matter relating to the MAC business.
- (5) Subject to subsections (6) to (8), the exercise of a power or the performance of a function by the Board is not affected by the vacancy in the office of a member or the absence of a member in a Board meeting.

- (6) The Board must not deliberate or vote on a matter relating to the MAC business in a Board meeting unless the MAC member or nominee is present in the meeting.
- (7) A decision of the Board on that matter made in a Board meeting is invalid if the MAC member or nominee is not present in the meeting.
- (8) In addition, a decision of the Board on that matter is invalid if:
  - (a) the matter involves a conflict between managing the Fund and other assets of the Office; and
  - (b) the decision is not supported by the MAC member or nominee.

## **11 Period of appointment**

- (1) Subject to this Act, a member who is not the Chief Executive Officer, or a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act* holds office until the expiration of such period, not exceeding 3 years, as is specified in his instrument of appointment, but is eligible for reappointment.
- (2) Where a period of appointment is not specified in the instrument of appointment of a member who is not the Chief Executive Officer, or a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act*, the member holds office, subject to this Act, for 3 years.

## **12 Chairman**

- (1) The Minister shall appoint a person, other than the Chief Executive Officer, who is, or is to be, a member to be the Chairman and another such person, other than the Chief Executive Officer, to be the Deputy Chairman of the Board.
- (1A) The Minister may at any time terminate the appointment of the Chairman.
- (2) Subject to subsection (3), the Chairman or, in his absence, the Deputy Chairman shall preside at all meetings of the Board.
- (3) In the absence of the Chairman and Deputy Chairman the members present at a meeting shall elect an acting chairman, and that person may exercise the powers and perform the duties of the Chairman for that meeting.

**13 Fees and expenses**

- (1) A member who is not the Chief Executive Officer, or a Chief Executive officer or employee, as defined in the *Public Sector Employment and Management Act*, shall be paid, in respect of his or her services as a member, such fees, allowances and expenses, and at such rates, as are determined by the Minister.
- (2) The fees, allowances and expenses referred to in subsection (1) shall be paid out of the moneys of the Office.

**14 Resignation of members**

A member who is not the Chief Executive Officer, or a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act* may resign his office by writing signed by him and delivered to the Minister.

**15 Dismissal of members**

- (1) Without limiting the generality of section 12(1A), the Minister may terminate the appointment of a member who is not the Chief Executive Officer, or a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act* for inability, inefficiency, misbehaviour or physical or mental incapacity.
- (2) If a member other than the Chief Executive Officer:
  - (a) is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board; or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Minister shall terminate his appointment.

**16 Acting appointments**

- (1) Where a member who is not the Chief Executive Officer, or a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act* is or is expected to be absent from duty or from the Territory, the Minister may appoint a person to act as a member during the absence.

- (2) The validity of a decision of the Board shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under subsection (1) had not arisen or that an appointment under that subsection had ceased to have effect.

## **17 Declaration of interest**

- (1) A member of the Board who is or becomes in any way (whether directly or indirectly) interested in a contract, or proposed contract, with the Office shall declare the nature and extent of the interest to the Board under this section.

Penalty: \$5,000 or imprisonment for 2 years.

- (2) In the case of a proposed contract, the member shall make the declaration:
- (a) at the meeting of the Board at which the question of entering into the contract is first considered; or
  - (b) if the member was not at that time interested in the proposed contract – at the next meeting of the Board held after the member becomes interested in the proposed contract.
- (3) If a member becomes interested in a contract with the Office after it is made, the member shall make the declaration at the next meeting of the Board held after the member becomes interested in the contract.
- (4) For the purposes of this section, a general written notice given to the Board by a member to the effect that the member:
- (a) is a member of a specified entity; and
  - (b) is to be regarded as interested in any contract which may, after the giving of the notice, be made with the entity,
- is a sufficient declaration.
- (5) A member who holds an office or has an interest in property whereby, whether directly or indirectly, duties or interests might be created that could conflict with the member's duties or interests as a member shall, under subsection (6), declare at a meeting of the Board the fact and the nature, character and extent of the possible conflict.

Penalty: \$5,000 or imprisonment for 2 years.

