

# TASMANIA.

## THE TASMANIAN GOVERNMENT INSURANCE ACT, 1919.

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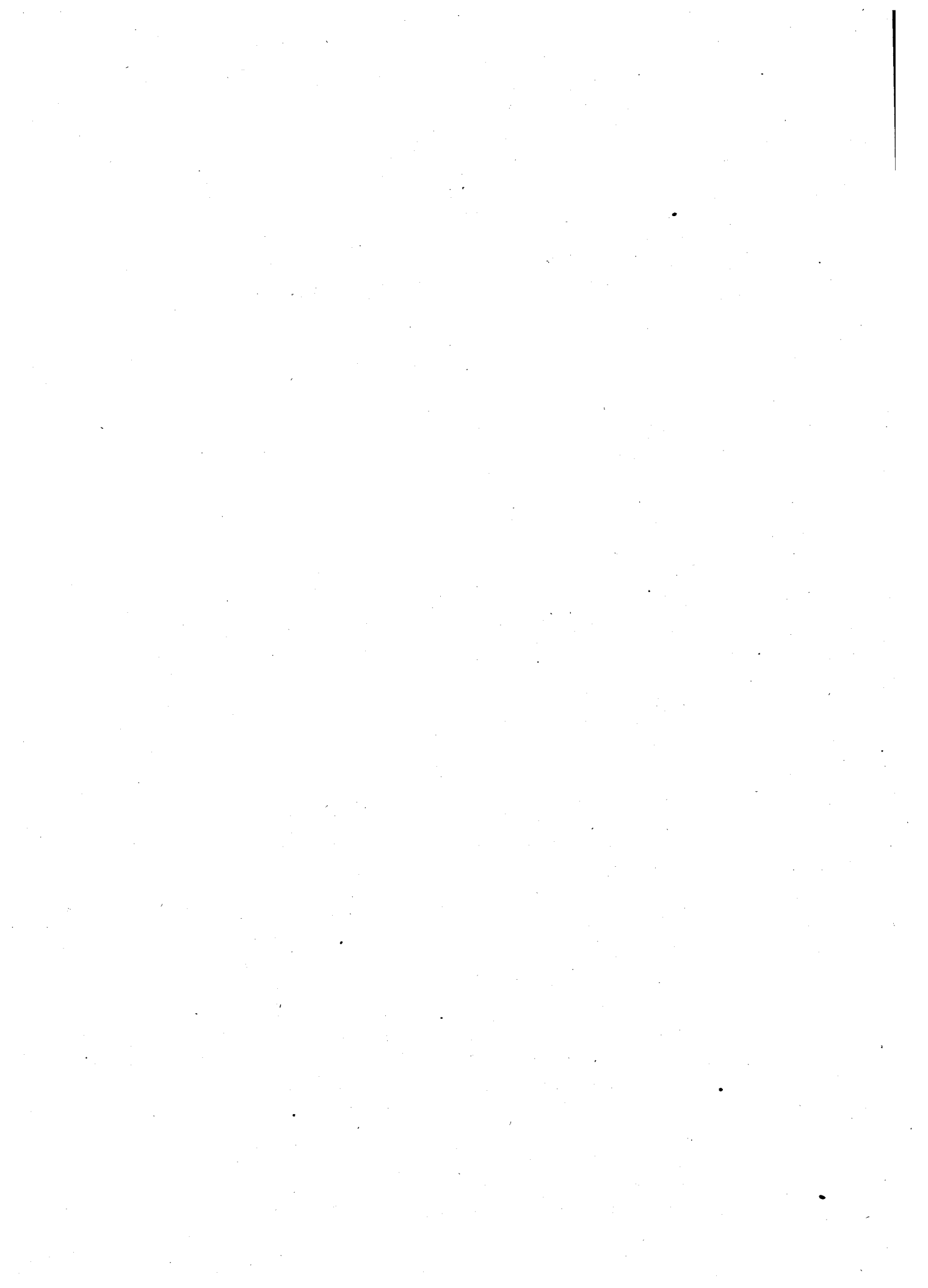
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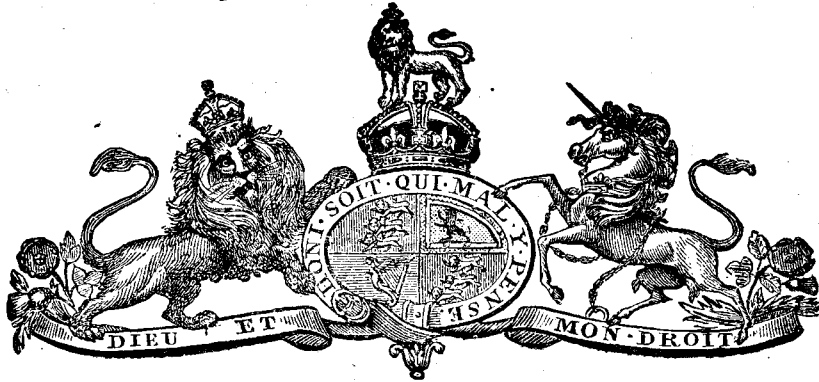
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TASMANIA



