

THE UNITED REPUBLIC OF TANZANIA

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THE UNITED REPUBLIC OF TANZANIA



No. 10 of 2009

I ASSENT,

JAKAYA MRISHO KIKWETE,
*President*12th May, 2009

An Act to establish the Tanzania Insurance Regulatory Authority, to provide for the functions and powers of the Tanzania Insurance Regulatory Authority in regulating and supervising insurance business and for related matters.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

1.-(1) This Act may be cited as the Insurance Act, 2009.

Short title
and
commence-
ment

(2) This Act shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Applica-
tion

2.-(1) This Act shall apply to insurance business in Mainland Tanzania as well as in Tanzania Zanzibar.

(2) This Act shall apply to every insurer, broker or agent or every class of insurance business other than an insurer, broker or agent or class of insurance business that is exempted from application of the provisions of this Act by an order made by the Minister under section 140.

(3) The provisions of this Act shall not extend or apply to—

- (a) subject to the provisions of section 22, a person registered in terms of any law relating to benefit societies;
- (b) a person or class of persons declared by the Minister by regulation to be exempt from the provisions of this Act;
- (c) a class of insurance business carried on by the Government of Tanzania or the Revolutionary Government of Zanzibar;
- (d) the Government of Tanzania or the Revolutionary Government of Zanzibar in respect of the collection and payment of insurance premiums governed by Part VIII of this Act; or
- (e) the Deposit Insurance Fund established in accordance with the provisions of Part V of the Banking and Financial Institutions Act.

Cap. 342

Interpre-
tation

3. In this Act, unless the context requires otherwise—

“actuary” means a person who is a member or fellow of an institute, facility, society or association of actuaries approved by the Commissioner for the purposes of this Act;

Cap. 335

“adopted child” means a child adopted in accordance with the provisions of the law relating to adoption of children and, reference in this Act to adoption shall be construed accordingly;

“agent for broker” means a person who transacts insurance business on behalf of a registered insurance broker;

“agent for insurer” means a person who transacts insurance business on behalf of a registered insurer and shall have the same meaning as “insurance agent”;

“approved securities” means securities issued by the Government and the Bank of Tanzania and any other securities or investments which the Commissioner may approve;

"associate" in relation to an applicant for registration as an insurer or broker, it includes-

- (a) the spouse or minor son or daughter of that person;
- (b) any company of which that person is a director;
- (c) any person who is an employee or partner of that person; or
- (d) if that person is a company-
 - (i) any director of that company;
 - (ii) any subsidiary of that company;
 - (iii) any director or employee of that subsidiary;

"association of underwriters" means the association of underwriters registered under this Act;

"Authority" means the Tanzania Insurance Regulatory Authority, established under section 5;

"Bank of Tanzania" means the bank established under the Bank of Tanzania Act;

"bankruptcy" and "insolvency" has the meaning assigned to them under the Bankruptcy Act or the relevant law applicable in Tanzania Zanzibar;

Cap.197

"Board" means the National Insurance Board established under section 13(1);

Cap.25

"broker" means the "insurance broker" described in this Act;

"chairman" in relation to an association of persons, includes the individual presiding over the board of directors or other governing body of the association;

"child" means a person under the age of eighteen years irrespective of whether or not that child is born out of wedlock, a step child or a child adopted in accordance with any law, whether within or outside Tanzania;

"Commissioner" means the Commissioner of Insurance appointed pursuant to the provisions of section 7;

"Companies Act" includes the Companies Decree of Zanzibar;

"contingent obligation dependent on a human life" means-

- (a) an obligation to pay a particular person a certain sum of money or to provide for a particular person certain other benefits-
 - (i) on the occurrence of the death of a particular person or the birth of a child to a particular person at any time or within a specified period; or
 - (ii) in the event of a particular person continuing to live throughout a specified period; or
- (b) an obligation assumed-
 - (i) until the death of a particular person; or

Cap. 212

- (ii) during a specified period or until the occurrence of the death of a particular person before the expiration of that period;

"Controller" in relation to an applicant for registration as an insurer or broker, means-

- (a) a managing director or chief executive officer of the applicant or of a body corporate of which the applicant is a subsidiary; or
- (b) a person in accordance with whose directions or instructions the directors of the applicant or of a body corporate of which the applicant is a subsidiary are accustomed to act; or
- (c) a person who either alone or with an associate is entitled to exercise, or control the exercise of, fifteen percent of, or one third or more of the votes at any general meeting, or of any body corporate of which the applicant is a subsidiary;

"corporate agent" means a person other than a natural person which include firm or Company formed under the Companies Act and Banking and Financial Institutions as defined under the Banking and Financial Institutions Act;

"court" means any court having jurisdiction under this Act;

"days of grace" means the period defined by section 138;

"dependant" in relation to any person includes his surviving spouse and any of his parents, children and grandchildren;

"deposit" means a deposit of money or anything having a monetary value which by virtue of the regulations made under this Act may be accepted as a deposit;

"deposit administration policies" means a contract whereof-

- (a) an insurer maintains a fund to which-
 - (i) is credited all amounts paid by the insured to the fund;
 - (ii) is debited all amounts withdrawn from the fund to provide benefits in terms of the rules of the fund and any administrative and other expenses agreed upon between the insured and the insurer from time to time;
 - (iii) any investment income and capital profits or losses when agreed upon between the insured and the insurer as being for the account of the fund; and
- (b) the liability of the insurer to the insured, at any given time, as limited to the amount standing to the credit of the fund;

"director" includes an individual occupying the position of director or alternate director of an association or persons or a member or alternate member of a committee of management or of any other governing

Cap. 212
and 342

body of an association of persons, by whatever name he may be called;

"financial institution" means an entity engaged in the business of banking but limited as to size, location served or permitted as prescribed by the bank or required by the terms and condition of its licence; (r)

Cap. 342

"financial year" in relation to an insurer, means each period of twelve months at the end of which the balance of the accounts is struck, and includes any lesser or greater periods which the Commissioner shall approve;

"friendly society" means an association of persons established with no share capital for the purpose of aiding its members or their dependants, where that association does not employ any person whose main occupation is the canvassing of other person to become members of the association or the collecting of contributions or subscriptions from its members towards the funds of the association;

"funeral policy" means a policy whereby the insurer assumes, in return for premium or the promise of a premium, an obligation to provide, on the death of any person, benefits, which consist principally of provision for the burial and funeral of that person or the grant to another person of some non-monetary benefit, whether or not the policy provides for-

- (a) the payment at the option of the insurer or any other person of a sum of money instead of provision of a funeral or the grant of non-monetary benefit; or
- (b) the payment of a sum of money in addition to the provision of a funeral or the grant of some non-monetary benefit;

"general business" has the meaning assigned to it under section 51;

"gross profits" means the chargeable income of the insurer as ascertained under Part II of the Income Tax Act;

"infant or infant child" means a person who, by reason of age, is under a legal disability;

"insurance agent" means a person who solicits applications for insurance, collects moneys by way of premium and acting in accordance with agency agreement and may find the registered insurer for whom he acts in the issue of insurance cover and the term "agent" shall be construed accordingly;

"insurance broker" means a person, who acting with complete freedom as to his choice of undertaking and for commission or other compensation and not being an agent of the insurer, bring together, with a view to the insurance or reinsurance of risks, persons seeking

insurance or reinsurance undertaking, carry out work preparatory to the conclusion of contracts of insurance or reinsurance, and, where appropriate, assists in the administration and performance of the contracts, in particular in the event of a claim;

“insurance business” means the business of assuming the obligation of an insurer in any class of insurance whether defined in this section or not, which is not declared to be exempt from the provisions of this Act in terms of section 2 and includes assurance and reinsurance and reinsurance;

“insurance registrant” means a person registered to conduct insurance business under this Act;

“insurer” means a person carrying on insurance business other than a broker or agent, and includes an association of underwriters which is not exempt from the provisions of this Act in term of section 2;

“life insurance business” means the business of assuming the obligation of an insurer classified under section 36 as transacting long term business;

“life insurance fund” means the fund established under section 90 to which the receipts of an insurer in respect of his life insurance business are carried;

“life policy” means a contract of insurance made or agreed to be made by an insurer classified under section 51 as transacting long term business;

“long term business” has the meaning assigned to it under section 51;

“loss adjuster” means a natural person who possess knowledge and skill to assess the accident and adjust compensation to the injured persons;

“loss assessors” a natural person who assess accident on behalf of the insurer;

“management expenses” means expenses incurred in the administration of an insurer which are not commission payable and, in the case of general insurance business, are not incurred in claims paid, claims outstanding, expenses for settling claims and expenses for settling claims outstanding;

“manager”, in relation to an applicant for registration as an insurer or broker includes an employee of the applicant other than a controller, who, under the immediate authority of a director or chief executive of the applicant exercises managerial functions or is responsible for maintaining accounts or other records of the applicant not exclusively related to business conducted from a place of business outside Tanzania;

"marriage" shall have the same meaning assigned to it by the Law of Marriage Act or any other law;

Cap. 29

"member of the insurance industry" includes an insurer, broker, insurance agent of a broker, insurance surveyor, risk manager, loss assessor, loss adjuster and claims settlement agent, whether registered under this Act or not;

"Minister" means the Minister responsible for finance;

"minor" means a person who, by reason of his age, is under the legal disability;

"owner" in relation to a policy, means a person who has the legal title to the policy;

"Ombudsman" means an Insurance Ombudsman referred to under Part IX of the Act;

"policy" includes every writing whereby a contract of insurance is made or agreed to be made;

"principal officer" means a person responsible for the daily management of the principal office in Tanzania of the insurer or broker;

"reinsurance" means the effecting of insurance business as between insurers;

"significant owner" means a person who owns ten percent or more of the voting shares of the insurer.

"stock insurance company" means an insurance company with permanent share capital owned and controlled by shareholders and includes a statutory corporation carrying on insurance business;

"Tanzanian insurer" means an insurance company incorporated and registered to transact insurance business in Tanzania;

Act
No.20
of 2007

"the insured" means a person effecting a contract of insurance with an insurer;

"Tribunal" means the Insurance Appeals Tribunal established under section 126;

"trustee" in relation to an estate in insolvency, includes an assignee or, as the case may be, a trustee in a deed of arrangement of the person having the conduct of an order of composition;

"underwriter" includes any person named in a policy or other contract of insurance as liable to pay or contribute towards the payment of the sum secured by the policy or contract;

"underwriter's liabilities" in relation to a member of an association of underwriters, means the liabilities of the insurance business of the member calculated in accordance with formulae fixed by the

responsible body vested with the administration of the relevant insurance law.

PART II

ADMINISTRATIVE PROVISIONS

Administra-
tion of
the Act

4.—(1) The Minister shall be responsible for formulation, development and implementation of the national policy on insurance in the United Republic.

(2) For the purposes of subsection (1) and generally under this Act, the Minister shall establish and maintain a system of close consultation and cooperation with the Minister responsible for finance in the Revolutionary Government of Zanzibar with a view to ensuring the evolution of an effective and sound administration of insurance business in the United Republic.

Establish-
ment of
the
Authority

5.—(1) There is established a body to be known as the Tanzania Insurance Regulatory Authority.

(2) Subject to the general supervision of the Minister, the Authority shall be charged with the responsibility of coordinating policy and other matters relating to insurance in the United Republic.

(3) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be—

- (a) capable of suing and being sued;
- (b) capable of borrowing money, acquiring and disposing of property; and
- (c) capable of doing all other things which a body corporate may lawfully do.

Functions
of the
Authority

6.—(1) The functions and duties of the Authority shall be to promote and maintain an efficient, fair, safe and stable insurance market for the benefit and protection of policy holders.

(2) Without prejudice to the generality of subsection (1), the Authority shall—

- (a) coordinate and implement policies on insurance matters;

- (b) regulate and coordinate activities of insurers, brokers and agents;
- (c) specify the code of conduct for members of the insurance industry;
- (d) effect supervision and monitoring of insurers, brokers and agents;
- (e) formulate standards in the conduct of the business of insurance which shall be observed by insurers, brokers and agents;
- (f) ensure proper observance of the code of ethics and practice by insurers, brokers and agents; and
- (g) perform any other function as may be necessary for the purpose of this Act.
- (h) implement a salary structure for all employees;
- (i) determine other retirement allowances or benefits to employees including the establishment of a superannuation fund or medical benefits for employees;
- (j) protect the interest of policy-holder;
- (k) specify requisite qualifications for members of the insurance industry;
- (l) prescribe levies on premiums and commissions to ensure adequate funding for the Authority; and
- (m) recommend a detailed revenue and expenditure budget of the Authority before the commencement of the fiscal year and cause it to be submitted to the Minister for approval.

7.-(1) The President shall appoint a person from either part of the United Republic who has adequate knowledge and experience in insurance industry to be a Commissioner of Insurance.

Appoint-
ment of
the
Commi-
ssioner

(2) The Commissioner shall be the Chief Executive Officer of the Authority.

(3) The Commissioner shall hold office for a term of five years and may be reappointed once for a further term of five years.

Appoint-
ment of
the
Deputy
Commis-
sioner

8.—(1) The President shall appoint a person who has adequate knowledge and experience in insurance industry, to be a Deputy Commissioner of Insurance.

(2) In appointing a Deputy Commissioner of Insurance the President shall appoint a person who hails from another part of the United Republic different from which the Commissioner hails.

(3) Without prejudice to the provisions of subsection (2), the Deputy Commissioner of Insurance shall, subject to any general or specific directions by the Commissioner, perform the functions and discharge duties of the Commissioner in Tanzania Zanzibar.

Disqualifi-
cation

9.—(1) A person shall be disqualified for appointment as the Commissioner of Insurance or Deputy Commissioner or if already appointed, shall become disqualified as such if—

(a) his spouse or dependant child is or becomes a director or owns more than five percent of the issued shares, whether directly or indirectly, of an insurer, a broker or an agent registered within the United Republic; or

(b) he—

- (i) is adjudged bankrupt;
- (ii) has applied for the benefit of any law for the relief of bankrupt or insolvent debtors; or
- (iii) compounds with his creditors or makes an assignment of his remuneration for their benefit.

(2) Notwithstanding subsection (1), no act or omission by the Commissioner or Deputy Commissioner of Insurance done or omitted to be done in good faith for the purpose of or in pursuance of this Act shall be invalid by reason only of any defect in his appointment.

Other
staff

10. The Board shall appoint any other staff as may be necessary for effective performance of the functions of the Authority.

Functions
and duties
of the
Commis-
sioner

11. Subject to the provisions of this Act, the functions and duties of the Commissioner shall include—

- (a) registration and superintendence of the conduct of insurers, insurance brokers and agents;
- (b) formulation and enforcement of standards in the conduct of the business of insurance;
- (c) recommending to the Minister the making of regulations for the carrying out of Government policies relating to insurance;
- (d) affording guidance to insurers to-
 - (i) the standardization of contracts of compulsory insurance;
 - (ii) the deletion or amendment of obscure or ambiguous terms in contracts of insurance;
 - (iii) the deletion or amendment of items and conditions in contracts of insurance which are unfair or oppressive to policy-holders;
 - (iv) the simplification or clarification of terms and conditions in contracts of insurance; and
- (e) performance of such other functions which are assigned to the Commissioner by this Act or any other duties which the Minister may, by regulations, prescribe.

12.—(1) The Commissioner may, in relation to any particular function or matter or class of functions or matters, in writing, delegate any of his powers or functions so that the delegated powers and functions may be exercised by the delegate and no delegation shall prevent the exercise of any power or function by the Commissioner.

Delegation
of powers
of the
Commis-
sioner

(2) Notwithstanding subsection (1), the Commissioner may revoke the delegation of any of his powers or functions.

13.—(1) There is established a Board to be known as the National Insurance Board.

Establish-
ment of
the Board

(2) The Board shall consist of the Chairman who shall be appointed by the the President and not more than seven members to be appointed by the Minister as follows -

- (a) one member from Association of Tanzania Insurers;
- (b) one member from Tanzania Insurance Brokers Association;

- (c) one member from Tanzania Insurance Agents Association;
- (d) one member from the Attorney Generals' Office; and
- (e) three members with adequate knowledge and experience in matters pertaining to finance, banking, economics and social security at least two of whom shall hail from either part of the United Republic.

(3) The Minister shall, in appointing members under subsection (2) ensure -

- (a) the appointment is made from three names of candidates as nominated or elected by the relevant Association or Sector;
- (b) consultation with the responsible Minister in Zanzibar is made prior to appointment of members from Zanzibar.

(4) The Commissioner shall be the Secretary to the Board.

(5) The provisions of the First Schedule shall have effect as to the tenure of office of members of the Board, termination of their appointment, proceedings of the Board and other matters relating to the Board.

Functions
of the
Board

14. The functions of the Board shall be to—

- (a) provide guidance, and advice the Authority generally in the regulation and supervision of insurance business in the country;
- (b) consider and advise the Minister in relation to any application for exemption made under section 140;
- (c) ensure that the Authority undertakes its activities in a competent manner;

PART III

CAPITAL AND OTHER REQUIREMENTS OF INSURERS OTHER THAN ASSOCIATIONS OF UNDERWRITERS

Application
of Part
III

15. This Part shall only apply to insurers who are not associations of underwriters.

Insurer to
be a
resident
company
in
Tanzania
Cap.212

16.—(1) An insurer shall not be registered as an insurer within the United Republic unless it is a body corporate incorporated under the Companies Act or any other law in the United Republic and is deemed to be resident in Tanzania and at least one third of the controlling interest, whether in terms of shares, paid up capital or voting rights are held by

citizens of Tanzania and at least one third of the members of the board of that company are citizens of Tanzania.

(2) For the purpose of this section "citizens of Tanzania" includes a body corporate registered in the United Republic in which a citizen of Tanzania or the Government holds the majority of the shares.

17. An individual insurer may transact general insurance business or a long term insurance business but not both.

General
and long
term
insurance

18.-(1) A Tanzanian insurer shall not register the transfer of more than five percent of his issued shares to-

Separation
of
insurance
and
brokerage

- (a) any person who owns or controls more than ten percent of the issued up shares of any Tanzanian registered broker; or
- (b) any body of persons directly or indirectly owned or controlled by a Tanzanian registered insurance broker.

(2) A Tanzanian registered insurance broker shall not register the transfer of more than five percent of the issued up shares to-

- (a) any person who owns or controls more than ten percent of the issued shares of any Tanzanian insurer; or
- (b) any body of persons, directly or indirectly owned or controlled by a Tanzanian insurer.