- (6) A declaration required by subsection (5) in relation to holding an office or having an interest must be made by a person:
- (a) if the person holds the office or has the interest when he or she becomes a member – at the first meeting of the Board held after:
    - (i) the person becomes a member; or
    - (ii) the relevant facts as to holding the office or having the interest come to the member's knowledge,whichever is the later; or
  - (b) if the person starts to hold the office or acquires the interest after the person becomes a member – at the first meeting of the Board held after the relevant facts as to holding the office or having the interest come to the person's knowledge.
- (7) A declaration under this section shall be recorded in the minutes of the meeting at which it was made and, unless the Board otherwise determines, the member shall not:
- (a) be present during any deliberation of the Board in relation to the matter; or
  - (b) take part in any decision of the Board in relation to the matter.
- (8) For the purposes of the making of a determination of the Board under subsection (7) in relation to a member who has made a declaration under this section, the member shall not, unless the Board has determined otherwise under that subsection:
- (a) be present during any deliberation of the Board for the purpose of making the determination; or
  - (b) take part in the making by the Board of the determination.
- (9) A determination of the Board under subsection (7) shall be recorded in the minutes of the meeting at which it was made.
- (10) Every declaration shall be reported by the Board to the Minister immediately after the making of the declaration.
- (11) The Board shall, within 3 months after the end of its financial year, lodge with the Minister a return specifying:
- (a) all declarations made to the Board during that financial year; and

- (b) all declarations in force at the end of the financial year.
- (12) This section is in addition to any rule of law restricting a member from having an interest in contracts with the Office or from holding offices or having interests involving duties or interests in conflict with the member's duties or interests as a member.
- (13) In this section, a reference to a contract does not include a contract between a member and the Office relating to insurance or the depositing of money with the Office entered into in the normal course of business and subject to the terms and conditions normally imposed by the Office.

#### **17A General duty to make disclosure**

- (1) A member shall, within the time specified in subsection (2), give written notice to the Board:
  - (a) of such particulars relating to:
    - (i) deposit accounts (including term deposits) with the Office; and
    - (ii) directorships of companies,as are necessary to enable the Board to comply with section 17B; and
  - (b) of particulars of:
    - (i) any prescribed change in a deposit account; or
    - (ii) any change in a directorship of a company.

Penalty: \$5,000 or imprisonment for 2 years.

- (2) A notice under subsection (1) shall be given:
  - (a) if the notice is under subsection (1)(a) – within 14 days after the person:
    - (i) becomes a member;
    - (ii) opens a deposit account with the Office or is appointed a director of a company; or
    - (iii) becomes aware that an associate has opened a deposit account with the Office or is appointed a director of a company,whichever happens last; and

- (b) if the notice is under subsection (1)(b) – within the prescribed period after the person becomes aware of the happening of the event giving rise to the change.
- (3) The Board shall, within 7 days after receiving a notice under subsection (1), send a copy to each of the other members.

#### **17B Register of members interests, &c.**

- (1) The Board shall keep a register showing, in relation to each member:
  - (a) the present given name and surname, any former given name or surname, the date and place of birth, the usual residential address and the business occupation (if any) of the member; and
  - (b) particulars of:
    - (i) deposit accounts with the Office of; and
    - (ii) directorships of companies held by, the member or an associate of the member.
- (2) The Board shall, within 7 days after receiving notice from a member under section 17A(1)(a), enter in the register, in relation to the member, the particulars specified in subsection (1) in the notice.
- (3) The Board shall, within 3 days after receiving a notice from a member under section 17A(1)(b), enter in the register the particulars of the change specified in the notice.
- (4) The Board shall, on entering a particular in the register under this section (including a change of a particular), provide the Minister with a copy of the entry.
- (5) The register shall, at the request of any member, be produced at a meeting of the Board and be open and accessible during the meeting to the members present.

#### **17C Loans to members**

- (1) The Office shall not provide a loan:
  - (a) to a member, unless it is:
    - (i) provided in the ordinary course of business;
    - (ii) subject to the terms and conditions normally imposed by the Office in similar dealings; and



- (iii) approved by a majority of the members (other than the member to whom the loan is to be provided) present and voting on the matter at a meeting of the Office; or
- (b) to an associate of a member, unless it is:
  - (i) provided in the ordinary course of business; and
  - (ii) subject to the terms and conditions normally imposed by the Office in similar dealings.
- (2) A member or an associate of a member who obtains a loan from the Office knowing that it does not have the power under subsection (1) to provide it is guilty of an offence.

Penalty: \$5,000 or imprisonment for 2 years.

