

CHAPTER 213
THE INSURANCE ACT
AMENDED BY THE INSURANCE AMENDMENT ACT,
ACT NO. 13 OF 2011

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THE INSURANCE ACT

An Act to amend and consolidate the law relating to insurance; to regulate the business of insurance, and for purposes incidental thereto and connected therewith.

PART I—PRELIMINARY

1. Application

This Act shall apply to all insurance and reinsurance companies, insurance and reinsurance broking companies, insurance and reinsurance brokers and agents, loss adjusters and assessors, risk managers and representatives of foreign companies engaged in such activities.

2. Interpretation

In this Act, unless the context otherwise requires—

- (a) “actuary” means a person who is a member, an associate or a fellow of a professional institute, faculty, society or association of actuaries, recognised as such by the Authority and who is authorised by that institute, faculty, society or association to certify actuarial valuations of life insurance business;
- (b) “Authority” means the Insurance Regulatory Authority of Uganda established under Part II of this Act;
- (c) “admitted assets” includes any properties, security, items or interest of a person but does not include—
 - (i) unsecured loans;
 - (ii) mortgage assets;
 - (iii) unpaid premium which is due by three months;

- (iv) intangible assets;
 - (v) prepaid preliminary expenses;
 - (vi) assets held outside Uganda, except assets owed by foreign re-insurers; or
 - (vii) any other assets as may be determined by the Authority;
- (d) “admitted liabilities” means liabilities shown as current contingents or as prospective liabilities in the accounts of an insurer and includes liabilities in respect of a policy of long term insurance business, but does not include—
- (i) liabilities in respect of share capital;
 - (ii) liabilities in respect of such matters as the Authority may by notice on writing direct;
- (e) “central bank” means the Bank of Uganda established under the Bank of Uganda Act;
- (f) “claim settling agent” means a person licensed under this Act to undertake the business of settling and negotiating the settlement of an insurance claim on behalf of an insurer, under a policy issued by the insurer within or outside Uganda;
- (g) “currency point” has the value assigned to it in Schedule 1;
- (h) “director” means a director of the governing body of an insurer, broker or an adjuster;
- (i) “document” includes accounts, deeds, letters, writings, books and any other records of information however compiled, recorded or stored, whether in a written or printed form, on microfilm or in any other form;

- (j) “foreign company” means a company not being a local company;
- (k) “health insurance organisation” means a person engaged in the business of undertaking liability in respect of funding healthcare, by way of insurance;
- (l) “health membership organisation” means a person engaged in the business of undertaking liability in respect of funding healthcare, by way of membership;
- (m) “insurance” includes assurance and reinsurance;
- (n) “insurance agent” means a person appointed and authorised by an insurer to solicit applications for insurance or negotiate for insurance coverage on behalf of the insurer and to perform other functions that may be assigned to him or her by the insurer, and who in consideration for his or her services receives commission from the insurer;
- (o) “insurance broker” means a person—
 - (i) not being an agent; and
 - (ii) acting as an independent contractor for commission or other remuneration, who solicits or negotiates insurance business on behalf of an insured or prospective insured other than himself or herself;
- (p) “insurance surveyor” means a person who engages in surveying risks and in advising on the rate and terms and conditions of premiums;
- (q) “insurer” includes reinsurer;

- (r) “intermediary” means a person who invites other persons to make offers or proposals or to take other steps with a view to entering into a contract of insurance with an insurer, but does not include a person who merely publishes an invitation to the order of another person;
- (s) “licence” means a licence issued under this Act;
- (t) “life insurance fund” means the total of the reserves specified under section 47(3);
- (u) “local company” means a company registered or incorporated under the Companies Act in which the majority shares and actual controlling interest are held by citizens of Uganda;
- (v) “loss adjuster” means a person registered under this Act to undertake the business of professional loss adjustment for and on behalf of an insurer, an insured or any other person and who may in addition settle claims on behalf of an insurer;
- (w) “loss assessor” means a person licensed under this Act to undertake the business of assessing and investigating losses and who may settle losses on behalf of an insurer or an insured;
- (x) “micro insurance” means insurance for the protection of low income people against specific perils in exchange for regular premium payments proportionate to the likelihood and cost of risk involved;
- (y) “Minister” means the Minister responsible for finance;
- (z) “mutual insurance company” means a company of which by its constitution only policyholders are members of the company and which has no share capital;

- (aa) “non-life insurance fund” means the total of reserves specified under Section 47 (2);
- (bb) “person” includes a company or association or body of persons corporate or unincorporated;
- (cc) “premium” means the consideration for entering into an insurance contract;
- (dd) “principal officer” means an officer responsible for the general control and supervision of the insurance business of a person licensed under this Act;
- (ee) “reinsurance business” means a business of undertaking liability to pay money to insurers or reinsurers in respect of contractual liabilities in respect of insurance business incurred by insurers or reinsurers and includes retrocession;
- (ff) “reinsurer” means a person who carries on reinsurance business and includes a retrocessionaire;
- (gg) “retrocession” means the reinsurance of reinsurance business accepted by a reinsurer;
- (hh) “retrocessionaire” means a person reinsuring a reinsurer;
- (ii) “risk manager” means a person who does the business with regard to minimising losses which arise from unforeseen events and who minimizes the cost of the losses by arranging physical or financial measures through insurance or any other means;
- (jj) “Tribunal” means the Insurance Appeals Tribunal established under Part VIIIA of this Act.

3. Use of the word “insurance” and persons to carry on insurance business

(1) No person, other than a person licensed to operate under this Act, shall use the word “insurance”, “assurance” or “reinsurance” or any derivations in English or any other language as part of his or her business name.

(2) No person, other than a person licensed as an insurer under this Act, shall issue any insurance policy on—

- (a) persons who at the time of effecting a contract are residents of Uganda;
- (b) goods or assets situated in Uganda;
- (c) ships, aircraft or other vehicles registered in Uganda; and
- (d) goods imported from other countries except personal effects and donations.

4. Insurers to be bodies corporate

No person shall carry on insurance business in Uganda except—

- (a) a company incorporated under the Companies Act;
- (b) an insurance corporation established by law;
- (c) a cooperative insurance society registered under the Cooperative Societies Act; or
- (d) a mutual insurance company.

5. Classification of insurance business

(1) For purposes of this Act, insurance business shall comprise—

- (a) life insurance;
- (b) non-life insurance consisting of the following classes—
 - (i) fire insurance;
 - (ii) burglary insurance;
 - (iii) personal accident insurance;
 - (iv) employers liability insurance;
 - (v) public liability insurance;
 - (vi) marine hull insurance;
 - (vii) marine cargo insurance;
 - (viii) aviation insurance;
 - (ix) motor vehicle insurance;
 - (x) crops, fishing and livestock insurance;
 - (xi) bonds;
 - (xii) contractors all risks insurance;
 - (xiii) machinery breakdown and installation and boiler explosion insurance;
 - (xiiia) health insurance;
 - (xiiib) health membership;
 - (xiiic) micro insurance;
 - (xiiid) bancassurance;
- (c) reinsurance business in respect of any of the foregoing classes.

(2) No person shall transact the business of life insurance and non life insurance as a composite company.

6. Minimum capital requirements

(1) No local company shall be licensed as an insurer or if licensed shall have its licence renewed unless it has maintained at all times a paid-up capital of not less than—

- (a) two hundred million shillings, in the case of a life or non-life insurance business; or
- (b) five hundred million shillings, in the case of a reinsurance business.

(2) No foreign company shall be licensed as an insurer or if licensed have its licence renewed unless it has maintained at all times a paid-up capital of not less than—

- (a) one billion shillings in the case of a life or non-life insurance business; or
- (b) two-and-a-half billion shillings in the case of a reinsurance business.

(3) The paid-up capital of an insurer as described in subsections (1) and (2) may—

- (a) be invested in such assets in Uganda as the central bank shall approve; or
- (b) consist solely of ordinary shares each of which has the same value.

(3a) Notwithstanding subsections (1) and (2), a health insurance organisation, a health membership organisation, a micro insurance organisation or an insurance company set up for the purposes of regional cooperation shall have a paid up capital as may be prescribed by regulations.

(4) Every insurer shall transfer from its profits each year, before any dividend is declared and after provision has been made for taxation, a sum of 5 percent of the profits, to be paid-up capital of the insurer to facilitate capital base growth.

(5) The Minister may, on the recommendation of the Authority and by statutory instrument, amend the minimum paid-up capital or security deposit requirements under such terms and conditions as he or she may determine.

7. Security deposits

(1) Every insurer shall hold an account maintained by the insurer for the purpose, a security deposit of at least 10 per cent of the capital of the insurer.

(2) The deposit made under this section shall be considered part of the assets in respect of the capital of the insurer.

(3) The deposits made under subsection (1) shall be invested by the insurer in Government securities or any other investment as may be approved by the Authority.

(4) All income accruing from a deposit made under this section shall be payable to the insurer making the deposit.