(3) A person, company or body of persons who has a legal or equitable interest in or who owns, controls, or is employed by-

- (a) any Tanzanian registered insurance broker; or
- (b) any Tanzanian insurer,

shall not be employed as the director, manager, controller, or principal officer of a Tanzanian insurer or registered broker respectively or enter into any management agreement with that person, company or body of persons.

(4) The Commissioner may, where he deems that it is in the interest of the insurance industry and the public in general and by notice published in the *Gazette*, grant specific exemption to any person, company or body of person from application of the provisions of this section under any terms and conditions.

Capital
require-
ment

19.—(1) The Minister shall, upon recommendation by the Commissioner and by notice published in the *Gazette*, prescribe the minimum paid up share capital to be maintained by a registered insurer.

(2) For the purpose of subsection (1), the Minister may prescribe different amounts in respect of insurers transacting general business and insurers transacting long term business.

(3) The Minister may prescribe the form in which paid-up share capital may be maintained by an insurer.

Margin of
solvency

20.—(1) An insurer shall not carry on business as an insurer unless he maintains in Tanzania at all times, during which he carries on insurance business, a margin of solvency of not less than the amount prescribed by the Minister.

(2) For the purpose of subsection (1), the Minister may prescribe the method of calculating the assets and liabilities of an insurer.

(3) An insurer who contravenes subsection (1) commits an offence and shall in addition to any penalty prescribed by this Act be liable for cancellation of licence.

Registration
of an
Insurer

21.—(1) Subject to the provisions of this Part, no person resident in Tanzania shall commence or carry on insurance business, unless he is registered as an insurer under this Act.

(2) The Minister may exempt, in part or in whole, any insurer from the application of the provisions of this Act where the whole of the insurance business carried on by the insurer is carried on outside Tanzania.

(3) Subject to the provisions of this Part, no person resident in Tanzania shall carry on reinsurance business unless he is registered as a reinsurer under this Act and in accordance with sections 24 and 31 of this Act.

Exclusion
of
friendly
societies

22. The provisions of this Act shall apply to the provision of payment on death or permanent disability by friendly societies to its members or to the family of a member, duly registered under the law providing for the establishment of non-profit making societies, which do not afford benefits exceeding the sum of money which the Minister may, by

regulation determine in the event of the death or permanent disability of a member.

23.—(1) Every insurer applying to the Commissioner for registration or renewal of registration shall apply in the prescribed form and shall provide any additional documentation and information as the Commissioner may require.

Application
for
registration

(2) The Commissioner may stipulate any amendments where he considers necessary to any documentation to ensure that they comply with the requirements of this Act.

(3) Within three months of receipt of an application or where further information has been required, soon after receipt of such information, the Commissioner may grant registration to the applicant and if the application is refused, he shall furnish the applicant with the grounds upon which the refuse is based.

24.—(1) An insurer registered to conduct business or seeking registration shall satisfy the Commissioner that—

Registra-
tion
require-
ments

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- (a) it is a company registered under the Companies Act or any other law in the United Republic;
- (b) it has a principal office in Tanzania;
- (c) it is a member of Association of Insurers;
- (d) its director, manager, controller and principal officer who handle the day to day management of the company are all resident in Tanzania; and
- (e) its director, manager, controller and principal officer are persons with sufficient knowledge and experience in insurance business.

(2) The provisions of subsection (1) shall apply *mutatis mutandis* to the reinsurer.

25.—(1) For the purpose of discharging the duty to act honestly and in good faith to the best interests of an insurer, a director or senior officer thereof shall take into account the interest of the company's policy-holders.

Obligations
of
directors
and senior
officers

(2) Where a director or senior officer of an insurer fails to comply with subsection (1), a policy-holder may institute proceedings against such director or senior officer.

Restriction
on
insurers
whose
officers
are
deemed
unsuitable

26.—(1) An insurer shall not have, as a significant owner, a director manager, controller or principal officer any person who—

- (a) has been adjudged an un-discharged bankrupt in any country;
- (b) has made an assignment to or arrangement or composition with creditors which has not been rescinded or set aside;
- (c) has been convicted by a court in any country of an offence involving dishonesty; or
- (d) is in the opinion of Commissioner, an unfit person to hold the office.

(2) For purposes of paragraph (d) of subsection (1), the Board shall ratify the decision of the Commissioner after giving the affected person an opportunity to be heard.

Require-
ment for
directors

27.—(1) An insurer shall satisfy the Commissioner that one third of its directors are unaffiliated directors.

(2) For the purpose of this section "an affiliated director" means an individual who—

- (a) owns twenty five percent or more of shares in the insurance company;
- (b) is employed by the company or an affiliated company; or
- (c) is a director or owner of twenty five percent of an affiliated company.

Grant of
registration

28.—(1) Where the Commissioner is satisfied that—

- (a) the class or classes of insurance business in respect of which the application is made will be conducted in accordance with sound insurance principles;
- (b) the relevant capital requirements for insurers are adequate having regard to any regulations made in relation to them under section 19, have been complied with by the applicant;

- (c) the margin of solvency of the insurer is adequate having regard to any regulations made in relations to it under section 20; and
- (d) the applicant complies with the requirements of Part III of this Act,

he may grant the registration and issue a registration certificate to the applicant.

(2) The Commissioner, in exercising his registration powers in relation to any applicant intending to carry on insurance business in Tanzania Zanzibar, consult with the Minister responsible for finance in the Revolutionary Government of Zanzibar.

(3) The Commissioner may, in granting registration, impose such terms and conditions as he may deem appropriate.

(4) If the Commissioner is not satisfied with them after referred to in subsection (1) on which he is required to be satisfied before granting an application he shall notify the applicant in writing stating reasons for his intention to refuse to grant the application.

(5) The Commissioner shall cause a notice of the grant of a registration certificate issued under this section to be published in the *Gazette*.

(6) A copy of the certificate of registration issued shall be conspicuously displayed to the public at each office of the insurer.

29. Where the Commissioner is satisfied that—

- (a) the insurance business of the insurer is not being conducted in accordance with sound insurance principles;
- (b) the insurer has ceased to carry on insurance business in Tanzania;
- (c) the insurer has applied for and been granted exemption in terms of section 21(3);
- (d) the insurer has required in writing the cancellation of the registration;
- (e) a final judgment obtained in any court in Tanzania against the insurer remains unsatisfied for thirty days after the date of judgment; or

Cancellation of registration

- (f) the insurer is acting or has acted in contravention of any of the provisions of this Act,

he may give notice in writing to the insurer of the intention to-

- (i) cancel the registration certificate of the insurer; or
- (ii) cancel the registration in any of the classes of insurance business carried on by him in Tanzania.

Prohibition after registration

30. An insurer shall not effect any new insurance policy or renew any expiring insurance policy after the expiration of a period of three working days from the date of receipt of the Commissioner's notification in writing of the cancellation of the registration of that insurer, or after the expiration of the extended time, not exceeding-

- (a) a further three months which the Commissioner may; or
- (b) twelve months which the Minister may,

in a special case, in writing, grant.

Retentions and reinsurance

31.-(1) The Commissioner may, in writing, set limits within which a registered insurer may accept insurances of all or any class by-

- (a) restricting the gross premium received by an insurer to a specified maximum in any one financial year; and
- (b) restricting the gross premium less gross reinsurance payable by an insurer to a specified maximum.

(2) The carrying on of all arrangements for reinsurance and the insurance business shall be subject to the control of the Commissioner.

(3) In the exercise of the control referred to in subsection (1), the Commissioner may, in writing, prohibit a registered insurer from transacting any individual policy or all insurance or a class or classes where-

- (a) the amount of premium and commission to be paid or the manner in which the amount of premium and commission are to be ascertained are not specified in the contract of reinsurance;
- (b) in the opinion of the Commissioner, the retention limits are too low or too high; or
- (c) in the opinion of the Commissioner, the arrangements for reinsurance in respect of which persons, property or interest

are or are to be insured by the insurer in the course of carrying on insurance business are not favorable to the economy or the insurance industry or are not in the public interest.

(4) The Commissioner having regard to any matters which he considers relevant, may, by notice in writing to the insurer, exempt an insurer, subject to any terms and conditions and for any period which he specifies in the notice, from the requirements of this section.

32.—(1) Any transfer of ownership in an insurer involving ten percent of the voting shares, amalgamation, merger, or other similar arrangement shall be subject to the prior written approval of the Commissioner.

Amalgamation,
sale, and
transfer

(2) The Commissioner may, as a condition for the granting of his consent, require that the amendments which he may recommend be made to the transfer, sale, amalgamation, merger or other similar arrangements.

(3) A special consideration contained in section 87 shall apply to insurers transacting long term business requiring approval under this section.

(4) The Commissioner may, in writing, require the information as may be necessary for the applicant to file when making an application for consent.

33.—(1) No insurer shall enter into any operating transactions with related parties that exceed five percent of the total company assets or enter into any investment transactions with related parties that exceed one percent of the total company assets without prior written consent of the Commissioner.

Transactions
between
related
parties

(2) For the purpose of this section a "related party" includes-

- (a) a director or senior manager of the insurance company or an affiliated company;
- (b) an employee of the insurance company or an affiliated company;
- (c) a person that owns or controls ten percent or more of the voting shares of the insurance company or an affiliate of the insurance company;

- (d) an affiliated company to the insurance company;
- (e) a corporation, partnership or joint venture where the insurance company or an affiliated company has more than ten percent of ownership interest;
- (f) a sole audit practitioner or the partner incharge of the insurance company's audit;
- (g) the directors, officers or employees of a related party;
- (h) the spouse of a related party;
- (i) any relative of a related party that shares the same household as the related party; or
- (j) a corporation in which a related party owns the majority of the shares.

Records
and
preservation
of
records

34. All entries in the books and accounts of an insurer shall be entered in English language, or Kiswahili language, or in both languages.

(2) An insurer shall maintain all records or accurate translation of all records relating to insurance transaction inside and outside Tanzania undertaken by him, for a minimum period of six years—

- (a) in the case of a life policy, after the maturity, and cancellation of all records relating to insurance transaction inside and outside Tanzania undertaken by him;
- (b) in all other cases after the maturity and cancellation or realization of the policy or date of loss.

Amendment
of
accounts
etc.

35.—(1) Where an account or balance sheet furnished by an insurer under section 40 is incorrect or is not prepared as prescribed, the Commissioner may, by notice in writing, call upon the insurer to amend that account or balance sheet and to furnish a current account or balance sheet or, as the case may be, an account or balance sheet prepared as prescribed.

(2) Where the insurer fails to comply with a notice to the satisfaction of the Commissioner, the Commissioner may himself either amend the account or balance sheet giving the insurer particulars of the amendments, or reject the account or balance sheet.

(3) An account or balance sheet amended by an insurer or the Commissioner under this section shall be treated as having been originally submitted in its amended form.

36.—(1) The accounts of every insurer shall be audited annually by an independent auditor resident in Tanzania appointed by the insurer with the prior written approval of the Commissioner.

Audit of
accounts
of
insurers

(2) The form of an audit referred to in subsection (1) shall be in accordance with the requirements of the Companies Act or recognized international accounting standards and shall contain such any other information or any additional declaration which the Minister may prescribe.

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(3) The auditor appointed under this section shall—

- (a) have a minimum of three years experience in auditing an insurance entity;
- (b) be a member of good standing of the National Board of Accountants and Auditors; and
- (c) not be a director or employee of any insurer or broker conducting business in Tanzania.

(4) Where the auditor of the insurer is, in the course of discharging duties, satisfied that—

- (a) there has been a breach of or non compliance with the provisions of the Act;
 - (b) a criminal offence involving fraud or dishonesty has been committed by the insurer or any of its officers or employees;
 - (c) a loss has been incurred or losses have been incurred which substantially reduce the solvency margin of the insurer;
 - (d) an irregularity has occurred or irregularities have occurred which may jeopardize the security of policy holders or creditors of the insurer; or
 - (e) he is unable to confirm that the claims of policy holders are capable of being paid out of the assets of the insurer,
- the auditor shall immediately report the matter to the Commissioner and to the insurer's Board of Directors.

(5) The Commissioner may prescribe additional duties of the auditor.

Commissioner's powers in relation to commissions and deposit of funds and management expenses

37.—(1) The Commissioner may, by notice published in the *Gazette*, determine the minimum and maximum commission rates payable by insurers to other insurers, brokers or agents in respect of all or any class of insurance or reinsurance.

(2) The Commissioner may, by notice in writing, require an insurer to deposit into a trust to be administered by a person nominated by the Commissioner, within any time as stipulated in the said requisition, in respect of any or each class of insurance business being carried on by that insurer.

(3) After consideration of the extent and duration of the business carried on by an insurer and the provision generally made for management expenses in the premiums rates of insurers, the Commissioner may by notice—

- (a) published in the *Gazette*, require insurers to limit their management expenses to an amount contained in the notice;
- (b) in writing to an insurer, allow dispensation from the provisions of paragraph (a) to any other amount and for any period which the Commissioner shall consider reasonable except that any period shall not exceed two consecutive years.

Valuation of assets and liabilities

38.—(1) The Minister may make regulations with respect to the determination of the value of assets and the amount of liabilities in any case in which the value or amount is required by any provisions of this Act to be determined in accordance with valuation procedures.

(2) Without prejudice to the provisions of subsection (1), regulations made under this section may provide that, for any specified purpose, assets or liabilities of any specified class or description shall be left out of account or shall be taken into account only for a specified extent.

(3) For the purpose of this section, the Minister may make separate regulations for the determination of the value of assets and the amount of liabilities of general and long term insurers.

39. An insurer may, with the approval of the Commissioner, change its financial year.

Change of
financial
year

40.-(1) An insurer shall submit to the Commissioner-

Annual
and
quarterly
returns

(a) annual filings within three months after the end of its financial year;

(b) quarterly filings within month after the end of each quarter of its financial year.

(2) A re-insurer shall submit its annual filings to the Commissioner within four months after the end of its financial year.

(3) The annual filings of insurers shall be subject to audit and review by the insurer's auditor.

(4) The Chairman of the board of directors and one other director of the insurer or the re-insurer as the case may be shall attest to the accuracy of the annual and semi-annually filings by signing a statement of attestation.

(5) The Commissioner may, by regulations, specify the form and contents of the annual and semi-annually filings for insurers and re-insurers, as the case may be.

(6) The Commissioner may, at his discretion, extend the time within which the insurer or reinsurer, as the case may be, should comply with the provisions of subsection (1) and (2) by three months.

(7) Without prejudice to subsection (6), an insurer or reinsurer shall be liable to pay to the Commissioner a penalty of one hundred thousand shillings for every day during which he is in default beyond the extended time granted by the Commissioner.

(8) Where the insurer or reinsurer fails to furnish the required documents and information within the extended time or fails to pay the penalty, the insurer or reinsurer, as the case may be, shall be regarded as having failed to comply with the provisions of subsection (1) and (2).

**Publication of
Audit and
financial
statements**

41.—(1) Every insurer shall, within fourteen days of making annual filings with the Commissioner, publish copies of last audited balance sheet, income statement, cash flow statement and statement of changes in equity in any newspaper as the Commissioner may direct.

(2) Where an insurer fails to comply with the requirements of this section, the insurer and every officer of the insurer shall be liable to a default penalty.

**Establishment of
Audit
Committee**

42.—(1) The directors of an insurer shall, after the first meeting following each annual general meeting, establish an Audit Committee of at least three members, the majority of whom shall be directors of the insurer.

(2) The Audit Committee shall perform the functions as specified in the regulations.

**Publication
of
authorized
capital**

43. An insurer shall not publish or issue a document on which there has been printed a statement of its—

- (a) authorized share capital unless the statement also sets forth the amount of its subscribed capital and of its paid-up capital;
- (b) subscribed capital, unless the statement also sets forth amount of its paid-up capital.

**Powers,
restriction
and
instruction
on insurers**

44.—(1) The Minister may, by regulations—

- (a) prohibit an insurer from making investments of a specified class or description;
- (b) require an insurer to realise the whole or part of a particular investment within a specified period;
- (c) require an insurer or all insurers to invest any percentage of the insurance funds of any insurers or insurer, as the case may be, accruing in respect of their or its insurance business in Tanzania in any Tanzanian securities and any other securities in Tanzania, as may be specified.

(2) The regulations may prescribe different percentages of the insurance funds to be so invested according to the class or description of an insurer.

(3) Except with the prior consent in writing of the Commissioner, no insurer shall invest or otherwise lend insurance fund moneys outside Tanzania.

(4) An insurer shall not borrow funds in excess of fifteen percent of its total assets.

(5) The Minister may, by notice published in the *Gazette*, make an order enjoining the Commissioner himself to take or require an insurer to take any action which appears to the Commissioner appropriate to protect the policy holders of the insurer against the risk that the insurer may be unable to meet its liabilities, or in the case of an insurer transacting long term business, to meet reasonable expectations of the policy-holders.

45.—(1) An insurer may, with the written consent of the Authority invest in derivative financial instruments.

Invest-
ment
requirements

(2) The Authority shall not provide consent for an investment in derivative financial instruments unless he is satisfied that the intent of the investment is for the purpose of hedging and that the insurer has a risk management system capable of monitoring the investment.

(3) The Authority shall give a written consent within forty five days or such other period as the circumstances may determine.

46.—(1) The Authority may, at any time before or during the course of investigations conducted in terms of section 140, require an insurer to transfer all or a specified portion of his assets into a trust to be administered by a person nominated by the Commissioner.

Trustee-
ship of
assets

(2) Except with the prior consent of the Commissioner, the assets which are the subject of trusteeship shall not be mortgaged, pledged or otherwise encumbered in any manner in favour of any other person.

47. Every insurer shall prepare and keep a proper register of its assets and such other information relating to the assets of the company.

Mainte-
nance of
register

48. Notwithstanding any law to the contrary, in the event of liquidation, insolvency or bankruptcy of a registered insurer-

Preferred
creditors
of an
insurer

- (a) the owners of life policy and other classes of long term business issued by the insurer shall have preference against all other creditors of the insurer in respect of the life insurance and long term business funds maintained by him; and
- (b) the owners of all other policies issued by the insurer shall rank before any other creditor of the insurer in the distribution of the assets of the insurer which remain after the claims, if any, by owners of the life policies and other classes of long term business against the estate which have been discharged.

Establish-
ment of
Investment
Committee

49.—(1) The Board of directors of an insurer shall, at the first meeting following each annual general meeting, establish a committee to be known as the Investment Committee consisting of at least three members with the majority of members being directors of the insurer.