## **18 Meetings of Board**

- (1) The Chairman shall call such meetings of the Board as are necessary for the exercise of its powers and the performance of its functions but so that the interval between one meeting and the next shall not exceed 2 months.
- (2) At a meeting of the Board:
  - (a) 3 members constitute a quorum;
  - (b) questions arising shall be determined by a majority of the votes of the members present and voting and in the event of an equality of votes the member presiding shall have, in addition to his deliberative vote, a casting vote; and
  - (c) subject to this Act, the Board shall determine the procedures to be followed at or in connection with the meeting.
- (3) The Board shall keep records of its meetings.

## **19 Chief Executive Officer**

- (1) There shall be an office of Chief Executive Officer.
- (2) The Chief Executive Officer shall, subject to the control of the Board, administer the day to day operation of the Office.
- (3) The Chief Executive Officer shall be appointed by the Board after consultation with the Minister.
- (4) Subject to this section, the Chief Executive Officer shall hold office for such period not exceeding 5 years as is specified in the instrument of appointment and is eligible for re-appointment.

- (5) The remuneration and allowances payable to, and the conditions of service of, the Chief Executive Officer, shall be such as are determined by the Board after consultation with and agreement by the Minister.
- (6) The remuneration, allowances and expenses payable under subsection (5) shall be paid out of the moneys of the Office.
- (7) The Chief Executive Officer may resign his or her office by notice in writing to the Board.
- (8) The Chief Executive Officer may be removed from office by the Board after consultation with the Minister.

#### **19A      Acting Chief Executive Officer**

Where the person appointed as the chief executive officer of the Office under section 19 is expected to be absent from duty or from the Territory, or there is a vacancy in that position, the Board may, after consultation with the Minister, appoint a person employed by the Office to act in the position during the absence or until the vacancy is filled.

#### **19B      Other staff**

The Board may employ, on such terms and conditions as it thinks fit, such persons as it thinks necessary for the efficient operation of the business of the Office.

#### **20          Retention of public service rights**

- (1) The Board may, by agreement with the Public Service Commissioner, employ a person who is an employee within the meaning of the *Public Sector Employment and Management Act*.
- (2) Where a person is employed in pursuance of subsection (1), the Office shall be deemed to be, in relation to that person, an Agency.

#### **21          Consultants and advice**

The Board may engage consultants to advise it on the operation of its business and may make arrangements to be provided with such medical and actuarial advice as it thinks fit.

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## **Part IV                      Finance of the Office**

### **22                      Moneys of Office**

The moneys of the Office consist of:

- (a) such moneys as are appropriated for the purposes of the Office by or under this or any other Act; and
- (b) premiums and contributions received by the Office in respect of the business of insurance conducted, or compensation scheme administered, by it; and
- (c) moneys received on insurance or re-insurance contracts or arrangements entered into by the Office; and
- (d) proceeds of the sale or other disposition of property of the Office; and
- (e) interest on investments of moneys of the Office; and
- (f) dividends on shares owned by the Office; and
- (fa) moneys in the Fund; and
- (g) such other amounts as, from time to time, become available to or for the use of the Office under this or any other Act.

### **22A                      Moneys are property of Territory**

- (1) The moneys of, and all debts and other moneys owing to, the Office are the property of the Territory and:
  - (a) are and shall be held;
  - (b) may be recovered; and
  - (c) may be applied in accordance with this Act,by and in the name of the Office on behalf of the Territory.
- (2) Notwithstanding subsection (1), the *Financial Management Act* does not apply to or in relation to the moneys of the Office.

### **22B                      Motor Accidents (Compensation) Fund**

- (1) The Motor Accidents (Compensation) Fund is established.
- (2) On the commencement of this section, all the assets allocated for the MAC business under the Determinations immediately before that commencement becomes part of the Fund.

(3) In addition, the Fund includes:

- (a) amounts paid to the Office under section 46 of the *Motor Vehicles Act*; and
- (b) other amounts received by the Office for the MAC scheme; and
- (c) assets purchased with amounts in the Fund.

## **22C Application of Fund**

(1) Assets of the Fund must be applied solely for the following purposes:

- (a) the Office's obligations under the *Motor Accidents (Compensation) Act*;
- (b) the operation of the MAC scheme;
- (c) the promotion of road safety;
- (d) the acquisition of assets for the Fund;
- (e) the discharge of liabilities in relation to the MAC business.

(2) Assets of the Office that are not part of the Fund must not be applied for a purpose mentioned in subsection (1)(a), (b), (d) or (e).

## **22D Fund not trust fund**

To avoid doubt:

- (a) a trust is not created in relation to the Fund; and
- (b) the Office and the members are not trustees in relation to the Fund.

