

1994

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

LIFE INSURANCE (CONSEQUENTIAL AMENDMENTS AND REPEALS) BILL 1994

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and New Clauses to be Moved on Behalf of the Government

(Circulated by authority of the Treasurer,
the Hon Ralph Willis, MP)



LIFE INSURANCE (CONSEQUENTIAL AMENDMENTS AND REPEALS) BILL 1994

GENERAL OUTLINE AND MAIN PURPOSE OF THE BILL

This Bill, provides for a number of amendments to legislation following from the introduction of the companion Life Insurance Bill 1994, which establishes a new modern regulatory regime for the life insurance industry. This new regime will substantially strengthen prudential supervision.

This Bill provides for a number of amendments to legislation following from the introduction of the companion Life Insurance Bill 1994.

FINANCIAL IMPACT STATEMENT

There is no financial impact as a result of these amendments.

EXPLANATORY NOTES ON THE NEW CLAUSES AND AMENDMENTS TO THE LIFE INSURANCE (CONSEQUENTIAL AMENDMENTS AND REPEALS) BILL 1994

AMENDMENT 1

1. The long title is amended by inserting "and to repeal", after "amend", to correct a drafting error.

AMENDMENT 2

2. Clause 4 is omitted since the repeal of the *Life Insurance Act 1945* makes this transitional provision unnecessary.

AMENDMENT 3

3. Subclause 5(1) is omitted as a consequence of the repeal of the *Life Insurance Act 1945*.

AMENDMENT 4

4. Clause 6 is amended to provide for the inclusion of the *Life Insurance Act 1945* in the list of Acts that are to be repealed. With the introduction of proposed amendments to the Life Insurance Bill 1994, it is no longer necessary to retain the *Life Insurance Act 1945*.

AMENDMENT 5

5. Part 1 is omitted as a consequence of the repeal of the *Life Insurance Act 1945*.

AMENDMENT 6

6. As a consequence of Amendment 5, which omits Part 1 of the Schedule, the heading of Part 2 is amended through the removal of "OTHER".

AMENDMENT 7

7. Item 30 of Part 2 of the Schedule is amended by omitting the reference to ", the Life Insurance Act 1945". This amendment is a consequence of the repeal the *Life Insurance Act 1945*.

AMENDMENT 8

8. Item 42 of Part 2 of the Schedule is amended to reflect that for the purposes of the *Insurance Contracts Act 1984*, the definition of a continuous disability insurance policy must refer to a contract that is a continuous disability policy. This amendment will correct a drafting error.

AMENDMENT 9

9. The following items are inserted after item 43 of Part 2 of the Schedule.

ITEM 43A SUBSECTION 16(2)

10. Subsection 16(2) of the *Insurance Contracts Act 1984* is deleted, as a consequence of the amendments proposed in item 43B.

ITEM 43B DIVISION 2 OF PART III

11. The requirement that an insured have an insurable interest at the time of entering into a contract of life insurance in order for that contract to be valid, is no longer considered necessary. This item therefore omits Division 2 of Part III, and substitutes a Division 2 which provides that a contract of life insurance is not void only because the insured did not have an insurable interest when the contract was entered into.

ITEM 43C SUBSECTIONS 48(4) AND (5)

12. Item 43C omits subsections 48(4) and (5) of the *Insurance Contracts Act 1984* which are no longer necessary as a result of the amendments proposed in item 43D.

ITEM 43D SECTION 48

13. Item 43C inserts section 48A in the *Insurance Contracts Act 1984*. Section 48A relates to policies effected by a person on their own life for the benefit of a third party, and protects the money payable under the policy to the third party. The section replaces subsections 48(4) and (5) of the *Insurance Contracts Act 1984*.

ITEM 43E SUBSECTION 59(3)

14. Subsection 59(3) is amended to change a reference to a provision in the *Life Insurance Act 1945* to the corresponding provision in the *Life Insurance Act 1994*.

ITEM 43F SUBSECTION 64(2)

15. Subsection 64(2) is amended to provide for the inclusion of subsection 64(6) and section 64B in the *Insurance Contracts Act 1984* through items 43H and 43I respectively.

ITEM 43G SUBSECTION 64(3)

16. Subsection 64(3) is amended to change a reference to a provision in the *Life Insurance Act 1945* to the corresponding provision in the *Life Insurance Act 1994*.

ITEM 43H SECTION 64

17. Section 64 of the *Insurance Contracts Act 1984* is amended by the inclusion of subsection (6).

18. This amendment will enable insurers to deduct "contributions tax" and other non-refundable taxes when calculating the amount to be repaid under section 64. Under section 64, an insured under a contract of life insurance (other than a blanket superannuation contract) has a right, exercisable at any time before the expiration of 14 days after receiving the policy document, to terminate the contract and receive a full refund or the purchase price from the life insurance company concerned. The *Income Tax Assessment Act 1936* requires the company to pay "contributions tax" in respect of the untaxed element of the post-June 1983 component of Eligible Termination Payments rolled over to purchase policies regardless of cancellation. The insurer should be able to deduct from refunds to insured the tax it is required to pay.

ITEM 43I AFTER SECTION 64A

19. Item 43I inserts section 64B in Part VII of the *Insurance Contracts Act 1984*. This section sets out particular requirements in respect of calculating the amount to be repaid under section 64 where the exercise of the "cooling-off" period is in respect of an investment-linked contracts.

20. This amendment provides that in exercising the "cooling-off" period in respect of an investment-linked contract, an insured must accept any investment risk prior to cancellation. Thus, on cancellation within the "cooling-off" period, the insured will receive an amount based on the allocation price for the contract if it had been entered into on the day of cancellation, adjusted to take account of any difference between that allocation price and the allocation price on the day the contract was entered into. The life company will remain liable to repay any fees and charges (except deductions of non-refundable tax), that had been deducted. The 14 day "cooling-off" period will start from the time the insured receives an allocation in the fund, and is to be prominently advertised in the policy documentation.

AMENDMENT 10

21. Item 64 of Part 2 of the Schedule is amended by omitting the reference to "the Life Insurance Act 1994". This amendment will retain, for the purposes of subsection 119A(1) of the *Superannuation Act 1922*, the definition of "life policy" in the *Life Insurance Act 1945*.

22. This saving provision is necessary as a consequence of the repeal of the *Life Insurance Act 1945*.

1. The first part of the year was spent in the field, collecting specimens and making observations on the habits of the various species of birds.

2. The second part of the year was spent in the laboratory, preparing the specimens for the museum and making a series of experiments on the habits of the various species of birds.

3. The third part of the year was spent in the field, collecting specimens and making observations on the habits of the various species of birds.

4. The fourth part of the year was spent in the laboratory, preparing the specimens for the museum and making a series of experiments on the habits of the various species of birds.

5. The fifth part of the year was spent in the field, collecting specimens and making observations on the habits of the various species of birds.

6. The sixth part of the year was spent in the laboratory, preparing the specimens for the museum and making a series of experiments on the habits of the various species of birds.

7. The seventh part of the year was spent in the field, collecting specimens and making observations on the habits of the various species of birds.

8. The eighth part of the year was spent in the laboratory, preparing the specimens for the museum and making a series of experiments on the habits of the various species of birds.