(2) The Investment Committee shall—

- (a) develop and recommend to the board of directors a prudent and comprehensive investment policy for the insurer; and
- (b) review the insurer's investment policy on annual basis and make any recommendations for any changes to the board of directors.

(3) The board of directors of an insurer shall establish an investment policy and review the policy on annual basis.

(4) A prudent and comprehensive investment policy to be developed in terms of this section shall deal with all investment risks including but not limited to credit risk, interest rate risk, exchange rate risk, liquidity risk and the safe keeping of investment assets.

(5) An insurer shall file its investment policy or any changes to its investment policy with the Authority within fourteen days of being approved by the Board of Directors.

(6) An insurer shall not make investments that are inconsistent with its investment policy.

(7) Where the Authority believes on reasonable grounds that the investment policy is inconsistent with prudential standards, or is not

comprehensive, or is not in the public interest or does not comply with the provisions of the Act, he shall order the directors of the insurer to immediately review the policy by taking into account matters specified in that order.

50.—(1) The board of directors of a reinsurer shall formulate a prudent and comprehensive underwriting policy and review the policy on an annual basis.

Formulation of policy

(2) Subject to the provisions of subsection (1), A prudent and comprehensive underwriting policy under this section shall deal with the size and nature of the risks the reinsurer intends to underwrite, the types of products the reinsurer intends to offer including the assumption of retrocession business, the territories and currencies of risks to be accepted, the amount of business to be ceded and the financial strength of companies to which risk shall be ceded.

(3) A reinsurer shall file its underwriting policy or any changes to it with the Commissioner within fourteen days of being approved by the board of directors.

(4) Where the Commissioner believes on reasonable grounds that the underwriting policy is inconsistent with prudent standards, or is not comprehensive, or is not in the public interest or does not comply with the provisions of the Act, he may order the directors of the reinsurer to immediately review the policy taking into account the matters specified in the order.

51.—(1) For the purpose of this Act, insurance business shall consist of long term business or general business and the term-

Classification

(a) "long term business" means insurance business of any of the classes specified in Part A of the Second Schedule to this Act; and

(b) "general business" means insurance business of any of the classes specified in Part B of the Second Schedule to this Act.

(2) For the purpose of this Act, the effecting and carrying out the contract whose principal object is within one class of insurance business, but which contains related and subsidiary provisions within another class, or classes, shall be construed as constituting the carrying on of insurance business of the first mentioned class, and no other, if subsection (3) or (4) applied to the contract.

(3) This subsection applies to a contract whose principal object is within any class of long term business but which contains subsidiary provisions within general business Class 1 or Class 2 if the insurer is authorized to carry on long term business Class 1.

(4) This subsection applies to a contract whose principal object is within one of the classes of general business but which contains subsidiary provisions within another of those classes, not being general classes.

(5) In the event of any query, dispute or as a result of the introduction of new types of insurance business, the Commissioner may determine, by notice published in the *Gazette*, which particular class or classes of insurance business carried on by an insurer shall be dealt with.

PART IV

ASSOCIATION OF UNDERWRITERS REGISTERED AS INSURERS

Application
of Part IV

52. The provisions of this Part shall apply only to associations of underwriters registered as insurers and their members.

Commis-
sioner to
determine
conditions
for
registration

53.-(1) The Commissioner may determine conditions for registration of an association of underwriters.

(2) Notwithstanding the generality of subsection (1), in determining the conditions for registration of an association for underwriters, the Commissioner shall determine the necessity and amount of-

- (a) classes of business underwritten;
- (b) capital requirements;
- (c) margins of solvency;
- (d) retention of premiums;
- (e) deposits and investments in Tanzania;

- (f) the appointment of a legal representative in Tanzania upon whom full legal service may be made; and
- (g) any additional requirements and conditions considered by the Commissioner to be necessary.

54. Notwithstanding the provisions of any other written law, an association of underwriters registered in terms of this Part shall pay to the Government of Tanzania an amount equal to two and a half percent or such other amount as the Minister may determine of all premiums receivable, of any nature, less premiums refunded, in respect of any calendar year within sixty days at the end of that year.

Association
of
underwriters
liable to
premium
tax

55. The Commissioner may request any association of underwriters to deposit a substantial sum or any securities which is satisfactory to the Commissioner into a trust to be administered by a person nominated by the Commissioner to keep the sum so deposited for so long as the association carries on business in the United Republic.

Association
of
underwri-
ters to
deposit
sums or
securities

56. A proportion to be determined by the Commissioner, of all premiums received by an association of underwriters from Tanzania insurance business, shall be held in trust in Tanzania by a trustee approved by the Commissioner for the payment of the underwriting expenses of the association's insurance business in the United Republic

Premium
received
to be held
in trust

57.—(1) An association of underwriters shall furnish evidence to the satisfaction of the Commissioner that the accounts of each member of association are subject to an annual audit by an independent auditor.

Audit of
accounts
of an
association
of under-
writers

(2) The auditor of an association of underwriters shall certify to the committee of the association whether or not the underwriting assets held by the member at the close of each financial year are sufficient to cover the underwriting liabilities attached at that time to the accounts of the underwriters.

(3) An association of underwriters shall furnish annually to the Commissioner—

- (a) a certified copy of the returns of insurance business carried on by the association and furnished in each financial year to the appropriate authority in the country where the association is constituted;

(b) a certificate signed by chairman of the association and the appropriate authority that the members have, in respect of the preceding financial year, complied with the requirements of insurance law in the country where the association is constituted in far as it relates to associations of underwriters; and

(c) any other information which the Commissioner may require.

PART V

THIRD PARTY RIGHTS AGAINST INSURERS

Third
party
rights
against
insurers
on
bankruptcy

58.—(1) Where under any contract of insurance the insured is insured against liabilities to third parties which he may incur, then—

(a) in the event of the insured becoming insolvent or bankrupt or making a composition or arrangement with its creditors; or

(b) in the case of the insured being a company, in the event of a winding up order being made, or a resolution for a voluntary winding up being passed, with respect to the company, or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge,

if either before or after that event, any liability is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall notwithstanding anything in any Act or rule of law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order is made under any law of insolvency for the administration of the estate of a deceased debtor according to the law of insolvency then, if any debt provable in insolvency is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being a liability to a third party, the deceased debtor's right against the insurer under the contract in respect of that liability shall, notwithstanding anything in the said law be transferred to and vest in the person to whom the debt is owing.

(3) In so far as the contract of insurance made in respect of any liability of the insured to third parties purports, whether directly or indirectly, to avoid the contract or to alter the right of the parties under it upon the happening to the insured of any of the events specified in subsection (1)(a) or (1)(b) or upon the making of an order under the law of insolvency, in respect of his state, the contract shall be of no effect.

(4) Upon transfer made pursuant to subsection (1) or (2) the insurer shall, subject to the provisions of section 51, be under the same liability to the third party as he would have been to the insured but if-

- (a) the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Part shall affect the rights of the insured against the insurer in respect of the excess; and
- (b) the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this part shall affect the rights of the third party against the insured in respect of the balance.

(5) For the purpose of this Part "liabilities of third parties" shall not include any liability assumed by reason of a contract of reinsurance.

(6) This Part shall not apply where a company is wound up voluntarily merely for the purpose of reconstruction or amalgamation with another company.

59.—(1) A person who becomes insolvent or bankrupt or who makes a composition or arrangement with his creditors shall give, at the request of any person claiming as a third party any information reasonably requested by that person for the purpose of ascertaining whether any rights have been transferred to and vested in that person by this Part and any contract of insurance and any other information which may reasonably be requested to assist the person claiming.

Duty to
give
necessary
informa-
tion to
third
parties

(2) Where the information given to any person in pursuance of subsection (1) discloses reasonable grounds for supposing that there have or may have been transferred to him rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by subsection (1) on the persons mentioned in it.

(3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums and

other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies of them to be taken.

Settlement
between
insurers
and
bankrupt
persons
of no
effect

60. Where the insured has become insolvent or bankrupt or where, the insured is a company and a winding up order has been passed, with respect to the company, no agreement made between the insurer and the insured after liability has been incurred to a third party and after the commencement of the bankruptcy or winding up proceedings, as the case may be, nor any waiver, assignment, or other disposition made by, or payment made to the insured after the commencement of the bankruptcy or winding up, shall be effective to defeat or affect the right transferred to the third party.

PART VI

REGISTRATION OF INSURANCE BROKERS, AGENTS AND AGENTS FOR BROKERS, ETC.

Insurance
brokers,
agents and
agents for
brokers to
be
registered

61.-(1) A person shall not act in Tanzania as an insurance broker, insurance agent or agent for an insurance broker, loss adjuster, loss assessor, surveyor, risk manager, claims settlement agent or private investigator unless he is registered as such in accordance with the provisions of this Part.

(2) No insurance agent shall act for both an insurance company and an insurance broker.

(3) An employee of a registered insurance broker may accept insurance business without himself being registered provided the compensation of that employee is not related to the volume of business so handled.

(4) An employee of a registered insurance agent or agent for an insurance broker may—

(a) accept over the counter insurance business at the permanent office for that agent without being registered, provided that the compensation of such employee is not related to the volume of business so handled;

(b) accept insurance business elsewhere than at the permanent office of the agent without being registered, provided that employee carries an identity card issued in accordance with

the provisions of section 64(3) and he accepts only that insurance as permitted in terms of the agency agreement of his principal.

62.—(1) An insurance agent registered for not more than three years may act for one insurer transacting general insurance business and one insurer transacting long term insurance business.

Agents to
act for
one
principal
only

(2) An insurance agent registered for more than three years may act for up to three insurers registered under the Act,

(3) Notwithstanding subsection (2), an insurance agent referred to under subsection shall not act to up to three insurers unless—

(a) there have been no instances of non compliance to this Act against the agent for a period of three years consecutively; and

(b) the agent has the approval in writing of all insurers that the agent is acting for them.

(4) An agent for an insurance broker shall not act for more than one broker registered under this Act.

(5) An insurance agent or agent for a broker shall not act outside the terms of an approved agency agreement.

63.—(1) An insurer and an insurance broker shall be liable for the acts of their agents and of any employee of an agent in carrying out the duties of an agent where the act complained of falls within the area of authority of the agent or his employee as is explicitly stated in the agency agreement or might reasonably be implied from it by a person seeking insurance.

Insurer's
and
broker's
responsi-
bilities for
agents

(2) In so far as it affects a policy-holder or potential policy-holder, all premiums paid to an agent or an employee of an agent shall be deemed to have been paid to the insurer or broker for whom he is the agent.

(3) Nothing contained in this section shall prevent an insurer or a broker from seeking redress against an agent or employee of an agent, or both, as a result of the insurer or broker incurring an expense or liability which, but for the provisions of this section, the expense or liability would not otherwise have incurred.

(4) Nothing contained in this section shall prevent an agent from seeking redress against his employee where an insurer or broker incurs an expense or liability under subsections (1) or (2) and where the said agent is similarly liable to the insurer or broker under the provisions of subsection (3).

Registration
of agents

64.—(1) The Commissioner may make regulations setting down the minimum attributes and qualifications required to any person or body of persons to whom an agency agreement may be issued by an insurer or broker.

(2) An insurer or broker employing an agent shall issue to that agent a form of agency agreement to be approved by the Commissioner.

(3) Every insurer and broker shall issue to each agent and each employee of an agent identity cards of a type approved by the Commissioner stating the name of the insurer or broker, the class or classes of business the agent or employee of the agent is empowered to transact, whether he is empowered to effect insurance cover and collect premiums, and the name, address and a photograph of the agent, or employee of an agent approved by the insurer or broker as eligible to undertake business as defined under section 61(5)(b).

(4) Insurers and brokers shall maintain—

(a) records of all agency agreements issued in accordance with subsection (2); and

(b) duplicates copies of all identity cards issued in accordance with subsection (3).

(5) The Commissioner may refuse to permit the issue by an insurer or broker of an agency agreement to any person or body of persons who, in his opinion, does not possess the prescribed attributes or qualifications.

Broker's
application
for
registration

65.—(1) Every insurance broker seeking registration or renewal of registration shall apply in the prescribed form and shall provide any additional documentation and information which the Commissioner may require.

(2) The Commissioner may stipulate any amendments he considers to be necessary to any document to ensure that it complies with the requirements of the Act.

66.-(1) An insurance broker shall not have as significant owner, director, manager, controller or principal officer any person who has-

Restriction
on
broker's
officers

- (a) been adjudged an discharged bankrupt in any country;
- (b) made an assignment to or arrangement or composition with creditors which has not been rescinded or set aside;
- (c) been convicted by any court in any country of an offence involving dishonesty; or
- (d) in the opinion of the Commissioner, an unfitting qualification or reputation to hold the office.

(2) A decision of the Commissioner under made subsection (1)(d) shall be subject to ratification by the Board after giving the affected person an opportunity to be heard.

67. An insurance broker registered to conduct business or seeking registration shall satisfy the Commissioner that-

Registration
require-
ments of
insurance
brokers
Cap.212

- (a) it is a limited company, that-
 - (i) has been registered under the Companies Act;
 - (ii) has a principal office in Tanzania;
 - (iii) is a member of Association of InsuranceBrokers in Tanzania;
 - (iv) its director, controller, manager, or principal officer who handle the day to day management of the company are all resident in Tanzania;
 - (v) its director, manager, controller and principal officer are persons with sufficient knowledge and experience in insurance business;
- (b) at least one third of the controlling interest whether in terms of shares, paid-up capital or voting rights are held by citizens of Tanzania; and
- (c) if he is an individual person that-
 - (i) he has a permanent established office in Tanzania;

- (ii) he will be a resident in Tanzania for more than two hundred days per calendar year; and
- (iii) he is a person with sufficient business and knowledge and experience in insurance industry.

Grant or
refusal of
broker's
applica-
tion

68.—(1) Where the Commissioner is satisfied that—

- (a) the relevant security deposits and capital requirements for the insurance broker are adequate having regard to any regulations made in relation to them under section 69;
- (b) the relevant trust accounts will be operated in a satisfactory manner in accordance with section 72;
- (c) insurance necessarily required under section 70 have been obtained by the applicant; and
- (d) the applicant complies with the requirements of Part VI of this Act,

the Commissioner may grant application for registration as a broker and issue the prescribed registration certificate.

(2) The Commissioner may, in granting registration, impose such terms and conditions as he may deem appropriate.

(3) Where the Commissioner is not satisfied with the matter referred to in subsection (1) on which he is required to be satisfied before granting an application, he shall in writing notify the applicant reasons for his intention to refuse to grant the registration.

Broker's
capital
require-
ments

69.—(1) The Commissioner may, within the limits which the Minister may prescribe, require a broker to deposit in trust in Tanzania by a trustee approved by the Commissioner, either in money form or in stipulated securities, such security in value as stipulated by the Commissioner within the time which he may consider reasonable.

(2) The Minister shall, in respect of a limited company, prescribe the minimum paid-up capital to be maintained by a broker.

(3) Any broker who permits its paid-up capital to be reduced to a level below that prescribed by the Minister commits an offence and shall, in addition to any other penalty stipulated under this Act, be liable for cancellation of licence.

70.—(1) A broker shall be liable for his acts or omissions and requirements for the acts or omissions of his agents and staff in transacting insurance business, and shall insure himself against that liability.

Broker's
responsi-
bility and
insurance
require-
ments

(2) Without prejudice to subsection (1), where the Commissioner is satisfied that insurance cannot be obtained to cover against all staff he may exempt the broker from effecting, insurance and instead require the broker to increase the security, if any, deposited pursuant to section 69 by any sum which the Commissioner may consider reasonable.

(3) The Commissioner may, by notice in writing to the broker, require the latter to provide a minimum indemnity in a stated amount against losses arising as a result of the provisions of subsection (1) which the Commissioner considers appropriate, but the minimum indemnity shall not be less or more than that which the Minister may prescribe the regulations.

(4) The Commissioner may, by notice in writing to the insurance broker, require the latter to restrict the first amount payable by the insurance broker in respect of any claim or series of claims insured by virtue of the provisions of subsection (1) as the Commissioner may consider appropriate.

(5) Notwithstanding subsection, (4) where the first amount payable cannot be reduced to the sum as the Commissioner considers appropriate, the Commissioner may exempt the broker from effecting insurance and instead require the broker to increase the security, if any, deposited by him pursuant to section 69 by any sum which the Commissioner may consider reasonable.

71.—(1) A broker shall ensure that all entries in the books and accounts of a broker entered in English language or Kiswahili language or in both.

Broker's
records
and right
of access

(2) A broker shall maintain records relating to insurance transaction undertaken by him inside and outside Tanzania for a minimum period of six years after the maturity, cancellation or realization of insurance policy or after the date of loss under the policy, as the case may be.

(3) A broker shall provide access to a client or his authorized legal representative to all documents and correspondences issued or held by the broker of insurance transactions undertaken on behalf of the client.

(4) Notwithstanding subsection (3), no person shall be entitled to take copies of any document or correspondence without the consent of the broker unless there is an order of court to that effect.

(5) A broker shall not alter, amend, remove or destroy records required to be maintained in accordance with subsection (2) relating to insurance transactions.

Broker's
responsi-
bility

72.—(1) A broker shall be liable to a Tanzanian insurer for all premiums due to the insurer by virtue of insurance effected at the instruction of the broker.

(2) A broker shall remit to the insurer all premiums due to the insurer within the time specified by regulations made under this Act.

(3) All money received by a broker either from or for a client shall be deposited in a separate trust account and shall not in any circumstances be mixed with money belonging to the broker and money earned by way of interest on sums deposited in the trust accounts shall accrue to the benefit of the broker.

(4) Notwithstanding subsection (3), the Commissioner may accept a guarantee given by a financial institution *in lieu* of the establishment of a separate trust account if the guarantee is issued in favour of the Government of Tanzania, addressed to the Commissioner and cannot be withdrawn or cancelled except with his written consent and is for a sum of not less than their amount prescribed by regulations.

(5) Trust accounts required by under subsection (3) shall be maintained with a bank or financial institution in a manner and form approved by the Commissioner.

Broker's
accounts

73.—(1) The accounts of every registered broker shall be audited annually by an auditor resident in Tanzania appointed with the prior written approval of the Authority.

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(2) The audit referred to in subsection (1) shall be made in accordance with the requirements of the Companies Act and shall contain other information or additional declaration which the Minister may prescribe.

(3) The auditor shall audit trust accounts maintained by the broker in accordance with the provisions of section 72(3) and shall state in the accounts whether, in his opinion, they comply with the provisions of the Act.