1919.

ANNO DECIMO

GEORGII V. REGIS.

No. 63.



AN ACT to authorise the Carrying On by the State of Tasmania of all Classes of Insurance Business, except Life Insurance, and for other purposes. [6 January, 1920.]

A.D.  
1919.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as “The Tasmanian Government Insurance Act, 1919,” and shall come into operation on a day to be fixed by proclamation.

Short title, commencement, and parts of Act

(2) This Act is divided into parts, as follows :—

Part I.—Preliminary.

Part II.—The Carrying On of Insurance Business by the State.

Part III.—General.

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—  
Interpretation.**2** In this Act, unless the context otherwise indicates—

“Accident” means accident resulting in loss of life or in bodily injury :

“Accident insurance” includes the following, whether the contract be one of primary insurance or of reinsurance, and whether the premium payable is a sum certain or consists of sums uncertain or variable in time, number, or amount :—

- I. Insurance against accident, disease, disability, or any change of physical or mental condition ;
- II. Insurance or indemnity against employers' liability, whether under statutory law or common law ; and
- III. Generally any contract in the nature of any of the foregoing whereby the benefit under the contract accrues payable on or after the occurrence of some contingent event :

“Carry on” means to give cover for or accept any insurance risk or business, except life insurance, or to issue or renew or to be or become liable under any insurance policy, except life insurance policies, or to adjust or settle any claim under any such policy :

“Fire insurance” means the insurance or reinsurance against loss or damage by fire of insurable property of all kinds situate in this State, and generally the management or carrying on in respect of such property, or of any insurable interest therein, of the business of fire insurance or reinsurance in all its branches :

“General Manager” or “Manager” means “The Tasmanian Government Insurance Manager” appointed under or for the purposes of this Act :

“Insurance” includes reinsurance :

“Insured” means the person in whose name a policy is issued or for whose benefit it enures :

“Marine insurance” means the business of marine insurance or reinsurance in all its branches, and includes contracts of marine insurance, namely, contracts whereby the insurer undertakes to indemnify the assured, in manner and to the extent thereby agreed, against marine losses, that is to say, the losses incident to marine adventure.

A contract of marine insurance may, by its express terms or by usage of trade, protect the assured against losses (not being in respect of human beings) on inland waters or on any land risk (not being in respect of human beings) ordinarily covered under a marine insurance policy :

“Minister” means the Treasurer for the time being of this State, or other responsible Minister of the Crown for the time being charged with the administration of this Act :

“Permanent staff” means the officers appointed by the Governor under this Act :

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- “Policy” means a policy of insurance or reinsurance covering an insured risk, including a cover note or other contract, whether oral or in writing, covering or purporting to cover or insure such risk : A.D. 1919.
- “Reinsurance” means an insurance effected with any other person of the whole or any portion of any amount covered under any policy issued by the General Manager or another insurer :
- “Treasurer” means the Treasurer for the time being of the State :
- “The Tasmanian Government Insurance Account” means the Tasmanian Government Insurance Account mentioned in Section Twenty-four of this Act :
- “Vessel” includes any ship, lighter, dredge, barge, boat, raft or craft of whatever description and however navigated or propelled.

