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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

LIFE INSURANCE POLICY HOLDERS' PROTECTION LEVIES
COLLECTION BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer,
the Hon John Kerin, MP)



**LIFE INSURANCE POLICY HOLDERS' PROTECTION LEVIES COLLECTION
BILL 1991**

GENERAL OUTLINE AND MAIN PURPOSE OF THE BILL

The main purpose of this Bill is to provide for the collection and application of levies imposed by regulations under the Life Insurance Policy Holders' Protection Levies Bill 1991. This Bill provides for the levies collected to be paid into a special trust account to be applied to meet up to 90 per cent of the liability under each life policy issued by the two companies, subject to certain conditions and exemption provisions.

FINANCIAL IMPACT

The funds collected and dealt with by this Bill are to come from levies imposed for those purposes on registered life insurance companies.

**EXPLANATORY NOTES ON LIFE INSURANCE POLICY HOLDERS'
PROTECTION LEVIES COLLECTION BILL 1991**

PART 1 - PRELIMINARY

CLAUSE 1 SHORT TITLE

1. This clause provides a mode of citation of the Bill.

CLAUSE 2 COMMENCEMENT

2. This clause provides for the Bill to come into operation on the day it receives Royal Assent.

CLAUSE 3 OBJECT OF BILL

3. This clause provides that the object of the Bill is to give a measure of financial protection to the policy holders of Occidental Life Insurance Company of Australia Limited and Regal Life Insurance Limited.

CLAUSE 4 APPLICATION OF LIFE INSURANCE ACT

4. This clause extends the application of certain provisions of the Life Insurance Act 1945 to this Bill.

CLAUSE 5 INTERPRETATION

5. This clause defines a number of words and expressions for the purposes of the Bill.

**CLAUSE 6 COMPANY'S STATUTORY ACCOUNTS TO BE PRIMA FACIE
EVIDENCE OF VALUE OF ITS ASSETS**

6. This clause provides that statutory accounts lodged for the purposes of the Life Insurance Act 1945 are to be prima facie evidence of the value of the assets of a company as at the end of the last financial year of the company.

**CLAUSE 7 COMMISSIONER TO NOTIFY AUSTRALIAN PROPORTION OF
VALUE OF ASSETS IN STATUTORY FUNDS**

7. This clause provides that, where a company has submitted an actuary's certificate, the Commissioner must notify the company as to the Australian proportion of the value of assets in the company's statutory funds.

CLAUSE 8 NON-LEVIABLE FUNDS - ELIGIBLE COMPANIES

8. This clause provides that the Commissioner must declare a statutory fund maintained by an eligible company to be a non-leviable fund if the Commissioner is satisfied that the fund is in deficit.

PART 2 - COLLECTION OF LIFE INSURANCE POLICY HOLDERS' PROTECTION LEVIES

CLAUSE 9 BY WHOM LEVY PAYABLE

9. This clause provides that a company is obliged to pay a levy imposed on its assets.

CLAUSE 10 WHEN LEVY DUE FOR PAYMENT

10. This clause provides that a levy is due and payable not later than the 28th day after the day it is imposed.

CLAUSE 11 PENALTY FOR NON-PAYMENT OF LEVY

11. This clause imposes a penalty of 20 per cent per annum for non-payment of a levy and empowers the Commissioner to remit whole or part of such a penalty.

CLAUSE 12 RECOVERY OF LEVY AND LATE PAYMENT PENALTY

12. This clause provides that levies and penalties payable under this Bill may be recovered as a debt due to the Commonwealth.

CLAUSE 13 LEVY MAY BE PAID OUT OF STATUTORY FUNDS

13. This clause provides that the levy may be paid out of the statutory funds of registered life insurance companies.

CLAUSE 14 MANNER OF PAYMENT OF LEVY ETC

14. This clause provides that regulations may make provision in relation to matters associated with the payment of a levy.

PART 3 - LIFE INSURANCE POLICY HOLDERS' PROTECTION FUND

CLAUSE 15 LIFE INSURANCE POLICY HOLDERS' PROTECTION FUND

15. This clause establishes an account called the Life Insurance Policy Holders' Protection Fund and provides that it is a trust account for the purposes of the Audit Act 1901.

CLAUSE 16 PAYMENTS INTO FUND

16. This clause provides that all levy proceeds, income from Fund investments and grant repayments must be paid into the Fund.

CLAUSE 17 PURPOSES OF FUND

17. This clause provides that the purposes for which the Fund has been established are to make grants, winding-up advances and final winding-up payments.

CLAUSE 18 SEPARATE NOTIONAL ACCOUNTS TO BE KEPT WITHIN FUND

18. This clause provides that a separate notional account must be kept within the Fund for each company which pays the levy and sets out formulae for determining credits and debits to those notional accounts.

CLAUSE 19 TRANSFER OF EQUITY IN FUND

19. This clause provides that a scheme of transfer or amalgamation of business confirmed by the Court under the Life Insurance Act 1945 may provide for a transfer of a company's equity in the Fund.

CLAUSE 20 WINDING-UP ADVANCES

20. This clause permits winding-up advances to be paid to companies if the Commissioner is satisfied that further grants of financial assistance from the Fund are unlikely to be paid for a considerable period.