(4) Where the Authority has accepted a guarantee *in lieu* of the maintenance of a trust account in accordance with the provisions of section 72(4), the broker shall ensure that a separate record is maintained of all money received from or for a client.

74. Where the Commissioner is satisfied that-

- (a) any business of any insurance broker or agent is not being conducted in accordance with sound business principles;
- (b) any broker or agent has ceased to carry on insurance broking business or insurance agency in Tanzania;
- (c) any broker or agent has requested in writing the cancellation of the registration; or
- (d) any broker or agent is acting or has acted in contravention of any of the provisions of this Act,

Cancellation
of
registration

he may give notice in writing to the insurance broker or agent of his intention to cancel the registration of the that broker or agent.

(2) For the purpose of proving that the business of an insurance agent is not being conducted in accordance with sound business principles, the Commissioner shall have regard to the following malpractices-

- (a) misappropriation of premiums collected;
- (b) under banking of premiums collected;
- (c) forgery in banking of the premiums collected;
- (d) late or delay in banking of the premiums collected;
- (e) non-accounting of receipts;
- (f) issuance of agents own cheque or banking in lieu of cash or cheque collected from clients;
- (g) presenting unpaid (dishonored) cheque;

- (h) defrauding such as backdating of cover notes or any other forms of colluding with clients;
- (i) cover issued without receipt of premiums unauthorized credit facility; or
- (j) any form of contravention considered to be grave under the provisions of this Act.

Display of
certificate
of
registration

75. A copy of the certificate of registration issued under section 68 shall be conspicuously displayed to the public at each office of the insurance broker.

Financial
year of
the
broker

76. The financial year of an insurance broker may be changed by the broker with approval of the Commissioner.

Broker's
amalgama-
tion,
sale and
transfer

77.—(1) A transfer, sale, amalgamation, take over of the ownership of or business of a broker or corporate insurance agent or other similar arrangement in respect of it, shall not be entered into by an insurance broker without the prior written approval of the Commissioner.

(2) The Commissioner, in deciding whether to grant approval, shall primarily consider whether the terms are in the interest of the policyholders or the economy or the insurance industry or in the public interest.

(3) The Commissioner may, as a condition of granting approval, require that any amendment he recommended is made to the transfer, sale, amalgamation, take over or other similar arrangement.

Broker's
annual
and
Quarterly
returns

78.—(1) A broker shall submit to the Commissioner-

- (a) annual returns within three months of the end of its financial year; and
- (b) its quarterly returns to the Commissioner within one month of the end of each quarter of the financial year.

(2) The annual returns of a broker shall be audited and reviewed by the broker's auditor.

(3) The chairman of the board of directors and one other director shall attest to the accuracy of the annual returns by signing a statement of attestation.

(4) The Commissioner may, at his discretion, extend the time during which the broker shall comply with the provisions of subsection (1) by three months.

(5) Without prejudice to subsection (4), a broker shall be liable to pay to the Commissioner a penalty of twenty-five thousand shillings for every day during which he is in default beyond the extended time granted by the Commissioner.

(6) Where the broker fails to furnish the required documents and information within the extended time or fails to pay the penalty, the broker shall be regarded as having failed to comply with the provisions of subsections (1).

(7) The Commissioner shall after consultation with brokers and after issuing a sixty days notice, prescribe the form and contents of the annual and quarterly returns required from brokers.

PART VII

MANDATORY REINSURANCE CESSIONS

79.—(1) Every insurer shall be required to offer to place with-

Reinsurance
with
international
organization

(a) the African Reinsurance Corporation (Africa-Re), a minimum of five percent of its reinsurance cessions, in accordance with Article 27 of the Agreement that established Africa-Re; and

(b) the Preferential Trade Area Reinsurance Company (ZEP-RE) a minimum of ten percent of its reinsurance cessions, in accordance with Articles 20 and 21 of the Agreement establishing ZEP-RE.

(2) Subject to any amendment of the Agreement establishing Africa-Re, and ZEP-RE, the Commissioner may, by order published in the *Gazette*, vary the minimum reinsurance cessions specified by subsection (1).

(3) Nothing in subsection (1) shall prevent any insurance or reinsurance institution from entering into direct reinsurance arrangement with Africa-Re and ZEP-RE in respect of the whole or part of the risks undertaken

by that institution or from making any other arrangements which are mutually acceptable to Africa-Re or ZEP-RE that other institution.

(4) The Commissioner may issue any direction which he deems necessary or expedient for carrying out the purposes of this Part.

Acceptance
or decline
of business
by ZEP-
RE

80. Where ZEP-RE or Africa-Re deems it necessary or prudent, it shall exercise the rights to accept or decline all or part of business offered to be placed with them under this Act, and in the latter case, they shall furnish the insurer concerned with the reason for the refusal. (6)

Appeal by
ceding
institution

81. The ceding insurer may appeal against the refusal by ZEP-RE or Africa-Re to the board of directors of the respective companies in accordance with the Agreement establishing ZEP-RE or Africa-Re.

Liability to
cease on
refusal

82.—(1) Where reinsurance cession is refused under this Part, any liability of the insurer concerned arising under this Act in respect of reinsurance cession shall cease.

Failure to
comply

83.—(1) Any person who fails to comply with the provisions of this Part or to comply with any direction issued by the Commissioner regarding anything under this Part, commits an offence.

(2) Where the offence under subsection (1) is committed by a natural person, that person shall in addition to fine be liable to imprisonment for a term not exceeding three years.

(3) Where the offence is committed by a body corporate then, notwithstanding the imposition of any penalty, the commission of the offence shall constitute sufficient grounds for which the Commissioner may apply to the court for the winding up of that body corporate if it is incorporated in Tanzania.

The
National
Reinsurance
Corpora-
tion
GN. No 35
of 2001

84. Every Tanzanian insurer shall reinsure a proportion of each policy of insurance issued or reinsured in Tanzania by insurers, in any proportion and manner specified in the Tanzania National Reinsurance Corporation (Establishment) Order, 2001 or in which every insurer shall place with the Corporation any proportion of its reinsurance business from Tanzania.

PART VIII

SPECIAL PROVISIONS RELATING TO LONG TERM (LIFE) AND OTHER POLICIES

85.—(1) Every insurer registered to transact long term insurance business shall within three months from the effective date of this Act or in event of subsequent alteration within one month from the implementation of the alteration, furnish the Commissioner with—

Life
insurance
tables or
statements

- (a) a copy of every printed standard policy document and standard endorsement and every table or statement of the benefits including paid up and surrender value which the insurer ordinarily undertakes to grant in respect of policies insuring normal lives; and
- (b) a report from an actuary approved by the Commissioner that any table or statement furnished is actuarially sound.

(2) No insurer shall make use of any policy document, table or statement in the conduct of its long term business unless an actuary approved by the Commissioner has reported that it is actuarially sound.

(3) No insurer shall make use of any policy document, table or statement in the conduct of his long term business where—

- (a) the basis of payment to or remuneration of the insurer other than by a charge upon the relevant life insurance fund or the management costs actually incurred together with a proportion of any established surplus from that life insurance fund to such insurer; and

- (b) the approval of the Commissioner has not been sought and obtained in writing to any alternative defined basis of formula of payment to or remuneration of the insurer.

(4) Any investment unit policy where policy-holders purchase investment units shall be deemed to require the insurer to seek the approval of Commissioner under the said subsection (3)(b).

86.—(1) Subject to the provisions of this Act and of section 132 no policy of life insurance shall be issued on the life or lives of any person or persons other than as provided in subsection (2).

Insurance
interest
for life
insurance

- (2) An insurable interest shall be deemed to be held by-
- (a) a parent of a minor or the guardian of minor but only to the extent as provided by section 96;
 - (b) a husband on the life of his wife;
 - (c) a wife on the life of the husband;
 - (d) any person on the life of another upon whom he is wholly or in part dependent for support or education;
 - (e) a company or other person, on the life of an officer or employee; and
 - (f) a person who has a pecuniary interest in the duration of the life of another person in the life of that person to the extent only of that pecuniary interest at the outset.

(3) No life insurance policy shall be valid unless, the names of the person or persons whose life or lives are insured and of the person or persons interested or to whose use, benefit or on whose account the policy has been made are identified by names on the policy document.

(4) Notwithstanding subsection (3), a life insurance policy, for the benefit of unnamed person from time to time falling within a specified class or description if the class or description is stated in the policy with sufficient particulars to make it possible to establish the identity of all persons who at any given time are entitled to benefit under the policy shall not be invalidated.

Amalgamation and transfer of long term business

87.—(1) Where it is intended to sell or transfer the long term business of any insurer or to amalgamate the long term business of two or more insurers, any one of whom is an insurer registered under this Act, the principal officer of each Tanzanian insurer shall prior to application to the Commissioner under section 32 of the Act-

- (a) publish in the *Gazette* notice of his intention to make application to the Commissioner;
- (b) post to the registered or last known address of each member or policy-holder in Tanzania-

- (i) an abstract containing the material facts embodied in the agreement under which the amalgamation, sale or transfer is proposed to be effected;
 - (ii) copies of the actual reports abstract upon which the agreement is founded including a report by an actuary previously approved by the Commissioner; and
 - (iii) a printed pro-forma or letter addressed to the Commissioner by completing it with his policy number and name, and a policy-holder or member can indicate whether he approves or disapproves the proposed amalgamation, sale or transfer;
- (c) open for inspection, at the office of the insurer in Tanzania, by policy-holders and shareholders for a period of one month after publication in the *Gazette*, the full text of the agreement of amalgamation, sale or transfer.

(2) The Commissioner shall not sanction the agreement of amalgamation, sale or transfer if within two months from the date of publication in the *Gazette* as required by subsection (1)(a), policy-holders or members representing one third or more of the total number insured by any of the insurer intending to amalgamate, sell or transfer their long term business indicate their disapproval of the said amalgamation, sale or transfer by forwarding the pro-forma or letter to the Commissioner.

(3) Where an amalgamation, sale or transfer has taken place in accordance with the provisions of this section, no life policy holder or members shall be regarded as having abandoned any claim which he would have had against the original insurer or to have accepted in place of it the liability of another insurer, unless he or his agent has signed a written statement abandoning that claim and accepting in place of the liability of that other insurer.

88.—(1) Where an insurer carrying on long term insurance business has not issued a new policy for a period of twelve months from the date of the issue of the last policy, the Commissioner may direct the insurer to frame proposals for transfer or amalgamation of his business to or with another insurer.

Transfer
powers of
Commis-
sioner
for long
term
business

(2) Where an insurer fails to comply with a direction under subsection (1), or where the proposals framed by the insurer are in the opinion of

the Authority unsatisfactory, the Commissioner may himself frame a scheme for the transfer of the business to another insurer either nominated by the first mentioned insurer and approved by the insurer selected by the Commissioner.

(3) Where an insurer fails to implement a scheme framed by the Commissioner and the Authority considers the continuance of business of that insurer is likely to lead to insolvency or is otherwise contrary to the interest of the policy holder, he may-

- (a) order an investigation of that insurer under section 143; or
- (b) apply to the court for winding up the business of the insurer in terms of section 153.

Periodic
actuarial
investi-
gation

89.—(1) Registered insurer carrying on long term business shall cause an investigation to be made into the financial position of the insurer and of each life insurance fund established by him including a valuation of their individual liabilities by an actuary approved by the Commissioner-

- (a) once in every two years or at any shorter period which may be prescribed or required by the Commissioner; and
- (b) prior to an insurer wishing to distribute profits or transfer sums from the life insurance fund other than payment and investments under long term business or management costs actually incurred.

(2) The actuarial investigation referred to in subsection (1), shall be completed within six months of the expiry of the period to which it relates or within any extended time which the Commissioner may allow.

(3) Failure of the insurer to complete the investigation within the time stipulated under subsection (2) shall constitute an offence under this Act.

(4) Any investigation undertaken in accordance with the provisions of subsection (1), the value of any assets and the amount of any liability shall be determined in accordance with the method of valuation prescribed.

(5) An actuary conducting an investigation undertaken in accordance with the provisions of this section shall submit to the Commissioner within

three months of the completion of his investigation an abstract and valuation report in the prescribed form.

90.—(1) An insurer carrying on long term insurance business after the date on which this Act comes into force shall, as at the date of commencement of his next financial year, or at the date of the commencement of that insurance fund business, establish and maintain a statutory life insurance fund known as the "life insurance fund" under an appropriate name in respect of the long term insurance business carried on by him.

Establish-
ment of
statutory
life
insurance
fund

(2) An insurer may establish and maintain a separate life insurance fund, under an appropriate name in respect of any class or classes of his long term insurance business:

Provided that where an insurer establishes a separate life insurance fund in respect of part of the long term insurance business of the insured, he shall forthwith notify the Commissioner in writing of an establishment of the fund, the date from which the fund is established, the part of the long term insurance business of the insured in respect of which the fund is established and the name of the fund.

(3) Where an insurer carries on a long term insurance business of more than one class, the Commissioner may in writing direct the insurer to—

- (a) establish, maintain and appropriately name one or more separate funds in respect of any class or classes of long term insurance business carried on by him;
- (b) maintain an account in respect of each of those classes of long term insurance business;
- (c) maintain separate life and annuity funds within the limits which he shall from time to time advise.

(4) All amounts received by an insurer in respect of any class of long term insurance business after the establishment by the insurer of a life insurance fund under this section shall be deposited into that fund.

(5) Where, at any time—

- (a) an insurer is maintaining more than one life insurance fund in respect of his long term insurance business; and

- (b) a particular policy ceases to be included in the part of the long term insurance business of the insurer in respect of which one of the life insurance funds is maintained (in this subsection referred to as "the first fund") the insurer shall-
 - (i) transfer from the first fund to the second fund assets equal to the liability on the policy at that time ascertained by an actuary approved by the Commissioner; and
 - (ii) transfer from the assets of the insurer to the second fund an amount equivalent to that amount by which the assets accruing to that policy from the first fund are less than the liability on policy.
- (6) The income arising from the investment of the assets of a life insurance fund shall be carried to and form part of that fund.
- (7) The assets of each life insurance fund shall be kept distinct and separate from all other assets of the insurer.
- (8) An insurer carrying on long term insurance business shall maintain books of account and other records which are necessary for identifying-
 - (a) the assets representing each life insurance fund maintained by each of those classes of long term insurance business;
 - (b) liabilities attributable to that class or as the case may be each of those classes of long term insurance business.

Applica-
tion of
assets
of insurer
with long
term
business

91.—(1) Subject to subsection (2) and (4) of this section, the assets representing the life insurance fund or funds maintained by an insurer registered to transact long term business shall-

- (a) be applicable only for the purposes of that business; and
- (b) not be transferred or as to be available for other purpose of the company except when the transfer constitutes reimbursement of expenditure borne by other assets in the same or the last preceding financial year in discharging liabilities wholly or partly attributable to long term business.

(2) Where the value of the assets mentioned in subsection (1) is shown by an actuarial investigation to exceed the amount of the liabilities

attributable to the company's long term business, the restriction imposed by that subsection shall not apply to assets as represents the excess.

(3) Subsection (2) shall not authorize a transfer or other application of assets by reference to an actuarial investigation at any time after the date of commencement of the investigation and before thirty days after the date when the abstract of the actuarial report required under the terms of section 89 of this section has been deposited with the Authority.

(4) Nothing in this section shall preclude an insurer from exchanging at fair market value assets representing a life insurance fund maintained by the company in respect of its long term business for other assets of the company or a company connected with it.

(5) Any mortgage or charge, including charge imposed by a court on the application of a decree holder, shall be void to the extent to which it contravenes subsection (1) of this section.

(6) The assets of a life insurance fund maintained by a company in respect of its long term business may not be used for the purposes of any other business of the company or of a company connected with it notwithstanding any arrangement for its subsequent repayment out of the receipt of that other business.

(7) An insurer acting in contravention of subsection (1), commits an offence under this Act.

(8) Every director, manager, controller and principal officer of an insurer shall have the same civil liability in the event of a contravention of the provisions of subsection (1) as if he had been a trustee under a trust for the execution of those provisions in respect of that fund, and as if the appropriate policy-holders have been beneficiaries of that trust unless the director, manager, controller or principal officer proves that the contravention occurred without his knowledge and that he used all due diligence to prevent the contravention.

(9) No insurer to which this Part applies and no company of which an insurer is a subsidiary shall declare a dividend at anytime when the value of the assets representing the life insurance fund or funds maintained by the insurer in respect of its long term business as determined in accordance

with any applicable valuation regulation, is less than the amount of the amount of the liabilities attributable to that business as so determined.

Restriction
on
transaction
with
connected
person

92.—(1) Neither an insurer who transact long term business nor a subordinate company of that insurer shall enter into a transaction to which this section applies—

- (a) at a time when the aggregate of the value of the assets and the amount of the liabilities attributable to the transaction already entered into by the insurer and its subordinate companies exceeds the prescribed percentage of the total amount standing to the credit of the insurer's life insurance funds; or
- (b) at any other time when the aggregate of the value of those assets and the amount of those liabilities would exceed that percentage if the transaction were entered into.

(2) This section applies to any transaction entered into by any insurer, whether or not himself is a subordinate company of another company being a transaction under which—

- (a) a person connected with the insurer will owe it money;
- (b) the insurer acquire shares in a company which is a person connected with it; or
- (c) the insurer has undertaken a liability to meet an obligation of a person connected with it or to hold that person to meet an obligation if the right to receive the money would constitute a long term asset of the insurer the acquisition is made out of his life insurance funds or the liability would fall to be discharged out of these funds as the case may be.

(3) Without prejudice to subsection (2), this section applies to any transaction entered upon by a subordinate company of any insurer being a transaction under which—

- (a) the insurer or a person connected with it owe money to the subordinate company (not being money owed by the insurer which can be properly paid out of his life insurance funds);

- (b) the subordinate company acquires sharer in the insurer or in a company which is a person connected with the insurer; or
- (c) the subordinate company has undertaken a liability to meet an obligation of the insurer or of a person connected with that company or to help the insurer or that person to meet an obligation.

(4) Notwithstanding subsection (2), where the subordinate company is itself an insurer, this section shall not apply to that transaction if the right to receive the money would constitute a long term assets of the subordinate company or the acquisition is made out of its insurance funds or the liability would fall to be discharged out of those funds as the case may be.