## **22E Conflict of interests policy statement**

- (1) The Board must prepare for the Minister's approval a written policy statement for resolving conflicts between managing the Fund and other assets of the Office.
- (2) In exercising its powers and performing its functions, the Board must have regard to the policy statement as approved by the Minister.

(3) The Board:

- (a) must review the policy statement before the end of each financial year; and
  - (b) may, following the review, prepare a new policy statement for the Minister's approval.
- (4) The new policy statement must be given to the Minister not later than when the statements of corporate intent for the next financial year are given to the Minister for approval.

**23 Application of moneys**

- (1) Subject to section 22B, the moneys of the Office shall be applied only in payment or discharge of the expenses and other obligations of the Office, whether contractually incurred or imposed by or under a law in force in the Territory.
- (3) Moneys standing to the credit of an account established for the purposes of financial services provided by the Office shall not be applied except for those purposes.
- (4) Nothing in this section shall prevent the application of moneys of the Office standing to the credit of an account established for one purpose to another as an inter-account loan or equity contribution, or the subsequent repayment of such moneys (and the payment of interest and dividends thereon), in accordance with normal business practices, and moneys so applied shall, for the purposes of section 26, be taken to be moneys standing to the credit of the account from which they were obtained.
- (5) An arrangement of an inter-account loan or equity contribution mentioned in subsection (4) that affects the Fund must not be made without the Minister's approval.

**24 ADI accounts**

The Office shall open and maintain in the Territory an account or accounts with one or more ADIs.

**25 Proper accounts to be kept**

The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Office and shall do all things necessary to ensure that all payments out of the moneys of or held by the Office are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Office and over the incurring of liabilities by the Office.

**25A Reimbursement of MAC expenses**

- (1) The Minister may as soon as practicable after the end of each financial year, after seeking and considering the advice of the Board, determine an amount (if any) he considers should be paid to reimburse the Territory for the provision to claimants under the MAC scheme of treatment and accommodation by or in public hospitals in the Territory during the financial year, being treatment and accommodation the cost of which, but for section 18(1)(a) or (b) of that Act, would be payable under that Act.
- (2) An amount determined under subsection (1) must be paid by the Office from the Fund to the Central Holding Authority.

**26 Payment of surplus moneys to Territory**

- (1) The Minister may direct that any amount of funds held by the Office which, in the Minister's opinion, is in excess of that required as adequate provision for actual and contingent liabilities or for the reasonable operating and other expenses of the Office shall:
  - (a) for amounts in the Fund – be paid into a fund maintained within the appropriate Agency Operating Account under the *Financial Management Act*; and
  - (b) in any other case – be paid into the Central Holding Authority.
- (2) An amount paid by the Office under subsection (1)(a) shall only be used to promote or participate in the promotion of road safety.

**27 Audit and annual report**

- (1) The Board shall, within the period of 6 months immediately following the end of the financial year or such other period as the Minister determines, prepare a report on the operations of the Office during the financial year and forward it to the Minister.
- (1A) The report must consist of:
  - (a) a report for the Office as a whole; and
  - (b) a separate report for the commercial business; and
  - (c) a separate report for the MAC business.
- (2) The Minister shall table the report under subsection (1), together with the financial statement and report of the Auditor-General on the financial statement required pursuant to subsection (3), in the Legislative Assembly within 6 sitting days of the Assembly after the delivery of the later of the reports to the Minister.

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- (3) Subject to subsection (2), section 10 of the *Financial Management Act* applies to and in relation to the Office as if its activities were a Government Business Division within the meaning of that Act.
  - (4) For the purposes of the application of section 10 of the *Financial Management Act* as referred to in subsection (3), the Chief Executive Officer is the Accountable Officer.

## **28 Office to pay taxes**

- (1) The Office is to pay to the Central Holding Authority an amount equal to its liability in respect of each financial year to pay (had the Office not been exempted from doing so) income tax under:
  - (a) the *Income Tax Assessment Act 1936* (Cth); and
  - (b) the *Income Tax Assessment Act 1997* (Cth).
- (2) In calculating its liability to pay the amount of tax referred to in subsection (1), and in paying the amount, the Office is to comply and act in accordance with the Tax Equivalents Regimes Manual issued by the Treasurer as amended from time to time.
- (3) Nothing in this or any other Act relieves the Office from liability to pay Territory taxes, rates and duties in respect of its business and activities that it would have if it were a company incorporated under the Corporations Act 2001.