8. Use of the security deposit

The security deposit made under section 7 shall be available to the insurer in the following circumstances—

- (a) where an insurer suffers a substantial loss arising from liability to claimants and the loss is such that it cannot be met from its available resources the Authority may, after ascertaining the nature of the claim and upon application made by the insurer, approve the withdrawal from the security deposit of the insurer of an amount of not more than 50 percent of the security deposit and any amount withdrawn shall be replaced by the insurer not later than ninety days after the date of the withdrawal;

- (b) in the event of closure or winding up of the insurance business, the security deposit shall first be utilised for the discharge of any liabilities arising out of policies transacted by the insurer which are undischarged at the time of closure or winding up of the insurance business.

9. Formation of mutual insurance companies

(1) Any twenty-five persons but not more than three hundred may, by subscribing their names to a memorandum of association, form a mutual insurance company.

- (2) The memorandum of association shall state—
 - (a) the insurance business or any class of the insurance business which is to be carried on;
 - (b) the name of the company, including the expression “mutual insurance company” in that name;
 - (c) the location of the principal office of the company;
 - (d) the limitation of liability of its members;
 - (e) the amount of guarantee capital;
 - (f) the rights of the contributors towards the guarantee capital;
 - (g) the methods of clearing the guarantee capital;
 - (h) the particulars of the governing body of the company;
 - (i) the method of distributing surplus;
 - (j) the articles and rules governing the company.

(3) Where a person desires to become a member of a mutual insurance company, he or she shall enter into the instrument of subscription for members, the subject matter and the amount of insurance desired; and he or she shall affix his or her signature to the instrument.

(4) An application for licensing a mutual insurance company under this Act shall be made within a period that may be prescribed by the Authority.

10. Capital requirements of mutual insurance companies

(1) Sections 6 and 7 shall not apply to a mutual insurance company.

(2) The capital requirement of a mutual insurance company shall be the assets of the company and a surplus of not less than 15 percent of its assets over its liabilities or such other percentage that may be determined by the Authority.

11. Board of directors of an insurance company

(1) Every insurer shall furnish the Authority with the names and addresses of its board of directors, senior executive and technical personnel.

(2) An insurer shall, within fourteen days after the event, notify the Authority, in writing, of any change in the board of directors, senior executive and technical personnel.

(3) A member of the board of directors of an insurance company shall not at the same time serve as a member of the board of directors of another insurance company or of an insurance brokerage company in Uganda.

12. Disqualification of an officer of an insurance company

(1) No person shall, without the express authority of the Authority, act or continue to act for an insurance company or be directly or indirectly involved in the management of an insurance company—

- (a) who has been an officer of, or directly responsible for the mismanagement of an insurance company, insurance brokerage company, financial institution, security brokerage company or any other investment concern;
- (b) who has been convicted by a court of competent jurisdiction or tribunal of any offence involving fraud or dishonesty;
- (c) who has been adjudged or declared bankrupt by a court of competent jurisdiction or who compounds with his or her creditors.

(2) No person holding 5 percent or more of the proprietary interests in any one insurance company shall serve as a management person or a principal officer of an intermediary licensed under this Act.

(3) No person holding 5 percent or more of the proprietary interest of any insurance company shall own more than 50 percent of the equity share of an intermediary licensed under this Act.

13. Head office and branches

(1) An insurer shall maintain a head office in Uganda and shall notify the Authority of the location and address of the head office, in writing.

(2) No insurer shall open a new branch or agency or close down or change the location of its branch or agency without the approval, in writing, of the Authority.

PART II—THE INSURANCE REGULATORY AUTHORITY OF UGANDA

14. Establishment of the Authority

(1) There is established the Insurance Regulatory Authority of Uganda which shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.

(2) The application of the seal shall be as is provided in the schedule 2 to this Act.

(3) The Authority may for and in connection with its functions and objects hold, manage and dispose of any property, whether movable or immovable, and may enter into any contract or other transaction as may be expedient.

15. Objects and functions of the Authority

(1) The object of the Authority is to ensure the effective administration, supervision, regulation and control of the business of insurance in Uganda.

(2) The functions of the Authority shall be to—

- (a) establish standards for the conduct of insurance and reinsurance business;
- (b) license all persons involved in or connected with insurance business, including insurance and reinsurance companies, insurance and reinsurance intermediaries, loss adjusters and assessors, risk inspectors and valuers;
- (c) approve texts of policies and proposal forms;
- (d) approve minimum rates of insurance premiums and maximum commissions in respect of all classes of insurance;
- (e) safeguard the rights of insurance policyholders and insurance beneficiaries to any insurance contract;
- (f) receive complaints from members of the public on the conduct of a person licensed under this Act and arbitrate and grant restitution to the complainant, as may be possible;

- (g) advise the Government on adequate insurance protection and security for national assets and national properties;
- (h) promote a sound and efficient insurance market in the country;
- (i) supervise and control transactions between insurers and reinsurers;
- (j) ensure strict compliance with this Act and regulations made under it and any other law relating to insurance; and
- (k) undertake other functions as the Minister may designate.

16. Minister to give directions

The Minister may give directions of a general nature to the Authority on matters of policy, and the Authority shall give effect to the directions.

17. Composition of the Authority

(1) The Authority shall consist of persons appointed by the Minister as follows—

- (a) a chairperson, who shall not be a director, employee or shareholder of any insurer, intermediary, loss assessor or loss adjuster;
- (b) a deputy chairperson who shall have the qualifications under paragraph (a);
- (ba) a representative of the Ministry responsible for finance, who shall be at the rank of director;
- (c) the Chief Executive Officer who shall have no voting rights;
- (d) a representative of the Governor of the Bank of Uganda;

- (e) a representative of the Insurance Institute of Uganda, who shall not be a director, employee or shareholder of any insurer, intermediary, loss assessor or loss adjuster;
- (f) a person nominated by the Minister responsible for health, who shall not be a director, employee, or shareholder of any person licensed under this Act;
- (g) one other person.

(2) A member of the Authority other than the Chief Executive Officer may hold office for a period of three years and shall be eligible for reappointment.

(3) A member of the Authority may resign his or her office in writing addressed to the Minister and may be removed from office by the Minister for inability to perform the functions of his or her office.

(4) If a member of the Authority dies, resigns or otherwise vacates office before the expiry of the term for which he or she was appointed, the Minister may appoint another person in his or her office; and the person appointed shall hold office for the unexpired period of the term of office of the person in whose place he or she is appointed, and he or she shall be eligible for reappointment.

(5) Members of the Authority shall be paid allowances that the Minister may determine.

(6) A member of the Authority shall not disclose any information, or use any proprietary information, concerning a person licensed under this Act, obtained in the course of performance of his or her duties as a member of the Authority, for purposes of attaining a business advantage or personal financial gain.

18. Provision relating to the chairperson

If the chairperson or deputy chairperson becomes a director, employee or shareholder of an insurer, intermediary, loss assessor or loss adjuster, he or she shall inform the Minister of the fact within fifteen days of the event; and he or she shall cease to be the chairperson or deputy chairperson on the expiry of the fifteen days.

19. Meetings of the Authority

Meetings of the Authority shall be conducted as is provided in the Schedule 2 to this Act.

20. Committees of the Authority

(1) The Authority may, for the discharge of its functions, appoint committees that may be necessary, consisting of members or nonmembers of the Authority or both, and may assign to any of the committees any functions as the Authority may determine.

(2) The Authority shall appoint a member of the Authority to be chairperson of any of the committees under section (1).

(3) Members of the committees established under section (1) shall be paid allowances that the Authority may determine.

*Staff of the Authority***21. The Chief Executive Officer**

(1) There shall be a Chief Executive Officer who shall be appointed by the Minister on the recommendation of the Authority on terms and conditions that the Authority may determine.

(2) The Chief Executive Officer shall—

- (a) be a person with qualifications of considerable knowledge, experience and competence in the insurance business and general administration; and

- (b) not be a director, employee or shareholder of any insurer, intermediary, loss assessor or loss adjuster.

(2a) The Chief Executive Officer shall hold office for a term of five years and shall be eligible for reappointment.

(2b) The Chief Executive Officer shall be removed from office where he or she—

- (a) is guilty of grave misconduct or willful neglect in the discharge of his or her duties;
- (b) is adjudged bankrupt or fails to make any arrangements or composition with his or her creditors;
- (c) becomes of unsound mind;
- (d) is convicted of a criminal offence which affects his or her position as the Chief Executive Officer;
- (e) becomes permanently incapacitated by accident or ill health from performing his duties for a period of six consecutive months or an aggregate period of nine months in a financial year; or
- (f) fails to perform his or her duties and obligations as specified in the terms and conditions specified by the Authority.

(3) The Chief Executive Officer shall be responsible to the Authority.

(4) Subject to this Act and the general supervision and control of the Authority, the Chief Executive Officer shall be responsible for the day-to-day operations of the Authority and for the administration, organisation and control of the staff of the Authority.

(5) The Chief Executive Officer shall, from time to time, in writing, keep the Authority and the Minister informed of the progress of insurance business in Uganda and of the operations of the Authority.

22. Secretary to the Authority

(1) There shall be a secretary to the Authority who shall be appointed by the Authority on terms and conditions that the Authority may determine.

(2) Section 21(2)(b) shall apply to the secretary.