## PART II.

## THE CARRYING ON OF INSURANCE BUSINESS BY THE STATE.

*The Tasmanian Government Insurance Office.*

**3** For the purpose of enabling the State to carry on accident insurance, fire insurance, marine insurance, and every other class of insurance business (except life insurance), all of which are hereinafter referred to as insurance business, and for the purpose of doing all such things as are incidental or conducive to the carrying on of any or all classes of insurance business, there is hereby established an office to be called “The Tasmanian Government Insurance Office,” and such office shall be administered and managed under the Minister by an officer (hereinafter called “the General Manager”), who shall be appointed by the Governor. Tasmanian  
Government  
Insurance Office  
established.

**4—(1)** For the purposes of this Act the Governor may from time to time appoint some fit and proper person to be General Manager, and may, on the happening of any vacancy in the office of General Manager, appoint a person to the vacant office. General Manager.  
Appointment.

(2) Any person to be so appointed may be appointed for a term not exceeding Five years.

(3) A General Manager may from time to time be reappointed for any further term not exceeding Three years.

(4) The provisions of Sections Eight and Ten of “The Public Service Act, 1918,” shall *mutatis mutandis* apply to the General Manager, and shall be deemed to be incorporated with this Act.

(5) The General Manager shall be paid such salary and allowances as may be fixed by the Governor out of the Tasmanian Government Insurance Account hereinafter mentioned.

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(6) The General Manager shall have the powers and authority, and shall discharge and exercise the duties and functions, by this Act vested in or imposed or conferred upon him.

General Manager  
a corporation sole.

**5** The General Manager is hereby constituted a corporation sole under the style of "The Tasmanian Government Insurance General Manager," with perpetual succession and a seal of office.

Power to appoint  
Deputy-General  
Manager and  
other officers.  
9 Geo. V. No. 69.

**6**—(1) Upon the recommendation of the General Manager, the Governor may, from time to time, appoint—

- i. Some person to be Deputy General Manager : and
- ii. Such other officers as he deems necessary for the business of the Tasmanian Government Insurance Office.

(2) Subject to any regulations made under this Act such Deputy General Manager and other officers shall hold office during pleasure only.

(3) Such Deputy General Manager and other officers shall be paid such salary, commission, or other remuneration as may be fixed from time to time by the Governor out of the Tasmanian Government Insurance Account hereinafter mentioned.

(4) Any officer of the Public Service of the State who becomes a Deputy General Manager or other officer of the Tasmanian Government Insurance Office shall retain all his existing and accruing rights.

Provisions of 9  
Geo. V. No. 69.  
not to apply.

**7** Except as is herein expressly provided, nothing in "The Public Service Act, 1918," or any amendment thereof shall apply to the General Manager, Deputy General Manager, or other officer, appointed under the provisions of this Act.

When deputy to  
act.

**8**—(1) With respect to the Deputy General Manager the following provisions shall apply :—

- i. He shall act during the illness, suspension, or absence of the General Manager, or while the office of General Manager for any reason remains vacant, and while so acting shall have all the powers and perform all the duties of the General Manager :
- ii. He may also act under authority delegated in that behalf by the General Manager, and while so acting he shall act in the name and on behalf of the General Manager :
- iii. The fact that he so acts shall be sufficient evidence of his authority so to do, and no person shall be concerned to inquire whether any occasion has arisen requiring or authorising him so to do, or be affected by notice or by the fact that no such occasion has arisen.

Power to act not  
to be questioned.

(2) The General Manager may from time to time, by writing under his hand, delegate to the Deputy General Manager all or any of his powers or functions under this Act (except this power of delegation).

Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the General Manager.

Delegation by  
General Manager.

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**9** The General Manager or Deputy General Manager shall not act as director or auditor, or in any other capacity take part in the management of any bank, joint stock company, or other financial institution, or of any trade or business, or acquire or hold, directly or indirectly, any shares in any insurance company, and in any such case shall be disqualified from holding the office of General Manager or Deputy General Manager, as the case may be.

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Disabilities.

**10** A General Manager or Deputy General Manager who—

i. Is in anywise concerned or interested in any bargain or contract made by or on behalf of the Tasmanian Government Insurance Office or the Crown : or

ii. In anywise participates, or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising from the same—

Not to be personally interested in contracts, &amp;c.

shall thereby vacate his office as General Manager or Deputy General Manager, and shall also be guilty of a misdemeanour, and shall be liable to a penalty of not more than Five hundred Pounds or to imprisonment for a term of not more than Three years, or to both of these punishments.