(5) In this section "subordinate company" in relation to any insurer means-

- (a) a company having equity share capital some or all of which is held by the insurer as part of its long term assets where the share capital so held by the insurer-
 - (i) amounts to more than half in nominal value of share capital; and
 - (ii) confers on the insurer the power to appoint or remove the holders of all or a majority of the directorship of the company whose share capital it holds and more than one half of the voting power at any general meeting of that company;
- (b) a company having equity share capital some or all of which is held by another company which is itself a subordinate company of the insurer where the share capital held by that other company-
 - (i) amounts to more than half in nominal value of that share capital; and
 - (ii) confers on that other company the power to appoint or remove the holders of all or a majority of the directorship of the company whose share capital it holds and more than one half of the voting power at any general meeting of that company,

and for the purpose of this subsection share capital held for any person by a nominee shall (except where that person is connected only in a fiduciary capacity) be treated as held by that person, and share capital held by a person in a fiduciary capacity or by way of security shall be treated as not held by that person.

(6) A person is connected with insurer if that person is not a subordinate company of the insurer but-

- (a) controls, or is a partner of a person who controls the insurer;
- (b) being a company is controlled by the insurer or by another person who also controls the insurer; or
- (c) is a director of the insurer or the wife or husband or a minor son or daughter of a director,

and for the purpose of this subsection a person controls a company, if he is a controller within the meaning of this Act.

(7) The value of any assets and the amount of any liabilities shall be determined in accordance with any applicable valuation regulations.

(8) In this section-

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"company" except in the expression "subordinate company" has the same meaning as in the Companies Act;

"insurer" includes any body corporate;

"equity share capital" means in relation to a company, its issued share capital excluding any part of it which neither as respects dividends nor as respect capital, carries any right to participate beyond a specified amount in a distribution;

"liability" includes a contingent liability;

"long term assets" and "life insurance funds" in relation to an insurer means respectively assets representing the fund or funds maintained by the insurer in respect of its long term insurance business;

"the prescribed percentage" means five percent or any greater percentage which may be defined elsewhere in this Act;

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"share" has the same meaning as in the Companies Act;

"son" includes step-son;

"daughter" includes step-daughter.

(9) This section shall not be construed as making any transaction unenforceable as between parties to it or as otherwise making

unenforceable any rights or liabilities in respect of property.

93. An insurer transacting long term business in Tanzania shall not enter into contract of reinsurance against any liability of its long term business in Tanzania otherwise than with a long term insurer or reinsurer approved by the Commissioner.

Reinsurance
contracts
of
Long
term
insurance

94.—(1) Where in the case of an insurer transacting long term business—

Allocations
to policy
holders

(a) there is an established surplus in a life insurance fund in which both the insurer and the long term policy-holders of any category are eligible to participate; and

(b) an amount has been allocated to policy-holders of that category in respect of a previously established surplus in which policy-holders of that category were eligible to participate,

the insurer shall not by virtue of section 86(2) transfer or otherwise apply assets representing any part of the surplus unless, the insurer has either allocated to policy-holders of that category in respect of that surplus an amount not less than ninety percent.

(2) Notwithstanding subsection (1), the insurer shall by virtue of section 86(2) transfer or otherwise apply asset representing any part of the surplus if, the insurer has—

(a) served to the Commissioner a written notice stating that it proposes to make no allocation or an allocation of an amount, specifying in it which is smaller than ninety percent; and

(b) published a statement approved by the Commissioner in the *Gazette* and that a period of not less than two months has elapsed from the date or the last date on which the company has published the statement.

(3) The provisions of subsection (1) shall not authorize the application for purposes other than those mentioned in section 91(1), of assets representing any part of the surplus which the insurer has decided to carry forward unappropriated and for the purpose of section 91(2), the amount of any surplus shall be treated as reduced by any part of it which the company has decided to carry forward as aforesaid.

(4) For the purpose of this section—

- (a) "established surplus" means an excess of assets representing the whole or a particular part of the life insurance fund or funds maintained by the insurer in respect of its long term business over the liabilities or a particular part of the liabilities, of the company attributable to that business as shown by an investigation to which section 89 applies.
- (b) an amount is allocated to policy-holders where -
- (i) bonus payments are made to them; or
 - (ii) reversionary bonuses are declared in their favour or a reduction is made in the premium payable by them, and the amount of the allocation is, in a case within paragraph (a),(b)and (c) of this subsection, the amount of the payment and, in a case within this subparagraph (b), the amount of the liabilities assumed by the insurer in consequence of the declaration or reduction;
- (c) the amount of any bonus payments made in anticipation of an established surplus shall be treated as an amount allocated in respect of the next established surplus in respect of which amount is allocated to eligible policy-holders generally, and for the purposes of subsection (2), the amount of any surplus in respect of which that allocation is made shall be treated as increased by the amount of that payment; and
- (d) policy-holders under subsection (3) shall be taken to be eligible to participate in an established surplus in any case where they would be eligible to participate in a later established surplus representing it if it were carried forward unappropriated.

(5) This section shall not apply to long term insurance business of the insurer under which policy-holders purchase investment units in an investment unit policy.

Invest-
ment
unit
policies

95.—(1) Other than as approved by the Commissioner under the provisions of section 90(3)(b)-

- (a) all investment units purchased and all assets and income belonging to them shall be held solely to the benefit of the policy-holder; and

- (b) no insurer or other person may levy or charge any commission or fee upon a policy-holder participating in an investment unit policy or upon the relevant life insurance fund for the purchase, administration or sale of any investment units.

(2) Any alteration to the value of any holding of a unit or units, or other beneficial interest, shall be known as the "adjusted unit value".

96.-(1) A minor or a parent or the guardian of a minor may effect a life insurance and pay the premiums due under the policy with money lawfully at the disposal of the minor, his parent or guardian:

Life
insurance
of minors

Provided that,

- (a) no benefit shall be paid other than as a result of death of the minor, parent or a guardian if the minor has not attained eighteen years of age;

- (b) the total sums payable against all life insurance policies outstanding at that time of the life of a minor who dies before he attains the age of eighteen years shall not exceed one million or the sum of the total of the premium paid under that policy, whichever is greater, and there are more policies than one outstanding at that time where a contribution shall be due against each policy to make up the total sum of one million shillings or any greater sum as the case may be in proportion to the sum for which the policy is effected;

- (c) a minor who has attained the age of eighteen years may without the consent of his parent or guardian effect a life policy upon his own life and shall be as competent in all respects to be policy owner and to have and exercise all the powers as if he were of an adult age, except that he shall not while he is still a minor, pledge or cede the policy without the written consent of his parent or guardian.

(2) Notwithstanding the provisions of subsection (1), an insurer shall not pay any sum on the death of a child before he attains the age of eighteen years, except upon production of a certificate of death issued by the authority responsible for the registration of deaths.

(3) The Commissioner may, by notice in writing to each insurer, direct procedure to be undertaken in the processing of claims against insurers on the death of minors.

**Value of
certain
assets**

97. Where an asset was acquired wholly or partly from money paid by an insurer under a life policy and the proceeds, or realization of that asset exceeds that amount, a reference in this part to the proceeds on realization or to the value of that asset shall be construed as a reference to that amount only and not any sum in excess of it.

**Life
policy
effected
by
married
persons**

98.—(1) For the purpose of Part IV of the Law of Marriage Act, the following shall be considered to be the respective property of a wife or husband—

- (a) a life policy effected prior to marriage;
- (b) any interest in a life policy acquired prior to marriage;
- (c) any moneys due or paid prior to marriage in respect of life policy or any interest in a life policy acquired prior to marriage in respect of the disposal of any interest in a life policy; and
- (d) any assets acquired prior to marriage with money as if the policy, interest, moneys or assets were effected or paid or acquired or became due during marriage.

(2) Where, during the subsistence of a marriage, either spouse gives, by way of gift or otherwise, any interest in a life policy to the other, there shall be a rebuttable presumption that the property belongs absolutely to the donee.

**Life
policy on
own life
and
protection
afforded
during
life**

99.—(1) Where a life policy effected by a person, whether married or not, on his own life insured for three years or longer from the date of the payment of the first premium—

- (a) is attached in execution of a judgment or order of any court at the instance of a creditor of that person; or
- (b) becomes part of that person's estate in insolvency and of the joint estate of the insolvent and surviving spouse during the lifetime of that person,

the proceeds or realization of the policy shall, be protected against that person's creditors and against any claim in connection with that attachment or insolvency.

(2) The protection afforded in respect of a life policy, shall-

- (a) extend to so much of the proceeds on realization of the policy which does not exceed an amount of two million five hundred thousand shillings; and
- (b) subject to the provisions of paragraph (a), extend if the policy is pledged, to so much of the proceeds on realization of the policy which exceeds the amount of the liability, the payment of which the pledge secures, but no further.

(3) During a period of five years as from the date upon which any moneys become due or have been paid by the insurer under a life policy under subsection (1) or assets acquired with those moneys or other moneys-

- (a) are attached in execution of a judgment or order of any court at the instance of a creditor or a person by whom the policy was effected; or
- (b) become part of the estate in the insolvency of the person by whom the policy was effected and of the joint estate of the insolvent and the surviving spouse,

the money due or paid under the policy or the proceeds on realization assets shall, to the extent specified in subsection (4) be protected against that person's creditors and against any claim in connection with the attachment or the insolvency.

(4) The protection afforded in respect of moneys or assets of a person shall-

- (a) extend to those moneys or to the proceeds on realization of those assets in so far as those moneys and proceeds together with-
 - (i) all other moneys due or paid to that person under life policies under subsection (1);

- (ii) the value of all other existing assets of that person acquired with money paid under life policies under subsection (1) or with those moneys and other moneys; and
 - (iii) the realisable value of all life policies under subsection (1) of which that person is the owner which exceed two million five hundred thousand shillings;
- (b) subject to the provisions of paragraph (a), extend in the case of an asset which is pledged or mortgaged, to so much of the proceeds on realization of the assets which exceeds the amount of the liability the payment of which the pledge or mortgage secures, but no further; and
- (c) not extend to any moneys due or paid under a life policy under subsection (1) or surrender of the policy or to any assets acquired with those moneys.

(5) For the purpose of this section-

- (a) a life policy which an insurer issues in exchange for or in consideration of the surrender of another life policy under which the insurer was previously liable shall be regarded as having been effected on the date on which the surrendered policy was issued if the insurer received no payment other than the value of the surrendered policy as a consideration for the new policy; and
- (b) a life policy which an insurer issued under this section shall be regarded as having been effected on the date on which the old life policy for which it was substituted was issued.

Life
policy on
own life
and
protection
afforded
on death

100.-(1) Where-

- (a) a beneficiary has on the death of the policy-holder a claim-
 - (i) under a life policy; or
 - (ii) to moneys or assets in respect of which protection is afforded under section 102; and
- (b) the policy moneys or assets-

(i) are attached in execution of a judgment or order of any court at the instance of a creditor of the deceased owner; or

(ii) become part of the deceased policy-holder estate in insolvency and of the joint estate of the deceased insolvent and the surviving spouse,

the beneficiary shall in respect of this claim enjoy the protection afforded under section 99.

(2) For the purposes of this section "beneficiary" means-

- (a) the surviving spouse of a policy-holder;
- (b) a dependant under the will of a policy-holder;
- (c) a dependant by right of succession on intestate; or
- (d) a dependant under or by virtue of an order made in accordance with the provisions of any enactment in Tanzania.

101.-(1) Where-

- (a) before or during marriage a man effects or cedes for the benefit of his wife or his wife and children, including children to be born to him and wife; or any of them;
- (b) before or during marriage, a woman effect or cedes for the benefit of her husband; or
- (c) a person effects or cedes for the benefits of his or her children, including children to be born to him or her,

a life policy on his or her life or his or her spouse, the policy or moneys due or paid under it by the insurer or any asset acquired with those moneys shall not, subject to the provisions of this section and in the case of a policy which is ceded, to the terms of the cession-

- (i) be liable to be attached in execution of a judgment or order of any court at the instance of a creditor of the person by whom the policy was effected or ceded; or
- (ii) form part of the estate in insolvency of the person by whom the policy was effected or ceded and of the joint estate of the insolvent and the surviving spouse.

(2) A benefit conferred or purported to be conferred upon a spouse or child under a life policy under subsection, (1) or by virtue of the effecting

Protection
afforded
in respect
of life
policy
insuring
the spouse
or
children

or cession of a life policy under that subsection shall, notwithstanding any agreement to the contrary between the insurer and the person by whom the policy was effected or ceded but subject, in the case of policy which is effected or ceded to the terms of the effectation or cession, be enforceable against the insurer liable under the policy to a suit of the spouse or child or the legal representative of the spouse or child notwithstanding the spouse or child has not accepted the benefit and is not a party to the contract of insurance.

(3) A life policy shall not be treated having been effected for the benefit of the spouse and additionally or alternatively the children, including unborn children, or any of them, unless at the time of its issue the policy expressed so or it was effected or ceded for their benefit during a period of not less than twelve months prior to insurer being declared insolvent.

Protection
afforded
in respect
of life
policy
insuring
spouse

102.—(1) Where, before or during marriage a man or a woman effects or cedes the policy for the benefit of his or her spouse on the life of either the policy—

(a) is attached in execution of a judgment or of any court at the instance of creditor; or

(b) becomes part of an estate in insolvency,
the proceeds on realization of the policy shall, to the extent specified in section 98(2), be protected against creditors and against any claim in connection with the attachment or the insolvency.

(2) The provisions of subsection (2), (4) and (5) of section 100 and of subsection (2) and (3) of section 99 shall apply *mutatis mutandis* to a life policy or moneys due or paid by the insurer or any assets acquired with those moneys or with mixture of those moneys and other moneys.

Selection
of life
policies in
respect of
which
protection
is
afforded

103. Where—

(a) two or more life policies or assets in respect of which protection is afforded by the provisions of section 99, being the property of one person are attached in execution of a judgment or order of any court at the instance of a creditor; or

(b) the owner of two or more life policies or assets in respect of which protection is afforded, is adjudged or otherwise declared insolvent and part only of the aggregate realisable value of the policies or assets is protected,

the decree-holder creditor or the trustee of the estate in insolvency as the case may be, shall determine which policy or policies or other assets shall be realized wholly or in part in order to make available to him so much of the aggregate realizable value as is not protected.

104.-(1) A decree holder on the life policy or the trustee of his estate in insolvency who is entitled to a part of the realizable value of the policy may, if he is in possession of the conversion of policy, deliver it to the insurer who is liable under the policy for the purpose of the payment to him of the sum to which he is entitled.

Partial
realization
and
partial
conversion
of life
policies

(2) Where a decree holder or trustee is not in possession of the life policy to which the provisions of subsection (1) apply, the owner or any other person in possession of the policy shall, at the request of the decree holder or trustee, deliver it to the insurer who is liable under the policy, for the purpose of the payment to the decree holder or trustee of the sum to which he is entitled.

(3) On receipt for a life policy delivered to him under subsection (1) or (2) the insurer shall—

(a) at the request of the decree holder or trustee referred to in subsection (1) pay to him a sum equal to the part of the realizable value of the policy to which he is entitled; and

(b) at the request of the owner of the policy, issue to him a new policy of the same class but for a sum insured equal to the difference between—

(i) the full sum insured under the old policy including any bonus which may have accrued in connection with it; and

(ii) an amount which bears the same ratio to the full sum insured under the old policy including any bonus as the amount paid by the insurer to the decree holder or trustee referred to in subsection (1) bears to the full realizable value for the old policy.

(4) Where any insurer has made the payment and issued a new life policy, as provided under in subsection (3), the old life policy shall lapse.

Provi-
sions in
case
premium
on life
policy
ceded or
trust
policy
cannot be
main-
tained

105. Where a person-

- (a) has effected or ceded a life policy for the benefit of his spouse and additionally or alternatively, child including unborn children, or any of them; or
- (b) holds a life policy in trust for any other person and is obliged to pay the premium on the policy, is or has been unable to pay the premiums, that person may with the consent of each person who has an interest or if that person is a minor, with the consent of his parent or guardian or the high court, agree with the insurer liable under the policy to-
 - (i) exchange the policy for a paid-up life policy of a value calculated in accordance with the table furnished to the Commissioner under section 85 in the case of normal lives and in any other case calculated by reference to the said table and approved by an actuary, payable at the time and in the manner stipulated in the original policy to the person entitled to the sum insured by the original policy;
 - (ii) where the policy so permits, borrow from the insurer upon the security of the policy any sums which may be necessary to keep the policy in force or to revive it; or
 - (iii) apply any bonus which may have accrued in connection with the policy to a temporary or permanent reduction of premium or to the payment of any premiums which have fallen due.

Life
policy
ceded or
premium
paid with
intent to
benefit
someone
at the
expense
of
creditor

106.-(1) Nothing in this Part shall be construed as derogating from the powers of any court to set aside under the law relating to insolvency any cession of a life policy made with intent to benefit someone at the expense of creditor.

(2) Where a premium upon a life policy was paid with intent to benefit a person at the expense of a creditor of the person making the payment, the court may order the owner of the policy to pay a sum equal to the aggregate of all premium so paid, with interest at a prescribed rate per annum on the amount of each premium so paid from the date of its

payment, to the person to whose detriment the premium was to be paid or if the person has been adjudged or otherwise declared insolvent to the trustee of his estate insolvency.

(3) An order for payment of a sum of money made under subsection (2) shall have the effect of pledging the life policy referred to in that subsection to the person entitled to the payment as security for the payment and until the payment is made, that person shall be entitled to possess the policy.

107.—(1) An insurer may, subject to any rules of court in that behalf, pay into court any moneys payable by the insurer in respect of a policy for which, in the opinion of the board of directors of the insurer, no sufficient discharge can otherwise be obtained.

Power to
pay in
court

(2) The receipt by the court of the moneys shall be a good and valid discharge to the insurer for moneys so paid in, and the moneys shall subject to rules of the court, be dealt with according to the order of the court.

108. Where a claim arising under a policy is paid, no deductions shall, except with the consent in writing of the claimant be made on account of premiums or debts due to the insurer under any other policy.

No
reduction
in respect
of other
life
policies

109.—(1) A form of proposal shall be framed so as to require a person making a proposal for a life insurance policy to specify the place and date of birth of the person whose life is proposed to be insured by giving particulars to the best of his knowledge and belief.

Proof of
age

(2) Where an insurer issues a life policy which provides that proof of age of the life insured, is a condition precedent to the payment of the sum insured, the insurer shall, unless the age of the life insured has already been admitted by him, issue with the policy a printed notice stating that proof of age of life insured may be required prior to the payment of the sum insured.