(3) In addition to any other functions that may be conferred upon the secretary by the Authority or Chief Executive officer, the secretary shall—

- (a) take the minutes of the meetings of the Authority and its committees; and
- (b) keep the records of all the activities of the Authority and its committees.

(4) In the performance of his or her functions, the secretary shall be responsible to the Chief Executive Officer.

23. Other staff

The Authority may have other officers and staff as it may, in consultation with the Minister, determine.

Financial provisions of the Authority

24. Funds of the Authority

(1) The funds of the Authority shall include—

- (a) licence fees payable by insurers and intermediaries, loss assessors and loss adjusters;

- (b) grants from the Government or other sources;
- (c) monies accruing to the Authority by way of revenue;
- (d) loans granted to the Authority;
- (e) donations;
- (f) such other monies, including fines, that may accrue to the Authority in the discharge of its functions.

(2) Every licensed insurer, reinsurer, insurance or reinsurance intermediary and insurance loss assessor or adjuster shall pay to the Authority an annual contribution of a sum that shall be decided by the Authority in consultation with the Uganda Insurers Association, the Uganda Association of Insurance Brokers and the association representing loss assessors and adjusters.

(3) The financial year of the Authority shall be the same as the financial year of the Government.

(4) The Authority is exempted from payment of corporation tax.

25. Credit facilities and borrowing powers of the Authority

The Authority may—

- (a) on the guarantee of the Government, obtain credit facilities from financial institutions that the Minister may approve;
- (b) with the approval of the Minister, borrow funds required for carrying out its functions.

26. Accounts and audit of the Authority

(1) The Authority shall keep proper books of account of all its income and expenditure and proper records in relation to them.

(2) The accounts and records of the Authority shall be kept in accordance with the Public Finance and Accountability Act.

(3) The accounts of the Authority shall be audited by the Auditor General or an auditor appointed by him or her to act on his or her behalf.

27. Annual reports by the Authority

The Authority shall, not later than four months after the expiration of each financial year, submit to the Minister an annual report on the activities of the Authority during that financial year, including the audited accounts and the related auditor's certificate.

PART III—LICENSING OF INSURANCE AND REINSURANCE COMPANIES.

28. Licensing of insurance and reinsurance companies

(1) No person shall transact insurance or reinsurance business in Uganda without a valid licence granted for that purpose.

(2) Notwithstanding subsection (1), the Authority may authorise the effecting of insurance with a foreign insurer in exceptional circumstances.

(3) No person shall be granted a licence unless his or her principal object is the transacting of insurance or reinsurance business.

(4) No person shall be granted a licence unless the provisions of sections 6 and 7 and the qualification of the directors are fulfilled.

(5) The qualification of the directors shall be as may be prescribed by the Authority.

29. Application for a licence

(1) A person proposing to transact insurance business shall apply to the Authority, in a prescribed form, for a licence, which application shall be considered by the Authority.

(2) The application referred to under subsection (1) shall contain the following information—

- (a) the name and address of—
 - (i) the proposed company;
 - (ii) the directors;
 - (iii) the shareholders;
- (b) the nationality and occupation of the directors;
- (c) the nationality and shareholding of the shareholders;
- (d) the proposed location of the company's offices;
- (e) the estimated number of employees;
- (f) the technical expertise, qualifications, experience, nationality and other relevant information of the proposed management and key staff;
- (g) the capital structure and earning prospects of the insurance company;
- (h) business plans, financial plans and earnings forecasts for at least three years certified by an auditor approved by the Authority;
- (i) any other information relating to the viability of the insurance company or other matters as the applicant considers relevant to his or her application;
- (j) documentary evidence that a sum equivalent to 20 percent of the security deposit to which section 7 refers has been deposited in a commercial bank;
- (k) specimens of the proposal forms, policies, contracts, receipts and any other documents to be used in connection with the insurance operations;
- (l) the premium rates and rating scales;

- (m) the proposed scale of maximum commissions to insurance intermediaries;
- (n) details of the proposed reinsurance protection and the company's net retention in each class of business;
- (o) any other document or information that the Authority may require.

(3) An application under subsection (1) shall be accompanied by the memorandum and articles of association, the constitution or rules and a certificate of incorporation of the insurance company where applicable.

(4) Where an application under subsection (1) does not provide all the relevant information or if clarification is necessary, the applicant may be called upon to provide the information or clarification to complete the application.

30. Factors to be considered in an application

The Authority shall when considering an application for a licence satisfy itself as to—

- (a) the financial status and antecedents of the applicant;
- (b) the competence and integrity of the proposed management and administration;
- (c) the adequacy of the applicant's capital structure, earning prospects, business plans, financial plans, reinsurance and retention proposals;
- (d) whether the public interest would be served by granting a licence.

31. Processing of applications

(1) The Authority shall, within four months after receipt of a complete application, investigate and prepare a detailed report in respect of each application.

(2) The Authority shall, for the purpose of considering and making a report on an application under subsection (1), appoint a committee of not less than three members of the Authority which committee shall report its recommendations to the Authority in writing.

32. Granting of a licence

(1) The Authority may—

- (a) if it is satisfied that the applicant complies with the provisions of this Act, grant a licence to the applicant, on the payment of the prescribed fee;
- (b) refuse to grant a licence and give reasons in writing for its decision.

(2) An insurance licence issued under subsection (1)—

- (a) shall remain in force for one calendar year;
- (b) may be renewed on application, in the prescribed form and after payment of the prescribed fees; and
- (c) shall automatically lapse where the company is wound up.

(3) The Authority shall communicate its decision under subsection (1) to the applicant within six months from receipt of a complete application.

(4) The applicant may appeal to the Minister within thirty days from the receipt of the communication of the Authority, if aggrieved by the decision of the Authority; and the Minister shall make a decision within thirty days from the date of the appeal.

33. Suspension and revocation of a licence

(1) The Authority may at any time suspend or revoke the licence of an insurer where it considers that—

- (a) it is in the public interest or it is required for protecting policyholders' interests;
- (b) the business of the insurer is not being conducted in accordance with sound insurance principles, practices and ethics as prescribed by the Uganda Insurers Association and filed with the Authority;
- (c) the relevant minimum prescribed paid up capital or security deposit requirements specified in Part I of this Act, have not been complied with by the insurer or that the net assets of the insurer are below the minimum prescribed paid up capital;
- (d) the minimum margin of solvency has not been maintained;
- (e) the relevant reserve requirements have not been complied with;
- (f) the insurer has not commenced insurance business within one hundred and eighty days of obtaining a licence to operate;
- (g) the insurer has made a false statement to the Authority which statement is material to his or her licensing and which he or she knows or might have known to be false;
- (h) a judgment arising out of any insurance liability obtained in any court in Uganda against an insurer remains unsatisfied without good reason for more than ninety days from the date of final judgment;

- (i) the insurer has ceased to qualify as an insurer under this Act;
- (j) the insurer repeatedly acts in an illegal way or ignores the requirements of the Authority;
- (k) the insurer has refused or failed to abide by the decision of the Authority, to settle a claim or complaint in accordance with section 15(2)(f).

(2) The Authority shall, before the suspension or revocation of any licence, give written notice to the insurer requiring the insurer to remedy any breach, and where the breach cannot be remedied, to show cause to the satisfaction of the Authority why the licence should not be suspended or revoked.

(3) Where the licence is suspended or revoked, the Authority shall give notice to the insurer in a prescribed form.

(4) The Authority shall give reasons for its decision under subsection (1).

(5) An insurer may within thirty days from the receipt of the communication of the Authority of the suspension or revocation of his or her licence, appeal to the Tribunal.

(6) Except for purposes of winding up its business no insurer, whose licence has been revoked shall carry on insurance business in Uganda.

(7) An insurer shall not take on any new insurance business or renew any existing policy—

- (a) where there is an appeal against a revocation of a licence, until the appeal is decided in favour of the insurer; or
- (b) in case of suspension of a licence, until the suspension is over.

(8) The Authority shall publish in the Gazette and a newspaper widely read by the people in the area where the registered office of the affected insurer is located , any revocation or suspension of the licence of the insurer or any reinstatement or relicensing of the affected insurer as soon as is practicable.

33A.Licensing of health insurance organisations and health membership organisations

(1) A person proposing to transact business as a health insurance organisation or a health membership organisation shall be licensed as such by the Authority.

(2) Health insurance organisations and health membership organisations shall be regulated in accordance with regulations made under this Act, in consultation with the Minister responsible for health and other stakeholders.

PART IV—CONDUCT AND OPERATION OF INSURANCE

34. Credit on premiums

(1) An insurer shall not allow credit on the premium payable for more than thirty days from the date of inception or renewal of the policy and may, subject to the provisions of the policy, opt out of the risk, except where the business emanated from an insurance broker licensed under this Act.

(2) Where the insured fails to pay the premium within the period provided under subsection (1), the policy shall be voidable and the insurer shall be entitled to recover the expenses incurred.

(3) Where an insurer allows credit on premium under a policy, the insurer shall be liable to pay any claims that may arise from the policy.