## **28A Application of Corporations Act 2001**

- (1) Subject to subsection (2), except to the extent that the Corporations Act 2001 expressly binds the Crown, the Office is declared to be an excluded matter for the purposes of section 5F of the Corporations Act 2001 in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies.
- (2) The Regulations may prescribe that all or specified accounting and reporting obligations and standards imposed or required by the Corporations Act 2001 of or in relation to a public company incorporated under the Corporations Act 2001 apply to and in relation to the Office as if:
  - (a) the Office were a public company so incorporated; and
  - (b) the Territory were the shareholders of the company,and the Corporations Act 2001, with the necessary changes, shall apply to the extent necessary to enforce those standards.

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## **Part V                      Miscellaneous**

### **29                      Re-insurance, &c.**

- (1) The Board may open and operate funds and accounts for the undertaking of internal insurance or internal re-insurance in respect of and for the purposes of any or all classes of insurance carried on by it, and with or from any one or more of any funds or accounts of the Office.
- (2) Nothing in subsection (1) shall be construed as limiting the Office's power to arrange insurance or reinsurance with any other insurer.

### **30                      Guarantee by Territory**

- (1) The Territory hereby guarantees:
  - (a) every policy or contract of insurance or indemnity; and
  - (b) the repayment of, and the interest payable on, each deposit with the Office in pursuance of a contract or other agreement; and
  - (c) the liabilities of the Office in relation to the MAC business;

entered into by the Office within the Authority of this or any other Act and, when the occasion for the payment of money on such guarantee arises, the amount shall, by virtue of this section, be appropriated accordingly and shall be paid out of the Central Holding Authority on receipt by the Treasurer of a certificate from the Solicitor-General indicating that the amount is legally payable.
- (2) The amount of any money paid by the Territory in pursuance of a certificate issued under subsection (1) shall be a debt payable by the Office to the Territory.

### **30A                      Fee for guarantee**

- (1) The Office must, for each financial year, pay to the Central Holding Authority a fee for the guarantee referred to in section 30(1)(a) or (b).
- (2) The fee is the amount determined by the Treasurer to be the value of the guarantee for the financial year.
- (3) The Office must pay the fee for the financial year within 2 months after the Treasurer has notified the Office of the amount.



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**31 Office may act as agent**

The Office may act as the agent of any person carrying on insurance business, or providing a financial service, in or outside the Territory.

**32 Terms of contract and execution of documents**

- (1) Any deed, instrument, contract or agreement relating to any property or matter which, if made or executed by an individual, would be by law required to be in writing under seal may be made on behalf of the Office in writing under the common seal of the Office.
- (2) Any instrument, contract or agreement relating to any property or matter which, if made by or between individuals would be required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Office in writing by any person acting under the authority, express or implied, of the Board.
- (3) Any contract relating to any property or matter which, if made between individuals, would by law be valid although made by parol only (and not reduced to writing) may be made on behalf of the Office by any person acting under the authority, expressed or implied, of the Board.
- (4) Any contract which is entered into or any instrument, contract or agreement which is signed in relation to any property or obligation of the Office shall be deemed to have been entered into or signed with the express authority of the Board if it is entered into or signed in accordance with a resolution of the Board for the time being in force.

**33 Provision of information and records to Minister**

- (1) The Board shall, at the request in writing of the Minister, provide the Minister with such reports, and such written information in the possession or control of the Board, and in such manner and form, as the Minister requires.
- (2) Where a report or information in the possession or control of the Board is provided under subsection (1) to the Minister, the Minister may make, retain and deal with copies of the report or information as the Minister thinks fit.
- (3) Where the Board considers that:
  - (a) a report or information provided under subsection (1) contains;  
or

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- (b) a class of reports or of information which may be provided under subsection (1) is likely to contain,

matter that for any reason should be treated as confidential, it shall advise the Minister of, and give its reasons for, that opinion and the Minister may, subject to subsection (4), act on that advice as the Minister thinks fit.

- (4) Where the Minister is satisfied on the basis of the Board's advice under subsection (3) that the Board owes a duty of confidence in respect of a matter, the Minister, the Chief Executive Officer, a member or other person employed in the business of the Office or of the Minister, shall not disclose a report or written information relating to the matter, knowing it to be a matter in respect of which the Board owes a duty of confidence, except:
- (a) in the case of the Minister or other person employed in the business of the Minister – in the proper performance of the Minister's ministerial functions and duties; or
- (b) in any other case – in the proper performance of the functions and duties of the person employed in the business of the Office.
- (5) A member, the Chief Executive Officer or other person employed in the business of the Office or of the Minister does not commit a breach of duty by reporting a matter or disclosing a report or written information relating to the affairs of the Board or of the Office to the Minister.