**11**—(1) The General Manager, Deputy General Manager, and every member of the permanent staff shall be bound to secrecy by statutory declaration in the prescribed form.

Secrecy.

(2) Every person who makes such statutory declaration and wilfully acts in contravention of the true intent thereof shall be guilty of an offence against this Act.

Penalty : Fifty Pounds or Three months' imprisonment.

**12**—(1) The Governor may from time to time appoint such and so many persons as he deems necessary to act as referees for the purposes of this Act.

Referees.

A police magistrate, or any other fit and proper person having in the opinion of the Governor the necessary qualification, may be appointed to be and act as a referee under this Act.

(2) Every such referee, when sitting for the purposes of this Act, shall have all the powers of and be deemed to be a person to whom the Governor has, under the provisions of Division II. of Part II. of "The Evidence Act, 1910," issued a commission to make an enquiry, and the said provisions shall, with the necessary alterations, be deemed to be incorporated with this Act.

1 Geo. V. No. 20.

**13** The Minister, on the recommendation of the General Manager may from time to time :—

Power to establish branches and agencies and appoint agents.

1. Establish branches of the Tasmanian Government Insurance Office, or of any department thereof, at any places in this State, and establish agencies of the Tasmanian Government Insurance Office at any place within or outside this State, and may close any branch or agency : and

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- ii. Appoint such agents and valuers (not being members of the permanent staff) on such terms as to salary, commission, or other remuneration as he thinks fit.

*Business.*

Power to associate with insurance companies for reinsurance.

**14** The Tasmanian Government Insurance Office may, for the purpose of reinsurance, have associated with it any insurance company doing business in or out of this State.

Provided that the General Manager shall not without the consent of the Minister, enter into any agreement with any insurance company or companies fixing the premiums payable.

General Manager to conduct business and may enter into contracts therefor.

**15**—(1 Subject to the provisions of this Act, the business of the Tasmanian Government Insurance Office and all Tasmanian Government Insurance business shall be conducted by the General Manager, as representing the Crown, and he in his corporate style and capacity shall have power from time to time to enter into, perform, and enforce any contracts in relation to any insurance business or risk which may be lawfully entered into by or with any person or company, and generally to do whatever he deems necessary in connection with or incident to business.

Power to refuse insurance.

(2) The General Manager may refuse to enter into an insurance contract with any person in any case where he is of opinion that there are sufficient grounds for so refusing.

How contracts may be entered into.

**16** The General Manager may enter into insurance contracts either at the Tasmanian Government Insurance Office in Hobart, or at branch offices or agencies throughout this State, and either by himself or through the medium of such officers or agents as he from time to time appoints for that purpose.

Attorney outside the State for reinsurance of risks.

Provided that, for the purpose of effecting with persons or companies out of this State the reinsurance of risks under this Act, the General Manager may from time to time enter into or make arrangements for contracts of such reinsurances through the medium of attorneys or agents out of this State, to be appointed by him, with such powers as he thinks fit.

Mode of execution, &c., of documents.

**17** With respect to all deeds, policies, instruments, and documents of any kind incident to the business of the Tasmanian Government Insurance Office and Tasmanian Government Insurance business or the purposes of this Act the following provisions shall apply :—

- i. The General Manager shall be described therein by his corporate style :
- ii. Such of them as are to be signed by the General Manager shall be signed in his personal name, with the addition of his corporate style :
- iii. Such of them as are to be signed by the Deputy General Manager shall be signed by him thus : “ For the Tasmanian Government Insurance General Manager, A.B., Deputy General Manager ” :