35. Approval of policy format forms, etc

(1) An insurer shall not issue any policy of insurance unless—

- (a) the text or format of the policy;
- (b) the proposal forms; or
- (c) the premium rates, rating scales and commission rates, have been approved by the Authority as suitable for the purpose of the insurance business it is meant for.

(2) No alteration of any text or format of the policy, premium rates, rating scale, commission scale, proposal form or other document approved under subsection (1) shall be made without the prior approval of the Authority.

36. Alteration of approved premium rates without approval

(1) Where an insurer lowers the approved premium rates in respect of non-life insurance business without the authority of the Authority, the Authority may order the cancellation of the policy issued under the altered premium rates, and a pro-rata refund of the premium in respect of the unexpired period of the risk shall be paid to the insured.

(2) Where an insurer lowers the approved premium rates in respect of life insurance without the authority of the Authority, the Authority may order the insurer—

- (a) to refund any excess premium charged as a result of the alteration; or
- (b) to pay any amount undercharged as a result of the alteration.

37. Commission payable to licensed intermediaries

(1) No insurer shall pay any commission or remuneration to any intermediary who is not licensed under this Act.

(2) An insurer who violates this section is liable to a fine of twenty percent of the premium received or the fine imposed under section 97 (4) (b), whichever is higher.

38. Modification of memorandum and articles of association

(1) Any insurance, reinsurance, insurance broking or reinsurance broking company shall not make any modification in its memorandum or articles of association or other document under which the company was established without the approval of the Authority.

(2) A company referred to under subsection (1) shall forward a notice of intention to make modifications at least twenty-one days before the date on which the modification is intended to be made, stating the nature of modification to be made; and if no response is made by the Authority within the twenty-one days of the notice, the company may effect the modification.

39. Records to be kept in English

(1) An insurer shall keep records of its business transacted in and outside Uganda as may be prescribed by regulations.

(2) Books of account, registers, reports, premium rates, prospectuses, policies, proposal forms, claims, certificates and other forms and documents concerning insurance and reinsurance operations or of insurance and reinsurance broking shall be in English.

40. Prohibition of misleading advertisements

Any person who—

- (a) by advertisement, statement, promise or forecast which he or she knows to be misleading, false or deceptive;
- (b) by dishonest concealment of facts; or
- (c) by reckless making of an advertisement, statement, promise or forecast which is misleading, false or deceptive,

concludes or offers to enter into a contract, transaction or arrangement with an insurer or any other person relating to insurance business commits an offence and is liable to a fine not exceeding fifty currency points.

41. Repealed.

42. Restriction on loans to officers and directors

(1) No insurer shall give a loan to an officer or director of the insurer except—

- (a) a loan on a life policy limited to the policy's surrender value, where the right to borrow the same amount is also provided to the other policy holders of that class; or
- (b) a loan forming part of the terms and conditions of service of that officer or director, repayable within three years.

(1a) Notwithstanding subsection (1), the total aggregate of the loan given to a director of an insurer shall not exceed ten percent of the paid up capital of the insurer.

(2) An insurer who grants or an officer or director who receives a loan contrary to subsection (1) commits an offence and is liable to a fine double the amount of the loan given.

43. Prohibition of loans to associate companies

An insurer, a reinsurer, an insurance broker or a reinsurance broker shall not grant a loan, directly or indirectly, to a company in which the directors or officers and employees of that insurer, reinsurer, insurance broker or reinsurance broker hold more than one-third of the shares of that company.

44. Margin of solvency

(1) The solvency margin of an insurer shall be—

- (a) in the case of an insurer carrying on life insurance, the liabilities of the insurer shall not exceed the amount of the life insurance fund of the insurer;
- (b) in the case of non-life insurance business or reinsurance, the admitted assets of the insurer shall exceed the greater of—
 - (i) the admitted liabilities of an insurer by a minimum of fifteen percent of the premium income, net of reinsurance sessions; or
 - (ii) such sum as may be prescribed by the Authority, in consultation with the Minister.

(2) The Authority may, by regulations, prescribe the method for calculating assets and liabilities of an insurer for purposes of this section.

45. Statement by insurer

No insurer may publish a statement or issue a document on which is printed—

- (a) the authorised capital of the insurer unless the statement shows, in addition, the amount of the capital which has been subscribed and the amount paid up; or
- (b) the subscribed capital of the insurer unless the statement shows, in addition, the amount of the capital paid up.

46. Separation of insurance funds

(1) Repealed.

(2) Each insurance fund shall represent the liabilities in respect of all policies of that particular business.

(3) The investments of the life fund shall be kept separate from the investments of the non-life insurance fund of the insurer.

(4) The insurance fund of each particular business—

(a) shall be absolutely for the security of the policyholders of that insurance business and shall be held by the insurer as if that insurer is not carrying on any business other than that insurance business;

(b) shall not be applied for any liability arising out of any contract which is not applicable to that particular insurance business; and

(c) shall not be applied for any purpose other than the insurance business of the fund.

47. Insurance reserves

(1) An insurer shall establish and maintain in respect of each class of insurance business the following reserves—

(a) reserves for unearned premiums;

(b) reserves for outstanding claims;

(c) contingency reserves to cover fluctuations in securities and variations in statistical estimates.

(2) An insurer shall maintain with respect to next-life insurance business, the following reserves—

(a) reserves for unearned premiums, amounting to not less than 40 percent of the total net premiums or such other amount as the Authority may decide;

- (b) reserves for outstanding claims, a sum equal to the total estimated amount of all outstanding reported claims together with an additional amount of not less than 15 percent of the total amount of outstanding reported claims, in respect of claims incurred, but not reported at the end of the last preceding year or such amount as the Authority may determine; and
 - (c) a contingency reserve, which shall not be less than 2 percent of the gross premium income or 15 percent of the net profits, whichever is the greater, or such other amount as the Authority may decide; and that reserve shall accumulate until it reaches the minimum paid-up capital or 50 percent of the net premiums, whichever is the greater or such amount as the Authority may decide.
- (3) An insurer shall maintain with respect to life insurance business the following reserves—
- (a) a general reserve fund which shall be credited with an amount equal to the net liabilities on policies in force at the time of the actuarial valuation; and
 - (b) a contingency reserve which shall be credited annually with an amount equal to 1 percent of the premiums.
- (4) For purposes of this section, “net premiums” means gross premiums less reinsurance premiums.

48. Investments

(1) An insurer shall at all times in respect of insurance business transacted in Uganda invest and hold invested in Uganda assets equivalent to not less than the amount of funds in the insurance business as shown in the balance sheet.

(2) Subject to any other provision of this Act, the investment of funds referred to under subsection (1) shall be made up as follows—

(a) in respect of the life insurance fund—

- (i) 30 percent in Government securities;
- (ii) 70 percent in such other investments as shall be approved by the Authority;

(b) in respect of the non-life fund—

- (i) 20 percent in Government securities; and
- (ii) 80 percent in such other investments as shall be approved by the Authority.

(3) The Authority may, in consultation with the central bank, vary the percentages of the insurance fund to be invested under this section.

49. Accounts, etc. to be furnished to the Authority

(1) An insurer shall within ninety days after the end of the financial year, prepare and furnish to the Authority, in the prescribed form—

- (a) Repealed.
- (b) a balance sheet and profit and loss account duly audited by an auditor approved by the Authority, showing the financial position of the insurance business at the close of that year;
- (c) a statement of the life insurance business carried on by the insurer in Uganda in that year;

- (d) a certified copy of the revenue account in respect of any non-life insurance business carried on by the insurer in that year;
- (e) copies of the board and management reports on the affairs of the insurer for the financial year as submitted to the policyholders or shareholders of the insurer duly signed and certified;
- (f) an analysis of the investments, deposits and expenses of management separately for life and non- life business; and
- (g) such other documents and information relating to the relevant accounts and balance sheet as the Authority may require.

(1a) An insurer shall within one hundred and twenty days after the end of each financial year, prepare and furnish to the Authority, in the prescribed form, a certificate of solvency of the insurer, signed in case of the life insurer by an actuary or any other person authorized by the Authority.

(2) An insurer shall each year furnish the Authority, as may be required by the Authority, with all the essential information regarding its capitalisation, its reserves, the classes of insurance business it carries on and such other information as the Authority may require.

50. Amendment of accounts

(1) Where in the opinion of the Authority an account or balance sheet furnished by an insurer under section 49 does not show a true and fair view of its affairs or is not prepared as prescribed, the Authority may, by notice in writing, call upon the insurer to amend the account or balance sheet or to furnish a correct account or balance sheet, as the case may be.

(2) Where an insurer fails to comply with a notice referred to under subsection (1) to the satisfaction of the Authority, the Authority may either amend the account or balance sheet, giving the insurer particulars of the amendment, or it may reject the balance sheet.

(3) An account or balance sheet amended by an insurer or the Authority shall be treated as if it had been originally submitted in its amended form.

(4) Where the Authority amends an account or balance sheet under this section, the insurer may appeal to the Minister if dissatisfied with the amendment.

(5) An appeal under subsection (4) shall be lodged within thirty days after receipt by the insurer of the amended account or balance sheet.

(6) The Minister shall make his or her decision within thirty days from the date of the appeal.