### **33A Treasurer's Determinations**

- (1) The Treasurer may, consistent with this Act, make determinations (the **Determinations**) about any of the following:
- (a) prudential standards that:
- (i) must be applied by the Office; or
- (ii) relate to the performance of any of the functions of the Office;
- (b) monitoring and enforcement of any of the prudential standards (including the appointment of persons for those purposes);
- (c) standards about the governance of the Office;
- (d) the fee under section 33B.

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- (1A) To avoid doubt, the Determinations may make specific provisions for the commercial business and MAC business.
  - (2) In making the Determinations, the Treasurer must consult with and have regard to any comments made by the Office.
  - (3) The Treasurer must, by notice in the *Gazette*, notify the making of the Determinations.
  - (4) A Determination must not commence before its notification under subsection (3).
  - (5) For subsection (1), the Determinations may apply, adopt or incorporate any or all of the provisions of an instrument as in force or existing from time to time.

### **33B Prudential supervision fee**

- (1) The Office must, for each financial year, pay to the Central Holding Authority a fee for the prudential supervision of the Office by the Territory.
  - (2) The fee is the amount decided by the Treasurer for the financial year in accordance with the Determinations made under section 33A.
- (2A) To avoid doubt, the fee may relate to:
- (a) the commercial business; or
  - (b) the MAC business; or
  - (c) both the commercial business and MAC business.
- (3) The Office must pay the fee for the financial year within 2 months after the Treasurer has notified the Office of the amount.

### **34 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Regulations may prescribe:
  - (c) procedures in relation to the preparation, amendment and approval of statements of corporate intent required by section 8A to be prepared; and

- (d) penalties, not exceeding a fine of \$10,000, for an offence against the Regulations.

## **Part VI                      Repeals and Transitional matters for Territory Insurance Office Amendment Act 2005**

### **35                      Repeal of Regulations**

- (1) The following Regulations are repealed:
  - (a) Territory *Insurance Office Regulations* (Regulations No. 27 of 1993);
  - (b) amendment of *Territory Insurance Office Regulations* (Regulations No. 6 of 2002).
- (2) Despite the repeal, the Regulations as in force immediately before the commencement of the *Territory Insurance Office Amendment Act 2005* apply in relation to the financial year beginning on 1 July 2005.

### **36                      Application – fees for guarantee and prudential supervision**

Sections 30A and 33B apply in relation to the financial year beginning on 1 July 2006 and each subsequent financial year.

## **Part VII                      Transitional matters for Territory Insurance Office Amendment Act 2006**

### **37                      Application of amendments**

- (1) The amendments made to this Act by the *Territory Insurance Office Amendment Act 2006* apply to the financial year beginning on 1 July 2006 and each subsequent financial year.
- (2) Subsection (1):
  - (a) has effect subject to section 38; and
  - (b) does not apply to the amendments made by sections 4(3) and 6 of the *Territory Insurance Office Amendment Act 2006*.

**38            Period for preparation of documents**

- (1) The first statements of corporate intent prepared for section 8A must be given to the Minister for approval:
  - (a) not later than 6 months after the beginning of the commencement of that section; or
  - (b) by another date agreed between the Minister and the Board.
- (2) The first report prepared for section 8C must be given to the Minister for approval:
  - (a) not later than 3 months after the beginning of the financial year beginning on 1 July 2007; or
  - (b) by another date agreed between the Minister and the Board.
- (3) The first policy statement prepared for section 22E must be given to the Minister for approval:
  - (a) not later than 6 months after the beginning of the commencement of that section; or
  - (b) by another date agreed between the Minister and the Board.

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## ENDNOTES

**1****KEY**

Key to abbreviations

amd = amended  
 app = appendix  
 bl = by-law  
 ch = Chapter  
 cl = clause  
 div = Division  
 exp = expires/expired  
 f = forms  
 Gaz = Gazette  
 hdg = heading  
 ins = inserted  
 lt = long title  
 nc = not commenced

od = order  
 om = omitted  
 pt = Part  
 r = regulation/rule  
 rem = remainder  
 renum = renumbered  
 rep = repealed  
 s = section  
 sch = Schedule  
 sdiv = Subdivision  
 SL = Subordinate Legislation  
 sub = substituted