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- iv. Such of them as are to be executed in this State under seal shall also be signed by the General Manager or the Deputy General Manager, as the case may be : A. D. 1919.
- v. Policies and indorsements thereon need not be executed under seal, and may, with any other document not required to be executed under seal, be signed in the name and on behalf of the General Manager by the Deputy General Manager, or by any attorney, agent, or officer authorised by the General Manager in that behalf.
- 18** The General Manager in his official style and capacity may sue and be sued in all actions and proceedings arising out of any act, matter, or thing done or suffered in relation to himself, or the Tasmanian Government Insurance Office. Power of General Manager to sue and be sued.
- 19** With respect to all such actions and proceedings the following provisions shall apply :— How actions, &c., to be conducted.
- i. They shall be instituted, prosecuted, and defended by or against the General Manager in his corporate style and capacity only :
- ii. They shall not abate or be dismissed by reason only that the cause of action relates to the said office, or the business or affairs thereof, and not to the General Manager himself : No abatement because action relates to office.
- iii. No action shall be against the General Manager in respect of any fire loss unless such action is commenced within Six months after the loss occurred : Action for fire loss : when to commence.
- iv. The seal of the General Manager, and the appointment and signature of the General Manager and the Deputy General Manager, shall be judicially noticed without proof until the contrary is shown. Judicial notice.
- 20** For the purpose of minimising as far as possible the risk of insurance under this Act the following provisions shall apply :— Local authorities and Government Departments to furnish information.
- i. It shall be the duty of the city or municipal council of every city or municipality and the duty of every other local governing body, and also of the head of every Government Department (including the Public Trust Office), and also of every officer thereof, at all times to furnish to the General Manager all such information and reports as he requests, and such council, body, department, or person can supply, concerning any fact or circumstance in any way affecting the risk of insurance :
- ii. The General Manager or Deputy General Manager, by himself or by any person authorised by him in that behalf, may at all reasonable times enter on any building, vessel, or premises— Power to inspect buildings or contents thereof.
- (a) Insured or proposed to be insured under this Act ; or

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- (b) Wherein or whereon are or are supposed to be any goods, articles, or things insured or proposed to be so insured under this Act, and may inspect any such building, vessel, premises, goods, articles, or things :
- iii. Every person who in any way hinders such entry or inspection, or refuses to give any information in his power relating to such building, vessel, premises, goods, articles, or things, or knowingly gives any false information, is guilty of an offence against this Act.

Penalty : Fifty Pounds.

Certain provisions as to fire insurance policies.

**21** With respect to every policy of fire insurance issued by the General Manager the following provisions shall apply :—

- i. In the case of builders' risks or other policies for short specified periods of less than a year the premium shall be payable in advance :
- ii. In every other case the premium shall be payable annually in advance during the continuance of the policy :
- iii. The policy may, in the absolute discretion of the General Manager, be cancelled by him at any time, and in such case he shall refund to the policyholder any sum paid in respect of premiums for the period subsequent to such cancellation.

Policies guaranteed by the State.

**22** Every policy issued by the General Manager under this Act shall be issued on behalf of and is hereby guaranteed by the Government of Tasmania.

*Finance.*

Treasurer may make advances up to £20,000.

**23**—(1) In order to provide capital for the business of the Tasmanian Government Insurance Office, the Treasurer is hereby authorised from time to time to advance to the General Manager by way of loan, any sum or sums of money not exceeding in the whole the sum of Twenty thousand Pounds.

Suspense account to be opened.

(2) A Suspense Account shall be opened in the books of the Treasury to be called "The Tasmanian Government Insurance Suspense Account."

How to be kept.

(3) All advances made by the Treasurer to the General Manager pursuant to this section shall be debited against such account, and all repayments by the General Manager of principal in respect of such advances shall be credited to such account.

General Manager to pay interest.

(4) The General Manager shall pay to the Treasurer interest, at a rate to be from time to time fixed by the Governor, upon the amount of the moneys for the time being advanced by the Treasurer to the General Manager. Such interest shall be paid half-yearly on the Thirtieth day of June and the Thirty-first day of December in each year.

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(5) All interest paid from time to time by the General Manager in respect of such advances shall be paid into and form part of the Consolidated Revenue. A.D. 1919.

(6) The amount of any loss or deficiency which may arise in respect of such advances shall be made good, and credited to the said Suspense Account out of moneys provided by Parliament for that purpose. Interest to be paid into Consolidated Revenue.

**24** All moneys payable to or received by the General Manager or any other person on account of the Tasmanian Government Insurance Office or in respect of Tasmanian Government Insurance business shall be paid into the Commonwealth Bank to the credit of one common account, called "The Tasmanian Government Insurance Account," which shall be operated on only by cheque signed by the General Manager, or the Deputy General Manager, and countersigned by the Accountant of the Tasmanian Government Insurance Office or any officer authorised in that behalf by the Minister. Losses to be made good to Suspense Account from moneys to be provided by Parliament. Moneys to be paid to Tasmanian Government Insurance Account.