51. Auditing of accounts and auditors

(1) The accounts of every insurer shall be audited annually by an auditor approved by the Authority.

(2) Where the Auditor General audits the accounts, the Authority's approval shall not be required.

(3) The auditor shall—

(a) not be an employee, manager, director or shareholder of the insurer;

(b) maintain a professional indemnity policy, as may be determined by the Authority;

- (c) be a member of the Institute of Certified Public Accountants of Uganda ; and
- (d) audit the accounts of the insurer in an independent and impartial manner.

(3a) The Auditor of an insurer shall not audit the accounts of the insurer for a continuous period of more than four years and shall not be eligible for reappointment as auditor, within the proceeding four years.

(4) The auditor shall satisfy himself or herself that the accounts of the insurer have been properly prepared in accordance with the books and records of the insurer.

(5) The auditor shall certify whether—

- (a) he or she has obtained adequate information from the books and records of the insurer;
- (b) the accounts of the insurer are in accordance with the information given to him or her by the insurer for the purposes of the audit;
- (c) the accounts and balance sheet are in accordance with the provisions of this Act; and
- (d) the balance sheet and profit and loss account of the insurer give a true and fair view of the insurer's financial position and profit or loss.

(6) The financial year of every insurer shall be the calendar year.

52. Information to be furnished by an insurer

(1) An insurer shall prepare and cause to be submitted to the Authority an audited balance sheet within four months after the end of its financial year.

(2) An insurer shall exhibit throughout the year, in a conspicuous place in each of its offices and branches, a copy of its last audited balance sheet with the full and correct names of all persons who are directors of the insurance company; and a copy of the balance sheet shall be published in a local newspaper of general circulation.

53. Statement and exhibit of life policies

Every insurer shall, at the expiration of each year of business, prepare in the prescribed form with reference to that year—

- (a) in respect of the life insurance business carried on by him or her in Uganda, statement and an exhibit of the policies; and
- (b) an exhibit of the life policies issued by him or her which refer to risks emanating from outside Uganda.

54. Appointment of actuary by an insurer

(1) Every insurer shall, within one month or such other longer period, not exceeding six months, as the Authority may determine, of beginning to carry on long-term business, appoint an actuary as actuary to the insurance business.

(2) Whenever an appointment under subsection (1) comes to an end, the insurer shall, within fourteen days, give a written notice to the Authority stating the fact.

(3) The insurer shall, within three months after the appointment comes to an end, appoint another actuary and shall give a written notice to the Authority stating the name, qualifications and experience of the new appointee.

55. Actuarial investigation and report

(1) Every insurer shall, in respect of the life insurance business carried on by him or her, cause an investigation referring to ninety days or such other shorter period of time as may be prescribed to be

made by an actuary into the financial condition of the life insurance business carried on by him or her, including a valuation of his or her liabilities in respect to the life insurance business, and shall cause a report of that actuary to be made in the prescribed form.

(2) Whenever an insurer wishes to distribute profits, he or she shall cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him or her, including a valuation of his or her liabilities, and shall act in accordance with the recommendations of the actuary.

(3) The insurer shall, within one hundred and twenty days after the end of a financial year, send a copy of the report submitted to him or her under subsection (1), to the Authority.

56. Authority to inspect insurer

(1) The Authority shall inspect the affairs of every insurer at least once in three years.

(2) The Authority may, at any time before the expiry of three years, inspect the affairs of an insurer if it has reason to believe—

- (a) that the interests of the policyholders, shareholders or members of the public could be prejudiced;
- (b) that the insurer is unable to meet his or her obligations under the Act;
- (c) that the insurer has not complied with the provisions of this Act.

(3) The Authority may appoint competent persons to carry out the inspection on its behalf.

(4) An inspector under this section may question any officer of the insurer under oath.

(5) The insurer shall cooperate with the inspector by providing him or her full access to books, records, files and other documents which are relevant to the inspection, and any person who fails to cooperate with an inspector commits an offence.

(6) The Authority shall inform the insurer of the conclusions reached following the inspection and may require the insurer to comply, within a period it may specify, with any directive it may issue to remedy defects disclosed by the inspection.

PART V—REINSURANCE BUSINESS

57. Reinsurance

(1) An insurer can reinsure part of the risks he or she has accepted either under a reinsurance contract or facultatively.

(2) Reinsurance contracts shall contain the minimum stipulations as determined by the Authority.

(3) In the case of reinsurance arranged through a reinsurance intermediary, the contract shall not contain any stipulation which prohibits any direct relationship between the insurer and the reinsurer.

58. Modification in insurer's net retention

(1) An insurer shall inform the Authority within thirty days of any modification in the amount of its net retention in all classes of business which it undertakes.

(2) Where the Authority considers the retention submitted under subsection (1) not to be in accordance with the financial standing of the insurer, it may request an explanation of the technical or other reasons for establishing these retentions; and on the basis of the explanation the Authority may order the adjustment of the net retention.

59. Annual reinsurance report

An insurer and a reinsurance company licensed under this Act shall within ninety days, submit to the Authority in a prescribed form—

- (a) details of the reinsurance or retrocession contracts;
- (b) details of the reinsurers or retrocessionaires with whom they maintain business relations in respect of risks falling within the scope of this Act.

60. Prohibition of contracts with certain reinsurance companies

The Authority may—

- (a) after receiving reliable information that a reinsurance company—
 - (i) cannot meet the reinsurance claims;
 - (ii) has doubtful integrity in its business dealings; or
- (b) for any other reasonable cause, prohibit insurance companies and reinsurance companies under this Act from entering into reinsurance contracts with that company.

61. Modifications where terms not favourable

The Authority may after the scrutiny of a reinsurance document direct an insurer, in writing—

- (a) to make modifications in its terms and conditions of the contract as it may specify, at the time of the renewal of a reinsurance contract;
- (b) not to renew the contract, if the terms and conditions of the contract are not favourable to the insurer or are not in the interest of the economy of Uganda or the insurance industry or are not in the public interest.

62. Negotiations not to be in personal capacity

No insurance agent, director, administrator, employee or shareholder of an insurance broking company shall negotiate or intervene in the placement of reinsurance in his or her personal capacity.

63. Foreign reinsurance representatives

(1) A foreign reinsurance company may, with the authority of the Authority, appoint a reinsurance broker or reinsurance company licensed under this Act to be its representative in Uganda for purposes of accepting reinsurance business on its behalf.

(2) The Authority may on granting authority under subsection (1) attach such conditions as it may deem necessary.

(3) Where authority of the Authority is granted under this section, the foreign reinsurance company shall establish and maintain at the central bank a security deposit equivalent to five hundred currency points.

64. Mandatory reinsurance placements with international and national organisations

(1) An insurer or reinsurer licensed under this Act shall offer to place with—

- (a) the African Reinsurance Corporation (Africa-Re), a minimum of 5 percent of its reinsurance cessions, under article 27 of the Agreement that established Africa-Re;
- (b) the Preferential Trade Area Reinsurance Company (ZEP-RE) a minimum of 10 percent of its reinsurance cessions, under articles 20 and 21 of the Agreement that established ZEP-RE;
- (c) a reinsurance company incorporated under the laws of Uganda, fifteen percent of its reinsurance cessions.

(2) The provisions of subsection (1) shall not affect the right of Africa-Re, ZEP-RE or the reinsurance company incorporated under subsection (1) (c), to accept or decline all or any part of the minimum reinsurance cessions offered or placed by any insurer or reinsurer.

(3) An insurer or reinsurer who fails to comply with subsection (1) commits an offence and is liable to a fine to be prescribed by the Authority in consultation with the Minister.

(4) Subject to the relevant agreements respectively, the Authority may vary the minimum reinsurance cessions under subsection (1).

(5) The reinsurance company incorporated in accordance with subsection (1) (c) shall have as its shareholders all the insurers licensed under this Act, except an insurer does not wish to be a shareholder of the reinsurance company.

(6) The shareholding of the reinsurance company and any changes to the shareholding shall be approved by the Authority.

(7) An insurer shall first place reinsurance business with an organization or company mentioned in subsection (1) or an insurance company licensed under this Act, to the maximum extent possible, before placement of the business outside Uganda.

PART VI—AMALGAMATIONS AND TRANSFERS.

65. Amalgamation and transfer of insurance business

(1) No insurer may—

- (a) amalgamate non-life insurance with the business of another insurer; or
- (b) transfer or accept any transfer of non-life insurance to or from another insurer, unless the amalgamation or transfer is approved by the Authority.

(2) No life insurance business may be amalgamated with or transferred to the life insurance business of another insurer except with the permission of the Authority.

(3) Non-life insurance business may be amalgamated with non-life insurance business.

66. Application for amalgamation or transfer

(1) Where two or more insurers one of which is licensed under this Act intend to amalgamate or transfer insurance business of any class from one to another—

- (a) both insurers wishing to amalgamate, jointly; or
- (b) the insurer wishing to transfer business to another insurer,

shall apply to the Authority for approval of the amalgamation or transfer, as the case may be.