(3) Where an insurer declines to accept the proof of age tendered in respect of life insurance policy whether issued on or after the coming into force of this Act, the policy-holder may apply to the Commissioner

for an order directing the insurer to accept the proof rendered and if the Commissioner after giving the insurer reasonable opportunity of being heard, makes any order in writing to the applicant and the insurer, that order shall be binding on the insurer.

(4) The preceding provisions of this section shall not apply to any life insurance policy issued before the coming into force of this Act or to any paid-up policy or certified copy of a policy issued on or after the coming into force of this Act, where the life insurance policy issued replaces a life insurance policy issued before the coming into force of this Act.

(5) Where the provision of subsection (4) does not apply, the provision of subsection (6) shall have effect.

(6) Where-

- (a) a claim made for a benefit under life policy which has been insured for a period of three years from the date of the payment of the first premium;
- (b) the age or date of birth of insured has not been admitted by the insurer liable under the policy; and
- (c) the person claiming the benefit shows that, owing to circumstances beyond the control and through no default either of himself or of the person by whom the policy was effected, there was at no time after the date of the payment of the first premium under the policy, either in existence or available, any documentary evidence affording reasonable proof of the age or date of birth of the insured,

any written statement made in the proposal or application for the policy as to the age or date of birth of the insured shall be accepted for the purposes of the claim as the correct age or date of birth of the insured unless the contrary is proved by records of a medical examination of the insured, made at the request of the insurer, within the period of three years or in any other manner.

Age
incorrectly
stated

110.-(1) A life insurance policy shall not be avoided by reason of mis-statement of the age of the life insured.

(2) Without prejudice to the provisions of subsection (1), where-

(a) the true age is proved to be greater than that on which the policy was based, the insurer may vary the sum insured by, and the bonuses, (if any) allotted to the policy, so that, as varied, they bear the same proportion to the sum insured by, and the bonuses, (if any) allotted to the policy before variation as the amount of the premiums that have been payable under the policy as issued bears to the amount of the premiums that would become payable if the policy had been based on the true age; or

(b) the true age is proved to be less than that on which the policy was based, the insurer shall either-

(i) vary the sum insured by, and the bonuses (if any) allotted to the policy before variation as the amount of the premiums that have become payable under the policy as issued bears to the amount of the premiums that would have become payable if the policy had been based on the true age; or

(ii) reduce, as from the date of issue of the policy, the premium payable to the amount that would have been payable if the policy had been based on the true age and repay to the policy owner the amount of overpayments of premiums less any amount that has been paid as the cash value of bonuses in excess of the cash value that would have been paid if the policy had been based on the true age.

(3) Notwithstanding the provisions of subsections (1) and (2), where the correct age is found to be beyond the limits within which the insurer, according to his published prospectus issued, the type of policies in question, shall be void *ab initio* and the insurer shall refund to the insured all the premiums received on the policy after deducting the commission payments and expenses incurred by him on the policy; but nothing in this provision shall apply to annuities and other policies where the insured has already received any payment under the policy.

(4) The provisions of subsections (4) and (5) of section 115 shall *mutatis mutandis* apply to this section.

Suicide

111.—(1) A life policy in which it is stated that the policy shall be void in the event the insured whether sane or insane dying by his own act or suffering capital punishment within a stipulated period shall be void—

- (a) in respect of any period that exceeds two years from the issue of the policy notwithstanding any policy conditions to the contrary; or
- (b) Where the insured dies by his own act or suffers capital punishment after the expiration of that stipulated period or after two years from the issue of the policy, whichever is sooner.

(2) A life policy in which no provision such as referred to in subsection (1) is contained shall not be void by reason of the insured, whether sane or insane, dying by his own act or suffering capital punishment at any time after the issue of the policy.

Military service

112.—(1) A life policy which states that the policy shall be void in the event of the policy-holder dying in the course of or as a result of any military service which he performs under the Government of Tanzania in any military action against a common enemy shall be void.

(2) No insurer shall refuse to issue to any person a life policy on the grounds that he is performing or likely to perform military service in Tanzania.

- (3) This section shall apply to any life policy under which—
 - (a) the lives of a group of persons are insured; and
 - (b) the insurer may—
 - (i) amend any of policy's provisions; or
 - (ii) cancel the policy.

Lost or destroyed life policy

113.—(1) Where a life policy is lost or destroyed and loss or destruction is proved, the insurer of the policy, shall, at the request of the policy holder and upon payment of prescribed fee by the policy holder to the insurer, issue to the policy holder a correct and certified copy of—

- (a) the policy upon which shall be inscribed any endorsement made by the insurer on the original policy after its issue; and

- (b) any record in the possession of the insurer of any dealings with the policy after its issue.

(2) A certified copy of a life policy issued under subsection (1) shall, for all purposes-

- (a) take the place of the policy lost or destroyed; and
- (b) be the sole evidence of the contract made by the policy.

(3) An insurer shall maintain a register of all copies of life policies issued, and may allow any member of the public showing reasonable cause, access to relevant parts of the register.

(4) The register shall contain the following-

- (a) full name of the life insured;
- (b) full name of the policy-holder;
- (c) last known address of the policyholder;
- (d) date of birth or year of birth of the life insured; and
- (e) the policy identification number.

114.-(1) Where an insurer, by notice in writing-

- (a) inform the Commissioner that he has issued or that he intends to issue life policies which provide benefits on-

- (i) the total or partial permanent disability of the person whose life that policy insures; or
 - (ii) the death of the person whose life that policy insures as a result of an accident or particular disease;

- (b) requests the Commissioner that the policies referred to in paragraph (a) be treated as life policies only,

the policy issued by the insurer on or before the date of commencement of this Act or after notification to the Commissioner shall, subject to the provisions of subsection (2) be treated, for the purposes of this Act, as a life policy only.

(2) In this section a policy shall not be treated for the purpose of this Act as a life policy only if the value of the benefits provided in subsection (1)(a) and subparagraphs (i) and (ii) does not exceed in the aggregate-

- (a) a waiver of claims to any premium under the policy in respect of the period of disability; and
- (b) monthly benefit, payable during the period of disability of the person whose life the policy insures but not extending beyond

Life
policy
may
include
subsidiary
benefits

the date of termination of the risk of the life insurance properly effected by the policy amounting to two percent of the sum payable under the policy on the death of the person-

- (i) a lump sum equal the sum payable under the policy on the death of the person whose life the policy insures; or
 - (ii) in the case of a deferred annuity policy, monthly benefits payable during the period of the disability of the person whose life the policy insures but not extending beyond the date as from which the annuity will become payable amounting to one twelfth of the annual annuity;
- (c) a life policy providing benefits that are described in subsection (1)(a) which cannot by reason of the provisions of subsection (2) be treated for the purposes of this Act as a life policy shall be treated as both a life policy and a personal accident or personal accident and sickness policy.

Discrimi-
nation
between
life policies
etc.
prohibited

115.—(1) An insurer shall not make or permit to be made any discrimination in respect of the rate of premiums charged or the bonuses granted between life policies which are of the same kind and under which the persons whose lives insured have an equal expectation of life.

(2) Nothing in subsection (1) shall apply to life policies which-

- (a) are reinsurance contracts;
- (b) are for large sums in excess of fifty million shillings or any larger sum which the Minister may prescribe at preferential rates in accordance with the current tariff of the insurer concerned;
- (c) insure at preferential rates the lives of employees of one employer or a combination of employers or members of the families of the employees or the lives of a group of persons carrying on the same occupation; or
- (d) are of a class prescribed in the regulations.

(3) A director, employee or agent of an insurer or of a broker shall not pay, allow, give or offer to pay, directly or indirectly-

- (a) a rebate of the premiums payable on a life policy;
- (b) an advantage in the nature of a rebate of the premium payable on a life policy;

(c) preferential treatment in connection with bonus or other benefit under a life policy.

(4) The provisions of subsection (3) shall not apply to the grant to an employee or former employee or spouse or dependant child on an insurer or broker of a rebate of commission on a policy effected by him on his own life.

(5) No person shall knowingly receive any rebate of premium advantage or preferential treatment referred to in subsection (3) as an inducement to insure.

(6) No director, employee or agent of an insurer or of a broker shall accept any proposal or application for a life policy in respect of which-

(a) a promissory note, bill of exchange or other negotiable instrument, not being a cheque payable on the date of issue; or

(b) an acknowledgement of debt, not being a stop order or direct debit in favour of the insurer or any person who has been given for the first year's premium or any part of it.

(7) Any person who contravenes any provision of this section commits an offence and upon conviction is liable to a fine not exceeding ten times the amount for the annual premium normally payable on life policy similar to the one in respect of which the offence was committed.

116.—(1) A life policy, other than those defined in subsection (5), shall not be forfeited by reason only of the non-payment of any premium (in this section referred to as "the overdue premium") where-

(a) not less than three years' premiums have been paid in cash on the policy; and

(b) the surrender value of the policy as calculated at the day immediately preceding that on which the overdue premium falls due exceeds the sum of the amount of the debts owing to the insurer under, or secured by the policy, and the amount of overdue premium.

Non-
forfeiture
of life
policies in
certain
cases on
non-
payment
of
premiums

(2) The insurer may, until payment of the overdue premium, charge compound interest on it on terms not less favourable to the policy-holder than the terms which are set out in the table furnished to the Commissioner under section 85.

(3) The overdue premium and any interest charged on it under this section and unpaid shall, for the purposes of this Act, be deemed to be a debt owing to the insurer under the policy.

(4) Without affecting the generality of subsection (1), a life policy on which less than three year's premiums have been paid in cash shall not be forfeited by reason only of the non-payment of a premium unless, on or after the day on which the premium fell due, the insurer liable under the policy serves a notice on the policy-holder stating-

- (a) the amount due or payable to the insurer at the date of the notice in respect of the policy; and
- (b) that the policy will be forfeited at the expiration on one month after service of the notice if a sufficient sum is not paid to the insurer in the meantime.

(5) Where a premium is over due in respect of life policies where premiums are payable at intervals not exceeding two months in each case to collectors sent by the insurer to each policy owner, or to his residence or place of work-

- (a) policy on which less than one year's premiums have been paid in cash shall not be forfeited by reason only of the non-payment of any premium unless the premium has remained unpaid for not less than one month after it became due;
- (b) a policy on which not less than one year's premiums have been paid in cash shall not be forfeited by reason only of the non-payment of any premium unless the premium has remained unpaid for not less than one month after it became due;
- (c) a policy on which not less than two year's premiums have been paid in cash shall not be forfeited by reason only of the non-payment of any premium unless the premium has remained unpaid for not less than three months after it became due; and

(d) in the event of a policy on which not less than three years premiums have been paid in cash is forfeited by reason of non-payment of any premium, the insurer shall, without requiring any application from the policy-holder, grant a paid-up policy for an amount not less than that calculated in accordance with tables approved under section 85; such paid-up policy shall be payable upon the happening of the contingency upon which the amount insured under the original policy would have been payable.

(6) Nothing in this section shall preclude an insurer from granting to an owner of a policy of a kind referred to in this section more favourable terms than those specified.

117. A policy-holder who desires to discontinue further premium payments on a life policy on which not less than three years' premiums have been paid in cash shall, on application to the insurer, be entitled to receive, in lieu of that policy, a paid-up policy for an amount not less than that determined in accordance with the tables approved under section 85.

Paid- up
policies

(2) The paid-up policy shall be payable upon the happening of the contingency of which the amount assured under the original policy would have been payable.

118.—(1) The policy-holder of a life policy which has been in force for at least three years shall, on application, be entitled to surrender the policy and to receive not less than the surrender value of the policy less the amount of any debt owing to the insurer under, or secured by, the policy.

Surrender
of
policies

(2) In the application of subsection (1) to a paid-up policy which has been issued in lieu of another policy, the period of three years shall be calculated from the date of issue of the original policy.

(3) For the purpose of this section the surrender value of a policy shall be the amount calculated in accordance with the tables approved under Section 85

(4) The Commissioner may, on application by an insurer, if in his opinion, he thinks that the payment in cash of surrender values as required by this section would be prejudicial to the financial stability of the insurer or to the interests of the policy-holders of that insurer, suspend or vary for any period and subject to any conditions which the Commissioner thinks fit, the obligation of the insurer to pay those surrender values.

Cancellation of life policy within limited penalty

119.—(1) A life policy issued after the commencement of this Act may be cancelled by the policy-holder within a period of three months from the date on which the proposal form was signed, or within one month of the receipt for the policy by the owner, whichever is the later by returning the policy to the insurer with an objection in writing to any terms or condition of the policy, or a statement that he does not require the policy, and the insurer shall forthwith refund any premium which has been paid in respect of the policy which shall thereupon be canceled.

(2) Subject to the provision of this section, where a policy is sent by registered post by an insurer to the person to whom it is issued, it shall, unless the contrary is proved, be deemed to have been delivered to him at the time at which it would reach him in the ordinary course of the post.

(3) A policy shall be deemed to have been returned with an objection or statement, as the case may be, where the policy and objection or statement is posted for transmission to the insurer by registered post.

(4) The insurer shall when delivering the policy to the policy-holder include a synopsis of the right of the policy-holder under subsection (2) to cancel the policy.

Publication of bonus rates and unit values

120.—(1) For the purpose of this section, in the case of an insurer transacting long term business where—

(a) there is either—

(i) an established surplus in which long term policy-holders of any category are eligible to participate; or

(ii) an adjusted unit value in which long term policy-holder of that category benefit; and

(b) an amount has been allocated to policy-holders of that category in respect of a previously established surplus or adjusted until

value in which policy-holders of that category were eligible to participate,

the allocation made shall-

- (i) during the currency of the policy, be known for the purpose of this section as "the reversionary bonus"; or
- (ii) in addition to any reversionary bonuses attaching to the policy, but only upon the death for the policy-holder or upon the happening of some other future event resulting in the payment of benefit under the policy, be known for the purposes of this section as "the terminal bonus."

(2) An insurer transacting long term business who allocates reversionary bonuses to policy-holders by the application of a factor applied to the policy sum insured shall advise the Commissioner in writing and publish in the *Gazette* and in at least two daily news papers widely circulating in Tanzania-

- (a) within one month from the coming into force of this Act; or
- (b) upon any alteration of the factor within one month of the date of the approval by the insurer's board of directors with the approval of the actuary,

the amount and effective date of that factor and on what basis including what continuing basis policy-holders eligible to participate are benefited by it.

(3) An insurer transacting long term business who allocates reversionary bonuses to policy-holders by amending the value of any holding of units, or other beneficial interest, under an investment unit policy shall advise the Commissioner in writing and publish in the *Gazette* and in at least two daily news papers widely circulating in Tanzania-

- (a) within one month from the coming into force of this Act; or
- (b) upon any amendment of the value of the unit thereafter, within two weeks of the date of the amendment or at least monthly whichever is the more frequent,

the value of each unit and the effective date of each revaluation of the fund from which the unit value is calculated, and on what basis including

what continuing basis policy-holders eligible to participate are benefited by it.

(4) In the event that policy holders of a single insurer holding different classes or types of policy derive different benefit levels in any bonus distribution issued to them under the terms of this section, the provisions of this section shall apply to each separate type of bonus so distributed.

(5) For the purposes, of and in consequence of subsection (3), units may only be allocated to a life policy at the price published immediately prior to a policy being effected and any subsequent unit purchase shall be based upon the last published unit price at the date of purchase for the relevant type of policy.

Advertisements and projected benefits

121.—(1) Where an insurer transacting long term business issues policies of a class or classes of which an established surplus, or adjusted unit value, not being a guaranteed sum, is distributable in whole or in part to policy-holders then, any advertisements issued by the insurer, its employees and agents and any projections on benefits which may accrue to potential policy-holders in general or a potential policy-holder shall be governed by the provisions of this section.

(2) An insurer transacting long term business who allocates reversionary bonuses to policy-holders by the application of a factor applied to the policy sum insured shall, when making any advertisement or projection of benefits, use only the last published factor and application of reversionary bonuses as required under the terms of section 120(2).

(3) An insurer transacting long term business who allocates reversionary bonuses to policy-holders by amending the value of any holding of units, or other beneficial interest, under an investment unit policy shall, when making any advertisement on projection of benefits—

(a) use only the annual average compounded interest growth rate over the effective four year period of the said unit produced from the mean valuation of—

(i) the unit effective as at the first day of the month in which the advertisement or projection is made and of the eleven preceding monthly unit values; and

- (ii) the unit value effective as at the first day of the month, sixty months previous to the month in which the advertisement or projection is made and of the eleven subsequent monthly unit value.
 - (b) use only those unit values for the purposes of paragraph (a) which shall be published in accordance with section 120(2); and
 - (c) include in the advertisement or projection if applicable the basis or formula required to be approved by the Commissioner under the provisions of Section 85(3).
- (5) When making an advertisement or projection under this section, an insurer shall-
- (a) not include in the financial projection any reference to any terminal bonus or other distribution except that mention may be made to the existence of the possible provision; and
 - (b) prominently make mention in all advertisements and projections that the projections are not guaranteed and may vary both upwards and downwards from that stated in the advertisement projection.

PART IX

ESTABLISHMENT OF OMBUDSMAN SERVICE AND TRIBUNAL

(a) *Establishment of Ombudsman Service*

122.-(1) There is established Ombudsman Service for the purposes of resolving disputes arising between insurance consumers, and insurance registrants' business in Tanzania.

Establishment of the Ombudsman Service

(2) The Ombudsman Service shall consist of an ombudsman appointed by the Minister and such other employees employed by the Authority as may be required in the performance of the functions of the Ombudsman Service.

123. A complainant may file a complaint against an insurance registrant with the Ombudsman Service provided that the complaint shall-

Complaints to be handled by the Ombudsman

- (a) not involve an insurance claim in respect to any of the following classes of insurance:

- (i) railway rolling stock;
 - (ii) aircraft;
 - (iii) ships;
 - (iv) aircraft liability;
 - (v) liability for ships;
 - (vi) surety ship;
 - (vii) miscellaneous and legal expense.
- (b) contain evidence that an unsuccessful attempt has been made to resolve the complaint with the insurance registrant within the previous twelve months; and
- (c) not be on the same subject matter currently or previous before any third party dispute resolution forum.

Powers and
functions of
the
ombudsman

124.—(1) The Ombudsman shall have powers to grant an award to the complainant for direct losses and damages suffered by the complainant up to a maximum of fifteen million shillings.

(2) Upon receipt of the complaint, the Ombudsman shall investigate the complaint or cause it to be investigated.

(3) For purposes of conducting an investigation the Ombudsman shall have the same powers as those of the Commissioner under section 143.