**25** There shall be payable out of the Tasmanian Government Insurance Account, and (except where otherwise specially provided) without further appropriation than this Act— Moneys payable out of Tasmanian Government Insurance Account.

- i. All salaries, allowances, remuneration, expenses, losses, reinsurance premiums, rents, and outgoings expended or incurred in the general management of the Tasmanian Government Insurance Office and the conduct of its business, including interest payable and any sums from time to time payable to the Treasurer in repayment of money advanced from the Tasmanian Government Insurance Suspense Account:

- ii. All other moneys payable for the purposes of this Act.

**26** All moneys in the Tasmanian Government Insurance Account, or payable into that account by any person, and also all debts and other moneys for the time being owing to the General Manager by any person, whether on account of premiums, loans on mortgage, rents, or otherwise, and whether the same are accrued due or not, are hereby declared to be the property of the Crown and recoverable accordingly by the General Manager in like manner as money due to the Crown is recoverable. All moneys to be property of Crown.

**27** The General Manager shall keep in the books of the Tasmanian Government Insurance Office a separate, distinct, and detailed account of each class of insurance business undertaken and carried on by him, to be called the "Tasmanian Government (naming class) Insurance Account," and each such account shall show all receipts and payments made into or out of the Tasmanian Government Insurance Account in respect of the class of insurance business to which this account relates. Separate accounts to be kept in books of the office respecting each class of insurance business.

**28** All moneys in the Tasmanian Government Insurance Account which in the opinion of the General Manager are for the time being not required for the purposes of that account may be invested in such manner and on such securities as the Governor from time to time prescribes. Investment of surplus moneys.

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Provided that for the purposes of that account the aforesaid securities may from time to time be realised, hypothecated, or otherwise disposed of as the General Manager thinks fit.

Annual balance-sheet and statement of accounts to be laid before Parliament.

Powers of Audit Office.

**29**—(1) The General Manager shall, in the month of August in each year, prepare and transmit to the Minister balance-sheets and statements of accounts, setting forth a true statement of the financial position and the transactions of the Tasmanian Government Insurance Office in its divers departments for the preceding financial year, audited by the Auditor-General; and a copy of such balance-sheets and statements shall be laid before each House of Parliament as soon as practicable.

The Auditor-General shall have, in respect of such balance-sheets and statements, all the powers conferred upon him by any Act relating to the auditing of the public accounts.

(2) Each such balance-sheet and statement shall—

- I. Show a profit and loss account :
- II. Be in the form prescribed by the Auditor-General :
- III. Show separately what sums (if any) have been paid or set aside for or towards interest, reserves, outstanding claims, and unearned premiums.

Powers of Minister.

**30** The Minister and the Auditor-General shall at all times have full access to all the books, accounts, and papers of the Tasmanian Government Insurance Office; and it shall be the duty of the General Manager to furnish each of them with all such returns and information as he from time to time requires.

*Application of Profits.*

Application of profits.

**31** Where at the end of any financial year a surplus remains in the Tasmanian Government Insurance Account after providing for all liabilities other than in respect of any advances made by the Treasurer to the General Manager as hereinbefore provided (in this section referred to as "the said advances"), it shall be dealt with as follows, namely :—

- I. Such surplus to the extent of one-half thereof shall be paid to the Treasurer in or towards the repayment of any moneys owing to him in respect of the said advances :
- II. So much of the balance of such surplus, or if no moneys are owing to the Treasurer in respect of the said advances, so much of the whole of such surplus as the Auditor-General considers necessary, shall be carried to the Reserve Fund or funds created by the General Manager, and subject thereto, such balance, or whole of such surplus, as the case may be, may be paid into the Consolidated Revenue or disposed of as the Governor may direct :
- III. Any moneys which may be carried to the said Reserve Fund or funds pursuant to Paragraph II. hereof, with all accumulations of interest thereon, shall be invested upon such securities and in such manner as may be prescribed.

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## PART III.

## GENERAL.

**32** The General Manager, with the approval of the Minister, may from time to time :—

General Manager may rent premises for transacting business, &c.

- i. Take any premises on lease in his official style and capacity :
- ii. Purchase any furniture, fixtures, or fittings deemed necessary by the General Manager for the premises leased under this section.