(2) An application under subsection (1) shall be accompanied by—

- (a) the document under which the proposed amalgamation or transfer is to take effect;
- (b) the audited accounts and balance sheets of each insurer intending to amalgamate or effect a transfer; and
- (c) any other report or document on which the proposed amalgamation or transfer is based.

(3) Where the amalgamation or transfer is in respect of life insurance business, in addition to the requirements under subsection (2), the application shall be accompanied by a report of the likely effect of the amalgamation or transfer to the policyholders, prepared by an actuary approved by the Authority.

67. Notice of amalgamation or transfer

(1) The parties intending to amalgamate or effect a transfer shall before the application under section 66—

- (a) publish a notice of the proposed amalgamation or transfer in the Gazette and at least one English language newspaper published in Uganda;
- (b) send a notice of the application to all policyholders and claimants of the parties;
- (c) make available for inspection at the principal offices of the parties a statement detailing the particulars of the amalgamation or transfer, including, in the case of life insurance business, the actuarial report under section 66 (3) for at least thirty days.

(2) The notice referred to under subsection (1) shall invite any person who has reasonable ground to believe that he or she would be adversely affected by the amalgamation or transfer to make written representation to the Authority stating reasons, within thirty days from the last day of publication.

68. Conditions for approval of transfer

(1) The Authority shall not approve an application for a transfer of life insurance business unless the transaction involves the transfer of assets relating to the life insurance business proposed to be transferred in accordance with this section.

(2) If the transfer covers all life insurance business of the transferor, all assets representing the statutory fund maintained by the transferor shall be transferred.

(3) If the transfer applies to a part of the life insurance business of the transferor, the approved proportion of the assets representing the statutory fund maintained by the transferor shall be transferred.

69. Decision of the Authority on amalgamation or transfer

(1) The Authority may, after considering the documents required under section 66, approve or refuse the proposal for amalgamation or transfer subject to terms and conditions it may consider necessary.

(2) The Authority shall make its decision under subsection (1) within six months from the date of publication; and if no communication is received by the parties within that period, the parties shall effect the amalgamation or transfer.

(3) After a decision is made under subsection (1), the Authority shall—

- (a) publish its decision in the Gazette and in one English language newspaper published in Uganda; and
- (b) send a copy of its decision to the parties to the amalgamation or transfer and any person who made a representation under section 67.

(4) Where the Authority refuses an amalgamation or transfer, it shall, in writing, give reasons for the refusal to the parties.

(5) A person aggrieved by a decision under this section may appeal to the Minister within thirty days from the date on which the notice of the decision is received by him or her, and the Minister shall make his or her decision within thirty days from the date of the appeal.

(6) For purposes of subsection (5), notice shall be deemed to have been received within seven days from—

- (a) the date of the notice to the aggrieved person; or
- (b) the date of the publication of the notice in the Gazette and the newspaper, whichever is the later.

70. Effect of approval of amalgamation or transfer

(1) Subject to subsection (2), an instrument giving effect to an amalgamation or transfer approved by the Authority shall be effective in law—

- (a) to transfer to the amalgamated insurer or transferee all the transferor's rights and obligations under the policies included in the instruments; or
- (b) if the instrument so provides, to secure the continuation by or against the amalgamated insurer or the transferee of any legal proceedings by or against either party to the amalgamation or against the transferor which relate to those rights or obligations, notwithstanding the absence of any agreement or consent which would otherwise be necessary for it to be effective in law for those purposes.

(2) Except where the Authority directs otherwise, a policyholder whose policy is part of the approved amalgamation or transfer shall not be bound by the instrument approving the amalgamation or transfer unless he or she has been given written notice of its execution by either of the insurers involved.

(3) Where an amalgamation or transfer has been approved, the amalgamated insurer or the transferee insurer shall, within ten days from the date of completion of the amalgamation or transfer, deposit with the Authority certified copies of—

- (a) statements of the respective assets and liabilities; and
- (b) the documents under which the amalgamation or transfer was effected.

PART VII—INSOLVENCY AND WINDING UP

71. Winding up

(1) Notwithstanding anything contained in the Companies Act to the contrary, an insurer carrying on life insurance business shall not be wound up voluntarily except for the purposes of effecting an amalgamation or transfer.

(2) The Authority may petition the court for winding up of the business of an insurer where—

- (a) the insurer is carrying on insurance business without being licensed under this Act;
- (b) the insurer has not complied with the prescribed paid-up capital or security deposit requirements under Part I of this Act, or where the margin of solvency of the insurer is less than that specified under Part IV of this Act;
- (c) in the absence of an appeal or dismissal of an appeal under section 33(5), revocation of a licence takes place;
- (d) the insurer is not able to meet its obligations to a policyholder under an insurance contract; or
- (e) the Authority believes it is just and equitable and in the interests of the policyholders to wind up the insurer.

PART VIIA—COMPENSATION FOR POLICY HOLDERS OF
INSOLVENT INSURER

71A. Policyholders' Compensation Fund

(1) There is established a Policyholders' Compensation Fund.

(2) The Policyholders' Compensation Fund shall be managed by a board of trustees.

(3) The members of the board of trustees shall be appointed by the Minister.

(4) The composition and the terms and conditions of service of the board of trustee shall be prescribed by regulations made by the Minister.

(5) The money of the Policyholders' Compensation Fund shall consist of—

- (a) premium levied upon insurers licensed under this Act as may be prescribed;
- (b) loans obtained by Government;
- (c) grants, gifts, donations; and
- (d) money from any other source, approved by the Minister in writing.

(6) The money of the Policyholders' Compensation Fund shall be used to compensate the policyholders of an insolvent insurer.

PART VIII—INTERMEDIARIES, RISK MANAGERS,
LOSS ASSESSORS, LOSS ADJUSTERS, INSURANCE
SURVEYORS AND CLAIMS SETTLING AGENTS.

72. Brokers, agents, etc. to be licensed

(1) No person shall carry on the business of an insurance or reinsurance broker, an insurance agent, a risk manager, a loss assessor, a loss adjuster, an insurance surveyor or a claims settling agent unless he or she is licensed for that business by the Authority.

(2) An administrator, manager, auditor or employee of an insurance company shall not act as the broker, agent, risk manager, loss assessor or adjuster, surveyor or claims settling agent of that company.

(3) No person shall use the name of insurance broker or agent, risk manager, loss assessor or adjuster, insurance surveyor or claims settling agent unless he or she is licensed to carry on that business under subsection (1).

73. Brokers to be bodies corporate

No person other than a company incorporated under the Companies Act shall carry on business as an insurance broker.

74. Application and qualifications for a licence

(1) An application for a licence under section 72 or renewal of a licence shall be in a form prescribed by the Authority.

(2) The qualifications for obtaining a licence under section 75 shall be prescribed by the Authority.

75. Disqualifications

The Authority shall not grant a licence or renew a licence for a broker, agent, risk manager, loss assessor, loss adjuster, insurance surveyor or claims settling agent if the applicant—

- (a) has been found to be of unsound mind by a court of competent jurisdiction;
- (b) has ever been convicted of an offence relating to fraud or dishonesty;
- (c) has at any time within the five years preceding the date of his or her application become bankrupt, applied to take the benefit of the law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration for their benefit;
- (d) being a broker is a director of an insurer.

76. Licence and renewal of a licence

(1) Where the Authority is satisfied that—

- (a) the financial standing of the applicant is sound;

- (b) the knowledge, skill and experience of the principal officer are adequate;
- (c) in the case of a broker, the professional indemnity policy of insurance is satisfactory;
- (d) the applicant is not disqualified under this Act;
- (e) the applicant is and is likely to continue to be able to comply with the provisions of this Act and the regulations and directions made or issued under this Act as are applicable to the applicant;
- (f) the prescribed fee has been paid,

the Authority may, subject to terms and conditions that it considers necessary, issue a licence to or renew a licence of an applicant under this Part of the Act.

(2) A licence shall be issued for a calendar year and may be renewed for one calendar year on each renewal.

77. Processing and granting of a licence

Sections 31 and 32 shall apply to an insurance or reinsurance broker, agent, risk manager, loss assessor, loss adjuster, insurance surveyor or claims settling agent.

78. Revocation or suspension of an intermediary's licence, e.t.c.

- (1) The Authority—
 - (a) may revoke or suspend a licence of any insurance or reinsurance broker, risk manager, loss assessor, loss adjuster, insurance surveyor or claims settling agent on any ground on which it could have refused to grant the licence;

- (b) shall cancel the licence of any broking company or adjuster who fails to satisfy the paid-up capital and security deposit requirements under section 79.

(2) The Authority may impose fines, suspend a licence or revoke a licence of any intermediary, depending on the gravity of the offence where—

- (a) there is breach of professional etiquette;
- (b) discounts are given which are not provided for under the authorized premium rates;
- (c) the whole or part of the intermediary's commission is offered to an insured;
- (d) terms and conditions are offered which are not included in the policies and endorsements;
- (e) quotations are given in the intermediary's own name without the authority of the insurers;
- (f) monies received in payment of a premium are used for an intermediary's own benefit or the benefit of third parties, or have not been paid to the insurer in accordance with this Act;
- (g) the intermediary ceases to carry on business;
- (h) the prescribed fees payable to the Commission remain unpaid;
- (i) the intermediary is adjudged to be bankrupt by a court.