CLAUSE 21 WINDING-UP OF FUND

21. This clause contains provisions for winding-up the Fund.

PART 4 - GRANTS OF FINANCIAL ASSISTANCE FROM THE FUND

CLAUSE 22 JUDICIAL MANAGER OR LIQUIDATOR OF ELIGIBLE COMPANY MAY APPLY FOR GRANT OF FINANCIAL ASSISTANCE FROM THE FUND

22. This clause provides that the judicial manager or liquidator of an eligible company may apply to the Commissioner for a grant of assistance from the Fund.

CLAUSE 23 GRANTS OF FINANCIAL ASSISTANCE FROM THE FUND

23. This clause provides the Commissioner with the discretion to approve an application for grant of financial assistance together with criteria for exercise of that discretion. The specified criteria require the Commissioner to be satisfied that the eligible company's assets are insufficient to meet policy holder liabilities or that realisation of those assets would be imprudent.

CLAUSE 24 CONDITIONS TO WHICH GRANT OF FINANCIAL ASSISTANCE IS SUBJECT

24. This clause makes a grant of financial assistance to an eligible company subject to conditions including that it will only be used to meet up to 90 per cent of policy holder liabilities, and related administrative expenses.

25. In addition, the clause provides that the Commissioner may impose additional conditions, including the condition that he be provided with appropriate reports and that no part of the grant be applied to the benefit of persons who may have contributed to the financial difficulties of the eligible company.

26. The clause also gives guidance for the determination of surrender values for use in assessing policy liabilities.

PART 5 - REPAYMENT OF GRANTS OF FINANCIAL ASSISTANCE

CLAUSE 25 REPAYMENT OF OVERPAYMENTS OF GRANTS

27. This clause provides for the repayment by an eligible company of any unused part of a grant.

CLAUSE 26 REPAYMENT OF GRANT IF CONDITIONS ARE CONTRAVENED

28. This clause provides that if a condition applicable to a grant is contravened, the grant is repayable to the Commonwealth.

CLAUSE 27 REPAYMENT OF GRANT IF A SPECIFIED CONTINGENCY HAPPENS

29. This clause provides that where an event such as satisfaction of a debt is specified in a grant determination, and that event occurs, the grant is repayable to the Commonwealth.

CLAUSE 28 REMISSION OF GRANT REPAYMENTS

30. This clause gives the Commissioner power to remit a grant repayment payable under clause 26 or 27.

CLAUSE 29 RECOVERY OF GRANT REPAYMENTS

31. This clause provides that a grant repayment may be recovered as a debt due to the Commonwealth.

CLAUSE 30 GRANT REPAYMENT MAY BE PAID OUT OF STATUTORY FUNDS

32. This clause provides that a grant repayment may be paid out of the statutory funds of an eligible company.

CLAUSE 31 MANNER IN WHICH GRANT REPAYMENTS ARE TO BE MADE

33. This clause provides that regulations may make provision for the manner in which grant repayments are to be made.

CLAUSE 32 PRIORITY OF GRANT REPAYMENTS

34. This clause sets out the priority of grant repayments in relation to other debts and liabilities.

PART 6 - PROVISIONS RELATING TO THE JUDICIAL MANAGER OR LIQUIDATOR OF AN ELIGIBLE COMPANY

CLAUSE 33 GRANTS TO BE UNDER THE CONTROL OF THE JUDICIAL MANAGER OR LIQUIDATOR

35. This clause provides that grants paid to an eligible company are to be under the control of the judicial manager or liquidator, who is responsible for ensuring that the company complies with the provisions of this Bill.

CLAUSE 34 JUDICIAL MANAGER OR LIQUIDATOR UNDER THE CONTROL OF THE COURT

36. This clause provides that the judicial manager or liquidator of an eligible company must act under the control of the Court and may apply to the Court for instructions. It further provides that the Commissioner is entitled to be heard by the Court on such an application.

CLAUSE 35 APPLICATION OF DIVISION 8 OF PART III OF THE LIFE INSURANCE ACT

37. This clause extends the application of the provisions of the Life Insurance Act 1945 relating to judicial management and winding-up to this Bill.

PART 7 - DECISION-MAKING PRINCIPLES

CLAUSE 36 DECISION-MAKING PRINCIPLES

38. This clause provides that the Commissioner may formulate decision making principles concerning remission of a penalty for non-payment of a levy, and grant determinations and remissions. Where the Commissioner formulates such principles, he is obliged to make decisions consistent with these principles.

PART 8 - REVIEW OF DECISIONS

CLAUSE 37 REVIEW OF DECISIONS

39. This clause makes certain decisions under the Bill reviewable under the relevant provisions of the Life Insurance Act 1945.

CLAUSE 38 ONLY JUDICIAL MANAGER/LIQUIDATOR OF AN ELIGIBLE COMPANY HAS STANDING TO SEEK REVIEW OF DECISIONS AFFECTING THE ELIGIBLE COMPANY

40. This clause provides that only the judicial manager or liquidator has standing to seek review of decisions affecting the eligible company.

PART 9 - MISCELLANEOUS

CLAUSE 39 DELEGATION

41. This clause permits the Commissioner to delegate certain powers under the Bill.

CLAUSE 40 ANNUAL REPORT

42. This clause provides for the preparation and tabling in the Parliament of an annual report on the working of this Bill.

CLAUSE 41 REGULATIONS

43. This clause provides that the Governor-General may make regulations for purposes of this Bill.

PART 10 - CONSEQUENTIAL AMENDMENTS

SCHEDULE

44. This schedule provides for certain minor consequential amendments to the Crown Debts (Priority) Act 1981 and Income Tax Assessment Act 1936.



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