**33** All payments of land tax or income tax whether under the laws of the State or the Commonwealth, and of rates and taxes from time to time due or payable on or in respect of real property vested in the Crown for the purposes of the Tasmanian Government Insurance Office shall be payable out of the proper funds of the Tasmanian Government Insurance Office under the authority of this Act, without any further or other appropriation by Parliament.

Certain payments appropriated.

**34** The provisions of any Act now or hereafter in force affecting insurance companies and rendering them liable to assessment or State taxation, stamp duty, fire brigade charges, or State taxation, shall extend and apply to the General Manager and the business conducted by him by virtue of this Act.

Taxation laws to apply to General Manager.

**35**—(1) Claims under policies issued by the General Manager shall be allowed or rejected in the first instance by the General Manager, but the General Manager on receipt of any such claim may, or any person claiming thereunder who objects to the ruling thereon of the General Manager may, by notice in writing, require the matter to be heard and determined by a referee, and the application shall in such case be heard and determined by such referee in accordance with the regulations. The General Manager may in any case, if he thinks fit, before any dispute is submitted to a referee, require a deposit of money as security for the cost of the reference, to such amount and upon such terms as may be prescribed.

Settlement claims.

Subject to the regulations, the cost of the proceedings shall be in the discretion of the referee.

(2) Either party to the proceedings before such referee may appeal from his decision on any point of law or question of fact in the same manner as in the case of an appeal from an order or conviction by justices.

**36** All offences against this Act (other than misdemeanours) and all penalties imposed or made payable by this Act may be heard, determined, and recovered by and before a police magistrate or any Two or more justices in the mode prescribed by "The Magistrates Summary Procedure Act."

Offences to be dealt with summarily.

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Regulations.

*Regulations.*

**37**—(1) The Governor may from time to time make regulations for all or any of the following purposes, that is to say:—

- i. The conduct of Tasmanian Government Insurance business :
- ii. Prescribing the functions and duties of all persons employed under this Act, and the forms, amount, and nature of the securities to be furnished by them :
- iii. The custody and control of the moneys in the Tasmanian Government Insurance Account, and the payment of moneys to and the withdrawal of moneys from that account, the mode of keeping and rendering that account, and any other account or balance-sheet in connection with the Tasmanian Government Insurance Office :
- iv. The receipt and payment of moneys under this Act :
- v. Determining what moneys under this Act shall be invested, and in what securities, and with what margin of value :
- vi. Fixing the maximum amount to be invested on mortgage from any one borrower, and the maximum amount to be advanced on any one security :
- vii. Prescribing what books and accounts shall be kept, and in what form :
- viii. Determining the principle and method to be adopted in valuing risks, and in accepting, rejecting, or cancelling such risks :
- ix. Classifying buildings and other risks for the purposes of insurance or reinsurance :
- x. Defining the conditions subject to which insurance or reinsurance may be effected :
- xi. Prescribing the events on the happening whereof insurances or reinsurances shall be deemed to be void :
- xii. Fixing the maximum risk to be taken, and the minimum margin of value to be required :
- xiii. Prescribing the forms of policies and claims, proofs of loss and all other documents issued under this Act or used in connection with the business of the Tasmanian Government Insurance Office :
- xiv. Directing the use of tables fixing, and, if necessary, varying the rates of premium to be charged in connection with State accident insurance contracts, and providing special rates for workers specially liable to accident by reason of their age or any physical or mental infirmity or incapacity, or for workers in some particular occupation where the risk in the individual case is greater than that usually involved in such occupation.

Provided that the General Manager may fix the premium in the case of any contract not provided for in the said tables :

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- xv. Prescribing whatever is deemed expedient with respect to the mode of granting insurance under this Act in the case of builders' risks and other insurances for short specified periods, and the terms and conditions thereof : A.D. 1919.
- xvi. Protecting the interests of mortgagees, assignees, and others in respect of property insured under this Act :
- xvii. Determining the mode in which shall be done anything by this Act expressed to be prescribed :
- xviii. Imposing a penalty not exceeding Ten Pounds for the breach of any such regulation : and generally for
- xix. Any other purpose that the Governor deems expedient for the efficient administration of this Act, or for which, in his opinion, regulations are contemplated or required by this Act.