(3) Before revoking or suspending any licence, the shall give notice in writing to the person concerned stating the reasons for the proposed revocation or suspension and shall afford the person an opportunity to be heard.

(4) Before invoking the provisions of subsection (2), the Authority shall have given written warning for a period to be specified by regulations made under this Act.

(5) A person aggrieved by suspension of a licence under this section, may within thirty days from the receipt of the communication of the suspension from the Authority, appeal to the Tribunal.

(6) Where in the interest of the policyholders circumstances warrant immediate action, the Authority may revoke or suspend a licence without giving any notice to the person concerned.

(7) Notice of the revocation of the licence shall be advertised by the Authority in the Gazette and an English language daily newspaper widely read by people where the affected intermediary has an office.

79. Insurance broker's and loss assessors and adjuster's paid-up capital

(1) No insurance broking company shall carry on the business of insurance broking unless it maintains at all times while carrying on that business a prescribed paid-up capital of not less the equivalent of five hundred currency points of which the equivalent of one hundred currency points shall be deposited as security deposit.

(1a) The deposits made under subsection (1) shall be considered part of the assets in respect of the capital, of the insurance broking company.

(1b) The deposits made under subsection (1) shall be invested by the insurance broking company in Government securities or in any other investments as may be approved by Authority, and on which the Authority shall have a lien.

(1c) The security deposits made under subsection (1) shall be available to the insurance broking company in accordance with section 8.

(1d) Any income that may accrue from the security deposit shall be payable to the insurance broking company that makes the security deposit.

(2) No loss adjuster shall carry on the business of loss adjusting unless the adjuster maintains at all times while carrying on that business a professional indemnity policy of not less than the equivalent of one hundred currency points.

(3) The Minister may on the advice of the Authority by statutory instrument amend the prescribed paid-up capital, the security deposit or the professional indemnity policy provided under this section.

80. Persons not to act as agents

(1) No person shall act as an insurance agent who—

- (a) is a civil servant or an employee of a local government;
- (b) is an administrator, manager, director, auditor or employee of any—
 - (i) insurance or reinsurance company; or
 - (ii) reinsurance broking company;
 - (iii) Repealed.
- (c) is a risk inspector, insurance loss adjuster or insurance valuer;
- (d) in the opinion of the Authority, lacks the minimum knowledge, skill or experience in the insurance business or whose financial stand does not measure to the requirements.

(2) An insurance agent shall not act for two or more insurers transacting the same class of business.

(3) For avoidance of doubt, an insurance agent may act for one insurer transacting life business and one insurer transacting non life business but not for two or more insurers transacting the same class of business.

(4) Subsection (2) shall not apply to bancassurance.

81. Agents and brokers not to engage in loss adjusting, e.t.c.

(1) An insurance agent shall not engage in the business of reinsurance, insurance broking, risk inspection, loss adjusting or be a director in any company engaged in the above businesses.

(2) An insurance broker shall not engage in the business of risk inspection or loss adjusting or be a director in any company engaged in any of the above business.

82. Intermediaries to deal with licensed companies

No insurance intermediary shall place insurance business with an insurance company which is not licensed under this Act.

82A. Auditing of accounts and auditors

(1) The accounts of every insurance broker, risk manager, loss assessor, loss adjuster, insurance surveyor and claim settling agent shall be audited annually by an auditor approved by the Authority.

(2) An auditor shall not act as such, under subsection (1), for a continuous period of more than four years.

83. Annual reports and financial statements

(1) Each insurance broking company shall prepare and submit to the Authority, within three months from the end of each financial year in a prescribed form, annual reports containing—

- (a) prescribed particulars relating to all financial transactions undertaken by it during that year;

- (b) a certified true copy of its financial statements, an auditor's certificate and any reports presented to shareholders;
- (c) details of commission scales and incentive plans, bonuses or other incentives; and
- (d) a statement detailing premiums which remain unpaid by the insured for more than sixty days from the date of inception of cover.

(2) Each insurance adjusting company shall prepare and submit to the Authority, within three months from the end of each financial year, in a prescribed form, annual reports containing-

- (a) prescribed particulars relating to all financial transactions undertaken by it during that year;
- (b) a certified true copy of its financial statements, an auditor's certificate and any reports presented to shareholders; and
- (c) any other information that the Authority may require.

(3) A risk manager, loss assessor, loss adjuster, insurance surveyor and claim settling agent shall, in accordance with international financial reporting standards adopted by the Institute of Certified Public Accountants of Uganda, keep proper books of accounts for all the income and expenditure of the risk manager, loss assessor, loss adjuster, insurance surveyor or claim settling agent.

83A. Authority to inspect insurance brokers, loss assessors and loss adjusters

(1) The Authority shall inspect the affairs of insurance brokers, loss assessors and loss adjusters at least once, every three years.

(2) The Authority may, at any time before the expiry of three years, inspect the affairs of an insurance broker, a loss assessor or a loss adjuster where the Authority has reason to believe that—

- (a) the interests of the policyholders or shareholders of the insurer or of members of the public may be prejudiced;
- (b) the insurance broker, loss assessor or loss adjuster is unable to meet his or her obligations under this Act;
- (c) the insurance broker, loss assessor or loss adjuster insurer has not complied with this Act.

(3) The Authority may appoint a competent person to carry out an inspection under this section, on its behalf.

(4) A person appointed to carry out an inspection under this section may question an insurance broker, loss assessor or loss adjuster or an officer of any of these persons, under oath.

(5) The Authority shall inform the insurance broker, loss assessor or loss adjuster of the conclusions reached following the inspection and for the purpose of remedying the defects identified by the inspection, may require the insurance broker, loss assessor or loss adjuster to comply, within a period the Authority may specify, with any directive it may issue.

84. Submission of statements to insurers

Where the Authority raises any objection to the financial statement, individual agents and insurance broking companies shall send copies of the statements to all licensed insurers with whom they have business relationships within ninety days of their presentation.

85. Records to be kept

(1) Every insurance agent, insurance or reinsurance broker, risk manager, loss assessor, loss adjuster, insurance surveyor or claims settling agent shall keep records of all insurance transactions undertaken.

(2) Records kept under subsection (1) shall contain particulars of the names and addresses of the insured persons and the insurer, the nature of coverages, premiums collected and any other particulars that may be prescribed by the Authority.

86. Advertisement

Section 40 shall apply to a company under this Part of the Act in relation to advertisements.

87. Payment of premium

(1) An insurance broker shall pay to insurers all premiums collected on their behalf within thirty days from receipt of the premiums.

(1a) Where an insurance broker does not pay a premium collected, as required under subsection (1), the insurance broker shall within fourteen days after the expiry of the period specified for making the payment, submit to the insurer, the details of client from whom the premium is collected.

(1b) Where a premium continues to be outstanding sixty days after it is due, the policy shall be voidable at the instance of the insurer.

(1c) The insurance broker shall be required to pay the premium which is due and interest on the premium to the insurer and a penalty to the Authority, at rates to be determined by the Authority.

(1d) An insurance broker who does not pay to the insurer a premium collected on behalf of the insurer, commits an offence and shall on conviction be liable to fine of not less than five hundred currency points.

(2) Where a premium is received in full, a broker shall not make partial payment unless the insurance contract specifically provides.

88. Insurance agent's commission

(1) Insurance intermediaries shall be remunerated solely by way of commission and other approved incentive or bonus schemes paid in accordance with the commission scales and plans approved by the Authority.

(2) Any form of incentive or bonus schemes offered by insurers to insurance agents must have the prior approval of the Authority.

89. Loans to insurance agents

No insurance agent shall, without the prior approval of the Authority, have at any time, a loan outstanding to an insurance company, which is in the excess of an aggregate of one hundred currency points.

90. Portfolio transfer

(1) An insurance intermediary may transfer his or her portfolio to another intermediary, provided that prior approval is obtained from the Authority.

(2) The Authority shall not approve a transfer unless it is satisfied that the transferor has settled all financial obligations with all insurance companies with which there are dealings, prior to the transfer.

(3) A portfolio shall be transferred in its entirety unless the Authority directs otherwise.

(4) Where a transfer is approved, the parties to the transfer shall inform all the policyholders and the insurers with which they place business of the transaction.

(5) Where a transfer or sale is effected without the approval of the Authority, the Authority shall revoke the licence of a transferee or seller of a portfolio, and that person shall be prohibited from obtaining another licence for five years from the date of sale or transfer.

91. Death of an agent

(1) On the death of an insurance agent, the licence automatically lapses.

(2) Where at the death of the agent, the contract entered into by the agent is a long-term contract, the estate of a deceased agent shall continue to receive commission.

92. Direct relationship with an insurer

The appointment of an insurance agent by a person does not preclude that person from having direct communication with the insurance company or vice versa.

PART VIII A—THE INSURANCE APPEALS TRIBUNAL

92A. Insurance Appeals Tribunal

(1) There is established a tribunal known as the Insurance Appeals Tribunal.

(2) The Tribunal shall consist of three persons, one of whom shall be a lawyer with adequate experience.