**2****LIST OF LEGISLATION*****Territory Insurance Office Act 1979 (Act No. 59, 1979)***

Assent date	15 June 1979
Commenced	22 June 1979 ( <i>Gaz</i> G25, 22 June 1979, p 5)

***Territory Insurance Office Amendment Act 1981 (Act No. 102, 1981)***

Assent date	21 December 1981
Commenced	21 December 1981

***Public Service and Statutory Authorities Amendment Act 1985 (Act No. 28, 1985)***

Assent date	26 June 1985
Commenced	26 June 1985

***Companies and Securities (Consequential Amendments) Act 1986 (Act No. 18, 1986)***

Assent date	30 June 1986
Commenced	1 July 1986 (s 2)

***Territory Insurance Office Amendment Act 1986 (Act No. 50, 1986)***

Assent date	19 December 1986
Commenced	24 December 1986 ( <i>Gaz</i> S90, 24 December 1986)

***Territory Insurance Office Amendment Act 1989 (Act No. 36, 1989)***

Assent date	20 September 1989
Commenced	8 November 1989 ( <i>Gaz</i> G44, 8 November 1989, p 3)

***Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)***

Assent date	14 December 1990
Commenced	1 January 1991 (s 2, s 2 <i>Corporations (NT) Act 1990</i> (Act No. 56, 1990) and <i>Gaz</i> S76, 21 December 1990)

***Territory Insurance Office Amendment Act 1991 (Act No. 9, 1991)***

Assent date	7 March 1991
Commenced	1 July 1990 (s 2)

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***Territory Insurance Office Amendment Act (No. 2) 1991 (Act No. 70, 1991)***

Assent date 6 December 1991  
Commenced 6 December 1991

***Territory Insurance Office Amendment Act 1992 (Act No. 65, 1992)***

Assent date 28 October 1992  
Commenced 16 November 1992 (*Gaz S59*, 16 November 1992)

***Territory Insurance Office Amendment Act 1993 (Act No. 7, 1993)***

Assent date 18 March 1993  
Commenced 18 March 1993

***Territory Insurance Office Amendment Act (No. 2) 1993 (Act No. 13, 1993)***

Assent date 22 April 1993  
Commenced ss 10 and 11: 1 July 1993; rem: 22 April 1993 (s 2)

***Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)***

Assent date 30 June 1993  
Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz S53*, 29 June 1993)

***Statute Law Revision Act 1994 (Act No. 50, 1994)***

Assent date 20 September 1994  
Commenced 20 September 1994

***Territory Insurance Office Amendment Act 1994 (Act No. 51, 1994)***

Assent date 20 September 1994  
Commenced 20 September 1994

***Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)***

Assent date 21 March 1995  
Commenced 1 April 1995 (s 2, s 2 *Financial Management Act 1992* (Act No. 4, 1995) and *Gaz S13*, 31 March 1995)

***Statute Law Revision Act (No. 2) 1995 (Act No. 42, 1995)***

Assent date 13 October 1995  
Commenced 13 October 1995

***Territory Insurance Office Amendment Act 1998 (Act No. 36, 1998)***

Assent date 27 May 1998  
Commenced 1 July 1996 (s 2)

***Statute Law Revision Act 1998 (Act No. 92, 1998)***

Assent date 11 December 1998  
Commenced 11 December 1998

***Territory Insurance Office Amendment Act 2000 (Act No. 76, 2000)***

Assent date 15 December 2000  
Commenced 15 December 2000

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date 29 June 2001  
Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and Cth *Gaz S285*, 13 July 2001)

**Statute Law Revision (Financial Provisions) Act 2002 (Act No. 38, 2002)**

Assent date 13 September 2002  
 Commenced 30 October 2002 (*Gaz* G43, 3 October 2002, p 3)

**Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)**

Assent date 7 January 2004  
 Commenced 17 March 2004 (*Gaz* G11, 17 March 2004, p 8)

**Territory Insurance Office Amendment Act 2005 (Act No. 46, 2005)**

Assent date 14 December 2005  
 Commenced 14 December 2005

**Territory Insurance Office Amendment Act 2006 (Act No. 28, 2006)**

Assent date 19 September 2006  
 Commenced ss 4(3) and 6: 19 September 2006; rem: 1 July 2006 (s 2)

**Law Reform (Work Health) Amendment Act 2007 (Act No. 30, 2007)**

Assent date 12 December 2007  
 Commenced 1 July 2008 (*Gaz* S29, 25 June 2008)

