LIFE INSURANCE AMENDMENT BILL 1983

Date Introduced: 10 November 1983
House: House of Representatives
Presented by: Hon. C.R. Hurford, M.P., Minister Assisting the Treasurer

Short Digest of Bill

Purpose

To increase minimum financial requirements for companies conducting life insurance business in Australia and make further provision for investments of life offices and supervision by the Life Insurance Commissioner.

Background

Life insurance in Australia is regulated under the Life Insurance Act 1945. General insurance is regulated under the Insurance Act 1973, which is to be amended similarly to the amendments of the present Bill [see Bills Digest for Insurance Amendment Bill 1983]. Associated issues of provisions affecting the terms of business of insurance agents and brokers, have been considered by the Australian Law Reform Commission[1] and are expected to result in legislation.[2]

The Australian life insurance industry was considered by the Campbell Committee of Inquiry into the Australian Financial System. The Committee referred to alternative schemes of government regulation, such as the Policyholders Protection Act 1975 in the United Kingdom, which may satisfy up to 90 per cent of claims against an insolvent insurer, financed through a levy on all life offices of up to 1 per cent of annual premium income. An alternative scheme would involve close government regulation, including setting of premium etc. rates. Such a scheme would substantially lessen competition in the industry. The Committee saw no need to change the fundamental approach, which presently includes, in Schedule 4 to the Act, a method of testing life office solvency according to the Minimum Valuation Basis (MVB). The basis compares the actuarial level of future expected claims on a standard mortality pattern, discounted at a specified interest rate, to the current value of the fund. The Committee recommended the present interest rate, set in
1978, be altered to prevailing rates[3]. For these solvency calculations, the Committee recommended that no asset be counted for more than 5 per cent of total assets value[4].

The Committee recommended that the standard of disclosure for life offices, in addition to any special requirements, be no less than that applying to other companies, now set out in the Companies Act 1981, and that an existing exemption for life offices in respect of Director's Reports be removed[5].

The 1982 Annual Report of the Life Insurance Commissioner indicated that a committee comprising representatives of industry, the Institute of Actuaries of Australia, the Life Insurance Commissioner's Office and the Treasury was expected to report during 1983 following a general review of the Act. Further possible amendments include a facility for legally binding conditions to be attached to registration; and limitations on investment under section 39, particularly where life office assets are handled by other bodies such as related companies or trusts. These amendments are reflected in the present Bill[6].

An additional motivation for review of supervision requirements is the recent failure of Bishopsgate Insurance Australia Ltd with over 100,000 general insurance and workers' compensation policies outstanding. Although this was a general insurance company and indeed a section 51 notice had been issued under the Insurance Act 1973 to freeze remaining assets, an estimated $18.5 million deficiency led to questions as to the bona fides of persons who bought the company, and their ability to place a substantial portion of insurance funds with a single investment company[7].

Main Provisions

The several clauses of the Bill would each commence on dates to be proclaimed.

Clause 4 amends the qualification requirements for actuaries certifying life offices under the Act. The primary qualification is the status of Fellow of the Institute of Actuaries of Australia; the previously predominant overseas qualifications may be approved by the Life Insurance Commission under subsection 4A(3).

Clause 7 varies the financial requirements for initial approval of a life office. In practice, the Life Insurance Commissioner now requires a minimum paid-up capital of $2 million. This clause amends section 19 to specify it statutorily.
Ongoing investment policy is regulated by a new section 39 (clause 9). The present section merely prohibits investment in shares of life offices. The new section would require the Life Insurance Commission's approval for investment in a related company, other than a subsidiary, or investment of more than 5 per cent of total assets in a "trust scheme" as defined.

Section 20 of the Act was repealed by the Life Insurance Amendment Act 1977. A new section 20 (clause 8) permits conditions to be imposed on registration of a life office by the Commissioner or by the Treasurer. An insurance company is able to apply for revocation or variation of the condition. Such conditions, and directions given to the life office, will warrant an investigation if not complied with (clause 13).

Section 54 of the Act now empowers the Commissioner to demand information in writing from a life office. Clause 12 supplements section 54 to allow copies of documents to be demanded and adds new section 54A, granting a power to the Commissioner for production, inspection and copying of books of the life office. Section 54B permits entry to premises upon a search warrant where there is reason to believe books are held or after a failure to comply with the Act has occurred.

Clauses 15 and 16 augment administrative review provisions, requiring a statement of reviewability to accompany notification of reviewable decisions. Clauses 10, 11 and 14 assist the reviewability of continuous directions since the Commissioner must, on application, decide to either revoke or refuse to revoke the direction.

Clauses 5 and 6 relate to the office of Life Insurance Commissioner. An additional two months for preparation for the annual report is allowed.

For further information, if required, contact:

13 December 1983
Economics and Commerce Group
LEGISLATIVE RESEARCH SERVICE
References

2. Canberra Times, 18 October 1983.
4. op.cit., para 20.29.
5. op.cit., para 20.69.