(3) One of the members of the Tribunal shall be a woman.

(4) The Minister shall appoint one of the members to be the Chairperson of the Tribunal.

(5) The Tribunal shall conduct its business on an ad hoc basis.

92B. Tribunal to review decisions of the Authority

(1) A person who is aggrieved by a decision of the Authority, may within one month from the date the decision is communicated by the Authority, appeal to the Tribunal against the decision.

(2) The Authority shall not decide any matter brought before it without giving the appellant an opportunity to be heard.

92C. Decisions of the Tribunal

(1) The Tribunal may uphold, reverse, revoke or vary a decision of the Authority.

(2) A decision of the Tribunal shall be in writing and shall be communicated within two months after an appeal is made to the Tribunal.

92D. Appeals to High Court from decisions of Tribunal

A party to the proceedings before the Tribunal who is aggrieved by the decisions of the Tribunal, may within one month from the date of communication of the decision of the Tribunal, or within such further time as the High Court may allow, lodge a notice of appeal with the High Court.

92E. Expenses of the Tribunal

The Authority shall bear the expenses for the administration of the Tribunal.

92F. Regulations under this Part

(1) The Minister shall make regulations for the better carrying out of the provisions of this Part.

(2) The regulations made under this Part shall be laid before Parliament.

PART IX—MISCELLANEOUS

93. Adjustment of losses occurring in contravention of the Act

No person shall carry on adjustments of losses occurring under insurance contracts issued in contravention of this Act.

94. Insurance Institute of Uganda

(1) Every person licensed under this Act shall be a member of the Insurance Institute of Uganda.

(2) Every insurer shall remit to the Insurance Institute of Uganda the levy mentioned in section 94A.

(3) The levy remitted under subsection (2) shall be used by the Insurance Institute of Uganda for training and certification of training programmes of the persons licensed under this Act.

(4) The Insurance Institute of Uganda shall within ninety days from the end of each financial year, file with the Authority, the audited accounts of the Institute, for the preceding year.

(5) The accounts of the Insurance Institute of Uganda shall be audited by an auditor approved by the Authority.

94A. Insurance training levy

(1) Each insurer shall pay a levy on the gross direct premium written by the insurer.

(2) The levy shall be charged on the policyholders and collected by the insurers.

(3) The levy shall be at a rate prescribed by the Authority, in consultation with the Minister.

95. Display of a licence

(1) A person licensed under this Act shall display his or her licence prominently at the principal place of business in a part to which the public can have access and shall display a copy of the licence in each branch of the business in Uganda.

(2) A person who contravenes this section commits an offence and is liable on conviction to a fine equivalent to fifteen currency points.

96. Insurable interest policies

(1) No policy of insurance shall be issued to any person on the life of any person where that person has no insurable interest in the life or event.

(2) For purposes of subsection (1), an insurable interest shall be deemed to be had by—

- (a) a parent of a minor or the guardian of a minor on the life of a minor;
- (b) a husband, on the life of his wife;
- (c) a wife, on the life of her husband;
- (d) any person on the life of another upon whom he or she is wholly or in part dependent for support or education;
- (e) a company or other person, on the life of an officer or employee of the company or that other person;
- (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.

96A. Protection from liability

(1) A member of the Authority shall not be personally liable in respect of any act or omission done in good faith in the performance of his or her functions under this Act.

(2) An officer, a member of staff or any other person acting on behalf of the Authority shall not be personally liable in respect of any act or omission done in good faith in the performance of his or her functions under this Act.

97. Offences and penalties

(1) A person who carries on or is privy to the carrying on of any business under this Act under a company established contrary to this Act commits an offence and is liable on conviction to a fine of not less than one hundred currency points and not more than five hundred currency points or to imprisonment for a term of not less than three months and not more than six months or to both the fine and imprisonment.

(2) In the alternative to the punishment provided under subsection (1), a licence of a person convicted under that subsection shall be cancelled, and that person shall be disqualified from acquiring a licence for five years and thereafter shall not be issued a licence without the approval of the Minister.

(3) A person who, being a manager or officer of a company licensed under this Act—

- (a) fails to take any reasonable steps to secure compliance with the requirements of this Act;
- (b) makes any statement or gives any information which is false, in answer for information required under any provisions of this Act;
- (c) is privy to the furnishing of any false information under this Act,

commits an offence and is liable on conviction to a fine of not less than one hundred and fifty currency points.

(4) An insurance or reinsurance company which fails to comply with an order issued by the Minister or the Authority under this Act or contravenes any provision of this Act commits an offence and is liable to—

- (a) a public or private admonition;
- (b) a fine of not more than twenty five currency points;
- (c) suspension or revocation of the licence.

(5) An insurance intermediary which fails to comply with an order issued by the Minister or the Authority under this Act or contravenes any provision of this Act commits an offence and is liable to—

- (a) a private or public admonition;
- (b) a fine of not more than five hundred currency points;
- (c) suspension or revocation of the licence.

(6) Where an officer of a company under this Act authorises the contravention of or contravenes any provision of this Act, he or she shall be personally liable to the penalty specified in relation to the contravention.

98. Power to make regulations

The Authority may in consultation with the Minister make regulations—

- (a) providing for the procedure and formalities for the grant, suspension and revocation of licences granted under this Act;
- (b) relating to capital for companies licensed under this Act;
- (c) relating to reserve funds, security deposits and investments;
- (d) providing for the qualifications of directors, management and key staff of a company licensed under this Act;
- (e) providing for the form and content of financial and other reporting requirements for companies licensed under this Act;
- (f) prescribing the method of calculation of assets and liabilities of an insurer;
- (g) providing for the handling of appeals allowed under this Act;

- (ga) relating to micro insurance;
- (gb) providing for the corporate governance of persons licensed under this Act;
- (gc) relating to health insurance organisations and health membership organisations;
- (gd) providing for inspections to be carried out under this Act;
- (ge) relating to the Policyholders' Compensation Fund;
- (gf) relating to the use of the fines levied against the persons licensed under this Act;
- (gg) for prescribing for anything required by this Act to be prescribed;
- (h) generally for giving effect to the provisions of this Act.

99. Transitional provision

Section 5(2) shall come into effect at the expiry of three years after commencement of this Act.

Schedule 1

Section 2

Currency point

A currency point is equivalent to twenty thousand shillings.

Schedule 2

Sections 14 and 19

Meetings and seal of the Authority.

1. The Authority shall meet for the discharge of its functions as often as business requires, and in any case the Authority shall meet at least once in every three months; and the chairperson shall convene a meeting whenever at least three members of the Commission request in writing for a meeting.
2. The chairperson or deputy chairperson shall preside at all meetings of the Authority; in the absence of both, the members shall elect one of the members to preside.
3. A quorum at any meeting of the Authority shall be four.
4. A decision on a question proposed at any meeting of the Authority shall be determined by a simple majority of the members present and voting; and in the case of equality of votes, the person presiding shall have a casting vote.
5. The Authority shall cause to be kept minutes of all the proceedings of its meetings.
6. The Authority may invite any number of persons to act as a consultant or adviser at any of its meetings.
7. A member of the Authority who has any personal interest in any transaction or matter before the Authority shall disclose the nature of his or her interest to the Authority and shall be disqualified from taking part in the deliberations of the Authority with respect to that transaction or matter if it is a contract and in any other case, if the Commission decides that the nature of the interest might prejudice the consideration of the matter.
8. Subject to this Act and regulations made under it, the Authority may regulate its own procedure.

9. The common seal of the Authority shall be in a form determined by the Authority.

10. The application of the seal on any document shall be authenticated by the signature of the Chief Executive Officer and the secretary to the Authority; and, in the absence of the Chief Executive Officer, the deputy Chief Executive Officer shall sign in his or her place, and the person performing the function of the secretary shall sign in the absence of the secretary.

11. The signature of the Chief Executive Officer and the secretary shall be independent of the signing by any other person who may sign the document as a witness.

12. A document purporting to be an instrument issued by the Authority and sealed by the common seal of the Authority, authenticated in the manner provided in this Schedule, shall be received in evidence and deemed to be such an instrument without further proof unless the contrary is shown.

History: The Insurance Act, Cap. 213
The Insurance (Amendment) Act, Act No.7 of 2011

Cross References

Bank of Uganda Act, Cap. 51.

Companies Act, Cap. 110.

Cooperative Societies Act, Cap. 112.

Financial Institutions Act, Cap. 54.

Public Finance and Accountability Act, Act No. 6 of 2003.



THE REPUBLIC OF UGANDA

REPRINT OF THE INSURANCE ACT, CAP. 213

[AS AT 31ST MAY 2013]

PREFACE

This is a reprint of the Insurance Act Cap. 213 and the Insurance (Amendment) Act No. 7 of 2011. It has been prepared by the Directorate of First Parliamentary Counsel with the approval of the Attorney General under section 18(1) and 18(2) of the Acts of Parliament Act, Cap. 2. The reprint consolidates the Insurance Act Cap. 213 and the Insurance Amendment Act No. 7 of 2011.

In compiling this reprint, all amendments to the Parent Act were incorporated and no renumbering of the sections or paragraphs was made.