### 3 SAVINGS AND TRANSITIONAL PROVISIONS

s 4 *Territory Insurance Office Amendment Act 1989* (Act No. 36, 1989)

### 4 LIST OF AMENDMENTS

lt	amd No. 50, 1986, s 4
s 3	amd No. 50, 1986, s 5; No. 36, 1989, s 4; No. 70, 1991, s 2; No. 65, 1992, s 4; No. 13, 1993, s 4; No. 1, 2004, s 62; No. 28, 2006, s 4
s 4	amd No. 36, 1989, s 5
s 5	amd No. 50, 1986, s 6; No. 13, 1993, s 5; No. 76, 2000, s 2; No. 30, 2007, s 59
s 6	amd No. 50, 1986, s 7
s 7	amd No. 13, 1993, s 6; No. 5, 1995, s 16
s 8A	ins No. 13, 1993, s 7
	sub No. 28, 2006, s 5
ss 8B – 8C	ins No. 28, 2006, s 5
s 10	amd No. 65, 1992, s 5; No. 28, 2006, s 6
s 11	amd No. 65, 1992, s 6; No. 13, 1993, s 13; No. 28, 1993, s 3
s 12	amd No. 28, 1985, s 9; No. 65, 1992, s 7; No. 13, 1993, s 13; No. 50, 1994, s 16
s 13	amd No. 65, 1992, s 8; No. 13, 1993, s 13; No. 28, 1993, s 3
s 14	amd No. 65, 1992, s 9; No. 13, 1993, s 13; No. 28, 1993, s 3
s 15	amd No. 28, 1985, s 9; No. 65, 1992, s 10; No. 13, 1993, s 13; No. 28, 1993, s 3
s 16	amd No. 65, 1992, s 11; No. 13, 1993, s 13; No. 28, 1993, s 3
s 17	sub No. 13, 1993, s 8
ss 17A – 17C	ins No. 13, 1993, s 8
s 19	sub No. 36, 1989, s 6; No. 65, 1992, s 12
s 19A	ins No. 36, 1989, s 6
	amd No. 65, 1992, s 13
s 19B	ins No. 36, 1989, s 6
s 20	amd No. 36, 1989, s 7; No. 50, 1994, s 16
s 22	amd No. 50, 1986, s 8; No. 28, 2006, s 7



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s 22A	ins No. 102, 1981, s 3 amd No. 5, 1995, s 17
ss 22B – 22E	ins No. 28, 2006, s 8
s 23	amd No. 50, 1986, s 9; No. 9, 1991, s 3; No. 7, 1993, s 3; No. 28, 2006, s 9
s 24	amd No. 38, 2002, s 6
s 25	amd No. 50, 1986, s 10
s 25A	ins No. 9, 1991, s 4 amd No. 92, 1998, s 23; No. 46, 2005, s 7; No. 28, 2006, s 10
s 26	amd No. 50, 1986, s 11; No. 7, 1993, s 4 sub No. 5, 1995, s 18 amd No. 46, 2005, s 7; No. 28, 2006, s 11
s 27	amd No. 18, 1986, s 3; No. 59, 1990, s 4 sub No. 13, 1993, s 9; No. 5, 1995, s 18 amd No. 28, 2006, s 12
s 28	amd No. 102, 1981, s 4; No. 18, 1986, s 3; No. 59, 1990, s 4; No. 42, 1995, s 5 sub No. 36, 1998, s 3 amd No. 17, 2001, s 17; No. 46, 2005, s 7; No. 28, 2006, s 13
s 28A	ins No. 50, 1986, s 12 amd No. 59, 1990, s 4; No. 13, 1993, s 11; No. 17, 2001, s 17
s 30	amd No. 50, 1986, s 13; No. 92, 1998, s 23; No. 46, 2005, s 7; No. 28, 2006, s 14
s 30A	ins No. 46, 2005, s 3 amd No. 28, 2006, s 15
s 31	amd No. 50, 1986, s 14
s 33	sub No. 13, 1993, s 10; No. 51, 1994, s 3
s 33A	ins No. 46, 2005, s 4 amd No. 28, 2006, s 16
s 33B	ins No. 46, 2005, s 4 amd No. 28, 2006, s 17
s 34	amd No. 13, 1993, s 12; No. 46, 2005, s 5
pt VI hdg	ins No. 46, 2005, s 6
ss 35 – 36	ins No. 46, 2005, s 6
pt VII hdg	ins No. 28, 2006, s 18
ss 37 – 38	ins No. 28, 2006, s 18