(4) Procedures for receiving, hearing and determining complaints by the Ombudsman service shall be prescribed in the regulations.

Funds of
the
ombudsman
Service

125. The expenses of and incidental to the administration of Ombudsman shall consist of such sums of moneys as may be appropriated by Parliament for the funds of the Authority.

(b) Establishment of Insurance Appeals Tribunal

Establish-
ment of
the
Tribunal

126.—(1) There shall be a Tribunal to be known as the Insurance Appeals Tribunal.

(2) The Tribunal shall be an *ad hoc* forum and shall consist of three persons appointed by the Minister, one of whom shall be a lawyer with adequate experience

(3) The Minister shall appoint one of the members to be the Chairman of the Tribunal.

(4) A person aggrieved by the decision of the Commissioner under this Act may, within one month from the date on which the decision is communicated to him in writing, appeal by a petition in writing to the Tribunal which may, uphold, reverse, revoke or vary that decision.

(5) Before deciding any appeal brought under this section, the Tribunal shall provide for the appellant an opportunity to appear before it.

(6) Except as provided for in this section, the decision of the Tribunal on an appeal made under subsection (4) shall be transmitted in writing within two months of receipt of the petition of appeal and shall, except on a question of law, be final and conclusive.

(7) A person aggrieved by a decision of the Tribunal made under subsection (1) may, if it involves a question of law, within one month from the date on which the decision is communicated to him, appeal to the High Court.

(8) A reference in this section to a questioning of law does not include a reference to a question whether there is sufficient evidence to justify a finding of fact.

(9) The expenses of and incidental to the administration of the Tribunal shall be borne by the Authority.

PART X

FINANCIAL PROVISIONS RELATING TO THE AUTHORITY

127.—(1). The funds of the Authority shall consist of-

- (a) such sums of moneys as may be appropriated by Parliament;
- (b) moneys derived from levies on premiums and commissions as prescribed by the Authority;

Funds of
the
Authority

(c) funds or assets which may vest in or accrue to the Authority from other sources by way of fees, grants or in any other way;

(d) any sum which the Board may borrow for its purposes.

(2) The Authority may-

(a) invest in securities in which trustees may, by law, deal as the Board may determine; and

(c) deposit with a bank any sums of money which are not immediately required for the use by the Authority.

Annual
estimates

128.-(1) The Board shall, before the commencement of each financial year cause to be prepared estimates of the revenue and expenditure for that year.

(2) The annual estimates shall contain all estimated expenditure of the Authority for the financial year concerned and the Board shall approve recurrent and development expenditure.

(3) The annual estimates shall be submitted to the Minister who shall cause the same to be laid before the National Assembly within three months from the date of their submission.

Books of
accounts
Cap.348

129.-(1) The Authority shall keep proper books of accounts and shall be audited in accordance with the Public Finance Act.

(2) Within three months from the end of each financial year, the Authority shall for the purpose of auditing submit to the Controller and Auditor General accounts of the Authority together with-

(a) a statement of financial activities and income and expenditure during that financial year; and

(b) a statement of assets and liabilities of the Authority existing at the end of such financial year.

PART XI

GENERAL PROVISIONS

Restriction
on
insurance
having no
insurance
interest

130.-(1) Notwithstanding the provisions of section 86, from the effective date of this Act, no contract of insurance shall be made by any person on the life or lives of any person or persons, or on any other event

or events in which the person for whose use, benefit or on whose account the insurance made shall have no insurance interest; and the insurance so made shall be null and void *ab initio*.

(2) Except in the case of life insurance policies, no sum shall be recovered or received from insurance or insurances which exceeds the amount of value of the interest of the insured in the life or lives, or other event or events, insured by the insurance or insurances.

(3) Where a person making a claim under an insurance or insurance policies with intent to recover from the insurer or insurers a sum greater than that permitted in subsection (2) the person so claiming commits an act of fraud or intended fraud and that offence shall be punishable in accordance with criminal laws of Tanzania.

131.—(1) Every insurer shall pay claims within forty five days of the date of receipt of the executed discharge, and where the insurer is unable to settle claims within that time, he may apply to the Commissioner for extension of time and the Commissioner may grant an extra time of not more than forty five days within which the claim shall be settled.

Time
limit for
payment
of claim

(2) Where an insurer fails without reasonable cause to settle the claim within forty five days or within the time extended by the Commissioner that claim shall be treated as a bad faith claim against the insurer.

(3) For the purpose of this section "a bad faith claim" means-

- (a) an insurer's delay in the processing of a legitimate claim beyond a time period consistent with normal industry practice; or
- (b) an insurer's delay in making payment to a claim beyond forty five days of the date of receipt of the executed discharge without consent of the Commissioner.

(4) The provisions of section 166 shall apply to an insurer who engages in a bad faith claim.

132. Notwithstanding the provisions of any other written law, in assessing damages in any action, whether commenced before or after the commencement of this Act, there shall not be taken into account any sum paid or payable on the death of the deceased under any contract of

Fatal
Accident

insurance whether effected before or after the commencement of this Act-

- (a) voluntarily by the deceased person; and
- (b) in respect of which the premiums were paid by or for the deceased from his personal resources.

Insurance
to be held
with
Tanzanian
insurers

133.-(1) The Minister shall, by regulations, direct that any or all insurances effected by Tanzanian residents or Tanzanian resident companies of any class or classes shall be placed with Tanzanian insurers.

(2) Where a class of insurance required to be placed with a Tanzanian insurer is not available to a person seeking insurance, that persons may place that insurance with a non-resident insurer provided that-

- (a) he obtains the prior written approval of the Commissioner; and
- (b) he complies with the provisions of section 140.

(3) Nothing in this section shall affect the requirements of, and the provisions of any foreign currency laws for the time being in force in Tanzania or control exercised by the Bank of Tanzania.

Compul-
sory local
brokerage

134. Any general insurance business policy effected by a Tanzanian resident or Tanzanian resident company, other than an insurer registered under this Act, with any non-resident insurer shall be effected through the offices of a Tanzanian registered insurance broker.

Unlimited
indemni-
ties

135. An insurer shall not, on or after a date prescribed by the Minister, issue or renew a policy of insurance under which the insurer undertakes a liability the amount or a maximum amount of which is uncertain at the time when the contract of insurance is entered into or renewed.

Commis-
sion only
to brokers
and agents

136. No company or individual not a party to any contract of insurance, except an agent or broker registered under this Act or only to an employee of an insurer, shall be paid any commission or other payment by any Tanzanian insurer, agent or broker for effecting or renewing any policy of insurance.

Time
limit
on
payment
of
premiums

137.-(1) The Commissioner may, by notice published in the *Gazette* and by written notice to each insurer, require insurance premiums due to Tanzanian insurers from Tanzanian residents, other than another Tanzanian

insurer, to be paid within a specified period of time from the date on which the insurance was effected or renewed.

(2) The Commissioner may, by notice issued under subsection (1), specify different dates for payment of premiums which is due from brokers, agents and on insurance business placed directly with the insurer or through the offices of an agent or broker.

138.—(1) No insurer shall extend insurance cover in respect of any policy of insurance effected in the course of general business beyond a grace period of fifteen days commencing on the day following the last day of the previous insurance period unless specific instructions have been given prior to or during the grace period to renew that insurance.

Days of
grace
period

(2) Subject to subsection (1), where instructions have not been given prior to or during the grace period, the policy cover shall be treated as having lapsed on the last day of the previous insurance period.

139.—(1) The Authority shall prescribe the code of ethics and practice to be observed by insurers, brokers, agents, loss assessors and adjustors in the conduct of their business pursuant to this Act.

Insurance
broker's
code of
conduct

(2) The principal officer of each insurer, broker, agent, loss assessor and a adjustor shall ensure that all directors and employees are aware of and comply with the provisions of the code of ethics and practice.

(3) A copy of the code of ethics and practice described in subsection (1) shall be conspicuously displayed in areas of access to the public at each office of the insurer, broker, agent, loss assessor and adjustor.

140. The Minister may, upon recommendation of the Authority or on the advice of the Board, if he considers it to be in the public interest, by order published in the *Gazette*, exempt any insurer, broker or agent from all or any of the provisions of the Act subject to any terms and conditions which he may think fit to impose.

Exemp-
tion

141.—(1) Where an insurer, broker or agent or an applicant for registration under this Act is required or entitled to do or refrain from doing anything within a specified period of time, the Commissioner may at or, on an application in writing by that insurer, broker, agent or applicant, extend the time for a period of not more than six months.

Extension
of time

(2) The provisions of this section shall apply notwithstanding the fact that the specified period of time may have expired.

Routine
inspection

142.—(1) The Commissioner may, for the purpose of ensuring compliance with the provisions of this Act and after issuance of three days notice, conduct on site inspection of any person registered under this Act.

(2) All expenses of inspection carried out pursuant to subsection (1) shall be borne by the Authority.

Production
of
documents
and
informa-
tion

143.—(1) The Commissioner may, for the purpose of this Act, require the production of any document or information relating to or concerning the insurance business of any insurer, broker or agent or applicant for registration as the case may be.

(2) The Commissioner may institute investigation into the activities of any insurer, broker or agent or applicant for registration and extend the investigation to other persons who may have related information including but not limited to company employees, directors, owners, affiliated companies, the auditor or the appointed actuary of the insurer, broker or agent.

(3) The Commissioner or other person appointed by him to investigate the affairs of any insurer, broker, agent or an applicant for registration may, wherever necessary, employ an auditor, actuary or other person to assist in the investigation.

(4) Where any document or information in writing and produced under this section is not written in English or Kiswahili language it shall be accompanied by an English or Kiswahili translation unless the Commissioner directs otherwise.

(5) Where the insurer, broker, agent or an applicant for registration contravenes the provisions of this Act, such insurer, broker, agent or an applicant for registration shall settle all expenses of, and incidental to, an investigation under this section.

(6) Subject to subsection (5), where a person fails to comply with the provisions this subsection within a period of one month after the Commissioner made a demand to him, the expenses incurred shall constitute a civil debt recoverable summarily by the Commissioner.

144.-(1) A policy-holder may, on application during normal working hours, inspect the books of accounts of any insurer and shall be entitled to receive copies of them on payment of fees prescribed by the insurer.

Inspection of balance sheet by policy-holder

(2) An insured may, on application during normal working hours, inspect and take a copy of the latest audited accounts of any broker who has an agency agreement with that insurer.

(3) Without prejudice to subsection (2), an insurer shall not divulge any information so taken to any person or body of persons and shall take all action which may be necessary to ensure the confidentiality of that information.

145. Any person other than a registered insurer broker, insurance agent who, uses the words "assurance", "broker", "consultant", "guarantee", "indemnity", "insurance", "insure", "insurer" "underwriters", "underwriting" or any combination or derivative of them as part of the business name, style or title of person, commits an offence.

Restriction on use of words

146.-(1) No person shall advertise services requiring a licence under this Act unless that persons has been issued with a licence to provide that service.

No advertisement before registration

(2) Any person, acting in contravention of this section, commits an offence and shall, on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three months or to both.

147.-(1) Service of process in any legal proceedings against an insurer registered under this Act may be effected at the principal office of the insurer in Tanzania.

Service of process

(2) Where an insurer has no principal office in Tanzania or has ceased to exist, process in any legal proceedings against the insurer may be served at the office of the Commissioner, and service upon the

Commissioner shall, in that case, be deemed to be service upon the insurer.

Enforce-
ment of
rights of
policy-
holders

148.—(1) The holder of a policy issued by a Tanzanian insurer shall, notwithstanding any contrary provision in the policy or in any agreement relating to the policy, be entitled to enforce his right under the policy against the insurer liable under the policy in any court of law in Tanzania.

Cap. 15

(2) Notwithstanding the provisions of subsection (1), a policy issued by a Tanzanian insurer may provide that the amount of any liability under a policy shall be determined in accordance with the provisions of the Arbitration Act.

Commis-
sioner's
right of
inspection
of
documents

149.—(1) The Commissioner may require any person, not being a person registered under the provisions of this Act, whom he suspects is carrying on any class of insurance business as an insurer, broker or agent to produce any documentation and information which the Commissioner thinks necessary and that person shall comply with the requirements within the stipulated time.

(2) The Commissioner may institute an investigation into the activities of any person, not being a person registered under the provisions of this Act, whom he suspects to be carrying on any class of insurance business as an insurer, broker or agent.

(3) Failure to provide an information or documentation shall constitute an offence rendering the person failing to do so liable on conviction to a fine not exceeding two million five hundreds thousand shillings or to imprisonment for a terms not exceeding one year, or to both.

(4) Where any document or information in writing and produced under this section is not in English or Kiswahili language, it shall be accompanied by an English or Kiswahili language, translation unless the Commissioner directs otherwise.

(5) Where it appears from the information produced in terms of subsection (1) or an investigation conducted in terms of subsection (2) that the person is carrying on the business of an insurer, broker or agent without being registered, the Commissioner shall require in writing the person to immediately cease operations and proceed against him in accordance with the provisions of section 160 and 165.

150. For the purpose of an investigation made under this Act, the Commissioner shall be deemed to be a Commissioner under the Commissions of Inquiry Act.

Commission of inquiry
Cap.32

151.-(1) For the purposes of section 143 and 149 where-

Copies where documents produced to Commissioner

(a) an original document is produced to the Commissioner, that original document shall be accompanied by two copies duly certified as true copies for retention by the Commissioner, unless he dispenses with the need for production of the copies, or any copy; or

(b) a copy is the only document produced, the Commissioner may require production of further evidence to account for the absence of the original, and if he is satisfied by the evidence, two copies duly certified shall be retained by him unless he dispenses with their production.

(2) For the purposes of this section, a document shall be deemed to be duly signed or certified if it is signed on behalf of the person being investigated by the principal officer in Tanzania where the person investigated upon is an insurer, or is signed by a person approved in writing by the Commissioner.

152.-(1) The Commissioner may permit any person on payment of the prescribed fee to inspect, make copies or obtain certified copies of any document submitted to him from-

Inspection of returns to the Commissioner

(a) a Tanzania registered insurer in accordance with section 40 and of any additional declarations required by regulation issued under section 36(2); and

(b) a Tanzanian registered insurer or broker in accordance with section 40 and of any additional declarations required by regulation issued under section 73(2).

(2) Fee shall not be paid to the Commissioner for information supplied by him to the principal officer in Tanzania of a registered insurer or broker.

153.-(1) This section shall only apply to an insurer registered under this Act and to any person found, by the Commissioner in accordance

Insolvency and winding-up

with section 149 to be a person carrying on insurance business in Tanzania without being registered to do so.

Cap. 212 (2) Notwithstanding anything to the contrary in the Companies Act, an insurer transacting long term business shall not be wound up voluntarily.

(3) Where a petition for the winding up of an insurer is presented by a person other than the Commissioner, a copy of the petition shall be served on the Commissioner and the Commissioner shall be entitled to be heard on the petition.

Cap. 212 (4) For the purposes of determining insolvency in terms of the Companies Act, an insurer shall be deemed to be unable to pay its debts if at any time the requirement to maintain a minimum solvency in terms of section 20 are not observed by the insurer.

Cap. 212 (5) The Commissioner may, unless the insurer is already being wound up by the court, present an application to the court for the winding-up of an insurer in accordance with the Companies Act on the grounds that-

- (a) the provisions of section 88 demands so;
- (b) the insurer is unable to pay its debts within the meaning of the Companies Act;
- (c) the insurer, having failed to comply with any requirements of this Act, has continued as such, or having contravened for a period of six months after notice of failure or contravention has been served on to the insurer by the Commissioner;
- (d) the insurer is unable to fulfill the reasonable expectation of policy-holders or potential policy-holders; or
- (e) it is just and equitable on the interests of policy-holders that the insurer should be wound up.

(6) The court may, after considering the petition presented by the Commissioner, order the winding up.

(7) The Commissioner shall in presenting a petition for winding-up be deemed to be a creditor of the insurer.

(8) Where an insurer is a subsidiary of a company which is not an insurer and the holding company is wound up under the provisions of the Companies Act or otherwise, the insurer subsidiary shall not be wound up except on the basis of a separate application for winding-up.

(9) In any proceedings upon a petition to wind-up, an insurer is presented with evidence by the Commissioner under subsection (5), that the insurer was insolvent at the close of the period to which the accounts and balance sheet of the insurer last deposited in accordance with section 40 relate, or at any date as at which investigation was last made in accordance with section 143 shall be evidence that the insurer continues to be unable to pay its debts, unless the contrary is proved.

(10) Rules made under the Companies Act may regulate the procedure and the practice in proceedings for winding up of insurers under this Act. Cap. 212

(11) Subject to any directions which may be given by the court-

- (a) the value of the assets and liabilities shall be ascertained in any manner and upon the basis which the liquidator thinks fit;
- (b) the liabilities of an insurer in respect of the current policies of long term insurance business shall, as far as practicable, be calculated by the method and basis to be determined by an actuary appointed by the court;
- (c) the liabilities of an insurer in respect of current policies of general insurance business shall, as far as practicable, be the portion of the last premiums paid which is proportionate to the unexpired portion of the policy in respect of which the premiums was paid.

(12) The actuary appointed in terms of subsection (11) shall, in the determination of liabilities, take into account any special directions which may be given by the court.

154.—(1) A registered insurer carrying on general insurance business whose net premiums written are greater than fifteen percent of the net premiums written in Tanzania in the current year shall engage a qualified and independent property and casualty actuary to examine the insurer's

Actuarial
valuation
of general
insurers

claims reserves in the subsequent year unless an examination has been performed during the current or previous year.

(2) A registered reinsurer shall engage a qualified and independent property and casualty actuary to examine its general insurance claims reserves and engage a qualified and independent life actuary to examine the policy liabilities of its life insurance business once in every two years.

(3) The examination report of the actuary shall be submitted to the Commissioner by the insurer as part of the insurer's annual returns.

155.—(1) The liquidator shall, so far as it may be possible and unless the court otherwise orders, carry on the insurance business of an insurer with a view to being transferred as a going concern to another insurer, whether an existing company or a company formed for the purpose and, in carrying on that business, the liquidator may agree to the variation of any contracts of insurance in existence when the winding-up order was made but shall not effect any new contracts of insurance.

Continuation of business of insurer in liquidation

(2) Where the liquidator is satisfied that the interest of the creditor in respect of liabilities of the insurer attributable to its business require the appointment of a special manager of the business, he may apply to the court, and the court may on the application appoint a special manager of that business to act during that time as the court may direct with the powers, including any of the powers of a receiver or manager, as may be entrusted to him by the court.

(3) The court may require the special manager to give any security which it considers necessary.

(4) The court may make any order which it considers appropriate with regard to the payment of remuneration to the special manager.

(5) The court may, subject to any conditions which it may determine, reduce the amount of the contract made by an insurer in the course of carrying on business as an alternative to winding-up or otherwise.

156.—(1) For the purpose of, and in consequence of section 153, where the insurance business is transferred to an insurer to whom this Act applies under an arrangement in pursuance of which the first-mentioned insurer, in this section called the "secondary company" then, if the principal

Secondary companies

company is being wound up by or under the supervision of the court, the court shall, subject to the provisions of this section, order the secondary company to be wound up by or under the supervision of the court and the court shall, subject to the provisions of this section, order the secondary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same person to be liquidator for the two insurers and make provision for any other matters which, may seem to the court necessary, with a view to the insurers being wound up as if they were one insurer.

(2) The commencement of the winding-up of the principal company shall, except as otherwise ordered by the court, be the commencement of the winding-up of the secondary company.

(3) In adjusting the rights and liabilities of the members of the several insurers between themselves, the court shall have regard to the constitution of the insurer, and to the arrangements entered into between the insurers in the same manner as the court has regard to the rights and liabilities of different classes of contributors in the case of the winding-up of a single insurer or as near to it as circumstances admit.

(4) Where an insurer alleged to be a secondary company is not in the process of being wound up at the same time as the principal company to which the insurer is secondary company, the court shall not direct the secondary company to be wound up unless, after hearing presentations that may be argued by or on behalf of the insurer against being wound up, the court is of the opinion that the insurer is secondary company to the principal company and that the winding-up of the insurer in conjunction with the principal company is just and equitable.

(5) Where-

(a) an insurer stands in the relation of principal company to one insurer, and in the relation of a secondary company to another insurer; or

(b) there are several insurers standing in the relation of secondary companies to one principal company,

the court may deal with any number of those companies together or in separate groups, as it thinks most expedient, upon the principles stipulated in this section.

False
documents

157.—(1) A person who shall in any statement, return, report, certificate, balance sheet or other document required by or for the purposes of this Act, willfully makes a statement which is false in any material particular commits an offence.

(2) A person who, with intent to defraud or deceive—

(a) destroy, mutilate, alter or falsify any books, papers or securities or other record maintained for or by any electronic retrieval system belonging to any insurer, broker or agent; or

(b) make or be a party to the making of any false or fraudulent entry in any register, books of account or other document or other record maintained for or by any electronic retrieval system belonging to any insurer, broker or agent,

commits an offence.

(3) Any person who unlawfully possesses, sells or distributes motor insurance stickers, certificates of insurance or any other documents in relation to insurance business commits an offence.

(4) Any person who contravenes the provisions of this section shall upon conviction be liable to a fine of not less than five million shillings or to imprisonment for a term not less than two years or to both.

Fees

158. The Commissioner shall charge fees in connection with the registration on insurers, brokers or agents and any other exercise of his functions and the administration of the office of the Commissioner under this Act as may be prescribed.

Failure on
remit
premiums
by
employers

159. Any employer who deducts any premiums from any policyholder's salary or emoluments and fails or delays to remit that premiums for a period exceeding thirty days, commits an offence and shall upon conviction be liable to a fine not exceeding two times the amount of the premiums remittance of which is so delayed or to imprisonment for a term of six months or to both.

PART XII
PROVISIONS RELATED TO OFFENCES

160.—(1) A director, manager, controller and principal officer of an insurer or a broker who contravenes the provisions of section 18, 26, 30 or 34 commits an offence and shall on conviction be liable to penalty not exceeding five million shillings.

Offences
punishable
by the
Commis-
sioner

(2) Any insurer or broker who knowingly employs any person deemed unsuitable by virtue of sections 26 and 66 respectively commits an offence and shall on conviction be liable to a penalty not exceeding three million shillings.

(3) For the purposes of subsection (2), where the facts which render a particular person unsuitable under those sections are either sufficiently notorious or facts that could have been ascertained very readily, the Court may presume that the insurer or broker employed that person knowingly.

(4) The Commissioner may treat the non-payment of any fine imposed by him as sufficient reason for cancellation of the registration of any registered insurer, broker, insurance agent or agent for a broker.

(5) Notwithstanding any other action taken by the Commissioner under this Act, any fine imposed by the Commissioner under the provisions of this section shall be recoverable as a fine imposed by a court under the provisions of the Civil Procedure Act, Criminal Procedure Act and the Evidence Act, and an affidavit sworn by the Commissioner shall be sufficient proof of the lawful imposition of the fine to enable the court to issue a warrant under those provisions.

Caps.
Nos. 33,
20
and 6

(6) Notwithstanding subsection (5), no warrant shall be issued until an appeal under section 126 has been heard and disposed of or until the time within which an appeal may be made has expired.

161.—(1) Any person carrying on any insurance business or a business of an insurance agent, broker or agent for a broker without being registered as an insurer or an insurance agent, broker or agent for a broker, as the case may be, commits an offence and on conviction shall

Carrying
on
business
without
registration

be liable to a fine of not less than five million shillings or imprisonment for a term of not less than two years or to both.

(2) Where the offence is committed by a company or partnership, every director, manager, controller or principal officer of the company or every partner, manager, controller or principal officer of the partnership shall each be personally liable, unless he proves to the satisfaction of the court that at the time of commission of the offence he was not aware of the commission of the offence or he took due diligence to prevent the commission of the offence.

(3) Any person convicted for an offence under this section shall, in addition to penalty prescribed under subsections (1) and (2), be ordered to pay any loss to persons affected by reason of or in the course of commission of the offence.

Power to
compound
offences

162.—(1) This section shall apply to an offence committed under this Act other than the offence in respect of which a minimum sentence of a fine or imprisonment is prescribed.

(2) Notwithstanding section 160, the Commissioner may compound any offence under this Act by requiring a person to pay a sum of money in respect of which the offence was committed.

(3) Powers to compound offences shall only be exercised where the person admits in writing that he has committed the offence and that he agrees to the offence being compounded.

(4) The Commissioner shall give a receipt to the person from whom he receives the amount of money in respect of the compounded offence and submit to the Board in every three months a list of offences that have been compounded within that period.

Offences
punishable
by court

163.—(1) Every insurer who-

- (a) fails to comply with the provisions of this Act; or
- (b) acts in contravention of the provisions of section 92, commits an offence.

(2) An insurer who commits an offence under this section or under the provisions of section 19, 20 or 91 shall be liable to a fine not exceeding

twelve million five hundred thousand shillings and every director, manager, controller and principal officer or any insurer shall each be personally liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years or to both that fine and imprisonment unless the director, manager, controller or principal officer proves to the satisfaction of the court that he was unaware of the default and had taken all reasonable steps to keep himself informed of any possibility of the default.

(3) Every broker who contravenes the provisions of section 73 or 88 commits an offence.

(4) No prosecution shall be commenced under this section by any person other than the Commissioner or by a person authorized in writing by the Commissioner.

164. Subject to the provisions of the National Prosecution Services Act, 2007, the Commissioner or any officer authorized by the Commissioner shall have power to conduct prosecution for an offence committed under this Act.

Power to
prosecute
Act No. 1
of 2007

165.-(1) Where, in the opinion of the Commissioner, a person registered to conduct insurance business pursuant to the provisions of this Act-

Measures
over
insurers
and
brokers

- (a) is not carrying out business in accordance with sound business principles;
- (b) is pursuing a course of conduct that is not in the best interest of insurance policy holders;
- (c) is conducting business in an unlawful or unethical manner;
- (d) is pursuing a course of conduct that is not in the public interest;
- (e) is insolvent or likely to become insolvent in the immediate future;
- (f) has failed to file prescribed information or information requested by the Commissioner within a reasonable time;
- (g) is acting or has acted in contravention of the provisions of the Act;

- (h) has intentionally filed misleading information with the Commissioner;
- (i) has intentionally engaged in activities designed to mislead the public;
- (j) has failed to comply with the terms and conditions of registration or any previous remedial order issued by the Commissioner;

the Commissioner may, in addition to any other cause of action—

- (i) take an undertaking from the insurance registrant;
- (ii) issue a cease and desist order to the insurance registrant;
- (iii) issue directions to the insurance registrant;
- (iv) appoint a temporary manager to take charge of the operations of the insurance registrant and shall fix his remuneration which shall be paid by the insurance registrant;
- (v) prohibit the operation of insurance business until that situation is rectified;
- (vi) withhold approval or consent, if any, in relation to the defaulting or defaulted insurance registrant;
- (vii) initiate a legally binding removal or suspension order requiring a person or persons in the managerial position of the insurance registrant or broker to cease participating in the affairs of the insurance registrant on either temporary or permanent basis;
- (viii) impose fines consistent with the provision of this Act on individual members of management for violations of this Act, regulations or previously issued orders from the Commissioner;
- (ix) cancel the registration of the insurance registrant; or
- (x) take any other action felt necessary to rectify the situation.

(2) The provisions of section 160(6) shall apply to any fine imposed under this section.

(3) The Board shall ratify the order of the Commissioner under this section before the order takes effect.

(4) A person aggrieved by an order of the Commissioner issued under this section shall have a right to be heard by the Board before an act ratifying the order takes place.

(5) Notwithstanding the preceding provisions of this section, where in the opinion of the Commissioner, the course of conduct pursued by the insurance registrant under subsection (1) is likely to cause harm to policyholders, the Commissioner may issue an order that takes effect immediately.

166.—(1) Every person who acts in contravention of any of the provisions of this Act commits an offence and shall, where no punishment has been stipulated by any other section in this Act for that offence, on conviction be liable to a fine not exceeding five million shillings.

General
Penalty

(2) Where an offence to which this section applies is committed by a body of persons, every director, manager, controller and principal officer of the company and every partner, manager or principal officer of the partnership shall be deemed to be guilty of the offence.

(3) Notwithstanding subsection (2), where the individual concerned can prove to the satisfaction of the Commissioner that he was not aware of the act or default which contravened the provisions of this Act and could not with reasonable diligence have become aware of it, he shall not be deemed guilty under this section.

167.—(1) The Minister may, make regulations—

Regulations
and rules
of court

(a) prescribing any matter or thing referred to in this Act as prescribed or to be prescribed;

(b) in relation to any other matter or thing authorized or required by this Act to be made or done by or in accordance with regulations; and

(c) regulating the registration and superintendence of the conduct of actuaries, loss adjusters, private investigators, intermediaries, risk managers, insurance surveyors and claim settling agents;

- (d) prescribing procedures for registration of insurance companies, brokers and agencies under this Act;
- (e) prescribing procedures for the Board;
- (f) generally for the purpose of giving effect to this Act.

(2) Regulations made under this section shall be published in the *Gazette* and may make different provisions for different classed of insurers, brokers or agents and insurance business.

Repeal
and
savings
Cap. 394

168.—(1) The insurance Act is repealed.

(2) Notwithstanding the repeal of the Insurance Act—

- (a) all subsidiary legislations, orders or directives made or issued and all exemptions made or given under the repealed Act which are in force on the date of commencement of this Act shall be deemed to have been made or given under this Act, and shall remain in force until revoked by subsidiary legislation, order, directive or cancellation made under this Act or until it otherwise expire or ceases to have effect;
- (b) all officers appointed to perform functions specified or to exercise powers stipulated under the repealed Act or the Insurance Staff Regulations and Scheme of Service made under that Act shall, unless their appointments are revoked or any officer otherwise ceases to hold office or re-appointed, be deemed to be authorized officers appointed in accordance with the provisions of this Act.

FIRST SCHEDULE

Made under section 13(6)

TENURE AND CONDUCT OF BUSINESS BY THE BOARD

Tenure of
office

1. A member of the Board shall hold office for a period of three years on such terms and conditions as may be specified in the instrument of appointment and may be eligible for re-appointment for one more term.

2. A member may-

Vacation
of office

- (a) at any time resign from office by notice in writing to the Minister;
- (b) be removed from office by the Minister if the member-
 - (i) has been absent from three consecutive meetings of the Board without permission from the chairman;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
 - (iii) is convicted of an offence involving dishonesty, fraud or moral turpitude;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
 - (v) is incapacitated by prolonged physical or mental illness; or
 - (vi) is otherwise unable to discharge his functions.

3.-(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

Meetings

(2) The quorum for the conduct of the business of the Board shall be half of the total number of members.

(3) The Chairman shall preside at every meeting of the Board, and in his absence, members present shall elect one among them to be the Chairman.

(4) Unless a unanimous decision is reached a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the chairman or the person presiding shall have a casting vote.

(5) Subject to paragraph (3), no proceedings of the Board shall be invalid by reason only of a vacancy among the members of the Board.

(6) Subject to subparagraph (2), the Board may determine its own procedure and for the attendance of any other person at its meetings.

4.-(1) The affixing of the common seal of the Board shall be authenticated by the signatures of the Secretary and the Chairman and any document required by law to be made under seal. Common seal

(2) The decisions of the Board may be authenticated by the signatures of the Secretary and the Chairman.

5. Any contract or instrument which, if entered into or executed by a person not being body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorised by the Board for that purpose. Contracts and instruments

6. The Board shall cause minutes of all proceedings of meetings of the Board to be entered in books kept for that purpose. Minutes

SECOND SCHEDULE

Made under section 51(1)

CATEGORIES OF INSURANCE BUSINESS

PART A LONG TERM BUSINESS

Number	Description	Nature of Business
I	Life and annuity	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities of human life, but excluding (in each case) contracts within Class III below
II	Marriage and birth	Effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.
III	Linked long term	Effecting and carrying out contract of insurance on human life or contracts to pay annuities on human life, where the benefits are wholly or partly to be determined by reference to the value of or the income from property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property and any description (whether or not so specified).
IV	Permanent health	Effecting and carrying out contrasts of insurance pro-

		<p>viding specified benefits against risks of persons, becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or indemnity, being contracts that-</p> <p>(a) are expressed to be in effect for a period of not less than five years, or until the normal retirement age for the persons concerned, or without limit of time; and</p> <p>(b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.</p>
V	Tontines	Effecting and carrying out tontines.
VI	Capital redemption	Effecting and carrying out of -
		(a) capital redemption; or
		(b) pure endowment and deferred annuities defined in any law for the establishment and registration of retirement funds in Tanzania.
VII	Deposit administration schemes and pension funds	Effecting and carrying out-
		(a) contracts to groups to maintain and manage deposit administration policies; or
		(b) contracts of the kind mentioned in paragraphs (a), that are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.

PART B

GENERAL BUSINESS

<i>Number</i>	<i>Description</i>	<i>Nature of Business</i>
1	Accident	<p>Effecting and carrying out contracts of insurance and providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of the person insured-</p> <p>(a) sustaining injury as the result of an accident or of accident of a specified class;</p> <p>(b) dying as the result of an accident or of an accident of a specified class; or</p> <p>(c) becoming incapacitated in consequence of disease or of disease of a specified class, inclusive of contracts relating to industrial injury and occupational disease but exclusive of contracts fall-</p>

ing within Class 2 below or within class IV in the First Schedule to this Act (permanent health).

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|----|-------------------------|---|
| 2 | Sickness | Effecting and carrying out contracts or insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of the two) against risks of loss to the persons insured attributable to sickness or infirmity, but exclusive of contracts falling within Class IV in the First Schedule to this Act. |
| 3 | Land vehicles | Effecting and carrying out contracts or insurance against loss of or damage to vehicles used on land, including motor vehicles, but excluding railway rolling stock. |
| 4 | Railway rolling | Effecting and carrying out stock contracts of insurance against loss of a or damage to railway rolling stock. |
| 5 | Aircraft | Effecting and carrying out contracts of insurance upon aircraft or upon the machinery, tackle, furniture or equipment of aircraft. |
| 6 | Ships | Effecting and carrying out contracts of insurance upon vessels used on the sea or inland water, or upon the machinery, tackle, furniture or equipment of such vessels. |
| 7 | Good transit | Effecting and carrying out contracts of insurance against loss of or damage to merchandise, baggage and all other good in transit, irrespective of the form of transport. |
| 8 | Fire and natural forces | Effecting and carrying out contracts of insurance against loss of or damage to property (other than property to which Classes 3 to 7 above relate) due to fire, explosion, storm, natural forces other than storm, nuclear energy or land subsidence. |
| 9 | Damage of property | Effecting and carrying out contracts of insurance against loss of or damage to property (other than property to which Classes 3 to 7 above relate) due to hail or frost or to any event (such as theft) other than those mentioned in Class 8 above. |
| 10 | Motor vehicle liability | Effecting and carrying out contracts of insurance against damage arising out of or in connection with use of motor vehicles on land, including third party risks and carrier's liability. |

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|----|---------------------|---|
| 11 | Aircraft liability | Effecting and carrying out contracts of insurance against damage arising out of or in connection with the use of aircraft including third party risks and carrier's liability. |
| 12 | Liability for ships | Effecting and carrying out contracts of insurance against damage arising out of or in connection with the use of vessels in the sea or an inland water, including third party risks and carrier's liability. |
| 13 | General liability | Effecting and carrying out contracts of insurance against risks of the persons insured incurring liabilities to third parties, the risks in question not being risks to which Class 10, 11 or 12 above relates. |
| 14 | Credit | Effecting and carrying out contracts of insurance against risks of loss to the persons insured arising from the insolvency of debtors of theirs or from the failure (other wise than through insolvency) of debtors of theirs to pay their debts when due. |
| 15 | Surety ship | Effecting and carrying out-
(a) contracts of insurance against risks of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them;
(b) contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or custom bonds or similar contracts of guarantee. |
| 16 | Miscellaneous | Effecting and carrying out contracts of financial loss insurance against any of the following risks, namely-
(a) risks of loss to the persons insured attributed to interruptions of the carrying on business carried on by them as to reduction of the scope of business so carried on;
(b) Risks of loss to the persons insured attributable to their incurring unforeseen expense; and
(c) Risks neither falling within paragraph (a) or (b) above nor being of a kind such that the carrying on of the business of effecting and carrying out contracts of insurance against them constitutes the carrying on of insurance business of some other class. |
| 17 | Legal expenses | Effecting and carrying out of contracts of insurance against risks of loss to the persons insured attributable to their incurring legal expenses (including costs of litigation). |

- 18 Assistance Assistance for persons who get into difficulties while traveling, while away from home or while away from their permanent residence.

Passed in the National Assembly on the 24th April, 2009.

DR. THOMAS D. KASHILILAH,
Clerk of the National Assembly