

**THE INSURANCE ACT, 2021**

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SCHEDULE

GOVERNMENT OF ZAMBIA

**ACT**

**No. 38 of 2021**

Date of Assent: 19th May, 2021

**An Act to provide for the regulation of the insurance industry; provide for the supervision of insurers, reinsurers and intermediaries; provide for the financial regulation of insurers, reinsurers and intermediaries; provide for the regulation and supervision of microinsurance businesses; provide for the management and shareholding of insurers, reinsurers and intermediaries; provide for the auditing and corporate responsibility of insurers, reinsurers and insurance brokers; continue the existence of the Policyholders’ Protection Committee and the Insurance Fidelity Fund; provide for the establishment of the National Reinsurance Company; give effect to the Agreement establishing the African Reinsurance Corporation and the Agreement establishing the ZEP-RE (Preferential Trade Area Reinsurance Company); repeal and replace the Insurance Act, 1997; and provide for matters connected with, or incidental to, the foregoing.**

[20th May, 2021

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

- 1.** This Act may be cited as the Insurance Act, 2021, and shall come into operation on the date appointed by the Minister by statutory instrument. Short title and commencement
- 2.** In this Act, unless the context otherwise requires— Interpretation  
“ actuary ” means a person appointed as an actuary under section 69;

“Agreement” means the Agreement establishing the ZEP-RE (Preferential Trade Area Reinsurance Company) signed by Heads of State and Government of the Common Market for Eastern and Southern Africa region on 21st November, 1990, in Mbabane, Swaziland;

“Africare Agreement” means the Agreement establishing the African Reinsurance Corporation, which was signed on behalf of the African States, members of the Organisation for African Unity (now African Union) and the African Development Bank on 24th February, 1976, in Yaoundé, Cameroon and came into force, in respect of Zambia, on 31st January, 1977;

“appropriate authority” means the Minister responsible for, or such public body having powers under, any other written law over an incorporate or unincorporate entity and the management of insurance information and includes a public officer or employee of a statutory body or institution under the following laws—

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|--------------------|---|
| Act No. 35 of 2021 | (a) the Narcotic Drugs and Psychotropic Substances Act;           |
| Cap. 107           | (b) the Zambia Police Act;  |
| Cap. 321           | (c) the Zambia Revenue Authority Act;                             |
| Act No. 14 of 2001 | (d) the Prohibition and Prevention of Money Laundering Act, 2001; |
| Act No. 11 of 2002 | (e) the Road Traffic Act, 2002                                    |
| Act No. 15 of 2009 | (f) the Information and Communications Technologies Act, 2009;    |
| Act No. 24 of 2010 | (g) the Competition and Consumer Protection Act, 2010;            |
| Act No. 46 of 2010 | (h) the Financial Intelligence Centre Act, 2010;                  |
| Act No. 3 of 2012  | (i) the Anti-Corruption Act, 2012;                                |
| Act No. 7 of 2017  | (j) the Banking and Financial Services Act, 2017;                 |
| Act No. 9 of 2017  | (k) the Corporate Insolvency Act, 2017;                           |
| Act No. 10 of 2017 | (l) the Companies Act, 2017; and                                  |
| Act No. 41 of 2016 | (m) the Securities Act, 2016;                                     |

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“assessor” means a person, not being a loss adjuster, who, in the event of a claim against an insurer for loss or damage, assesses the extent of the loss or damage;	
“associate” has the meaning assigned to the word in the Anti-Corruption Act, 2012;	Act No. 3 of 2012
“auditor” has the meaning assigned to the word in the Accountants Act, 2008;	Act No. 13 of 2008
“Authority” means the Pensions and Insurance Authority established under the Pension Scheme Regulation Act, 1996;	Act No. 28 of 1996
“bank” has the meaning assigned to the word in the Banking and Financial Services Act, 2017;	Act No. 7 of 2017
“banking business” has the meaning assigned to the words in the Banking and Financial Services Act, 2017;	Act No. 7 of 2017
“Bank of Zambia” means the Bank of Zambia established by the Constitution;	Cap. 1
“beneficial owner” has the meaning assigned to the words in the Companies Act, 2017;	Act No. 10 of 2017
“beneficiary” means a person for whose benefit a policy is issued;	
“Board” has the meaning assigned to the word in the Pension Scheme Regulation Act, 1996;	Act No. 28 of 1996
“board of directors” means the governing board of a licensee;	
“ceding insurer” means an insurer who assigns a risk under a policy to a reinsurer;	
“Chairperson” means the person appointed as Chairperson of the Board under the Pension Scheme Regulation Act, 1996;	Act No. 28 of 1996
“child” has the meaning assigned to the word in the Constitution and includes a child born out of wedlock, a step child, an adopted child or a posthumous child born within ten months from death of the father;	Cap. 1
“citizen” has the meaning assigned to the word in the Constitution;	Cap. 1
“citizen owned company” means a company where one hundred percent of its equity is owned by citizens and in which citizens have significant control of the management of the company;	
“claims agency business” means the business of negotiation and settlement of a claim arising from a policy, with an insurer or the insurer’s representative, on behalf of an insured person;	

	“claims agent ” means a person licensed to carry on a claims agency business;
Act No. 24 of 2010	“ Commission ” means the Competition and Consumer Protection Commission established by the Competition and Consumer Protection Act, 2010;
	“Committee” means the Policyholders’ Protection Committee continued under section 180;
Act No. 10 of 2017	“ company ” has the meaning assigned to the word in the Companies Act, 2017;
	“contract of insurance ” means an agreement under which a person pays a premium to an insurer who undertakes to indemnify the person against risk or loss, damage or liability arising from the occurrence of some specified contingency;
	“contract of reinsurance ” means an agreement under which one or more reinsurers agree to indemnify a ceding insurer against all or part of a risk arising under a policy that the insurer has issued;
Act No. 10 of 2017	“ control ” in relation to the management of an insurer, has the meaning assigned to the word in the Companies Act, 2017;
Cap. 1	“ court” has the meaning assigned to the word in the Constitution;
	“ customer ” includes a policyholder or beneficiary under a policy;
Act No. 10 of 2017	“ director ” has the meaning assigned to the word in the Companies Act, 2017;
	“ financial interest ” means direct material interest of a financial monetary or economic nature or direct material interest to which a monetary value may be attributed;
	“ financial year ” means a period specified in section 104;
	“ fit and proper person ” means a person who meets the criteria prescribed by the Minister;
Act No. 10 of 2017	“ foreign company ” has the meaning assigned to the word in the Companies Act, 2017;
	“ funeral policy ” means a policy under which an insurer assumes a contingent obligation dependent on the death of a beneficiary for expenses relating to the funeral and interment of the beneficiary;

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- “ general insurance business ” means a business of a class that the Minister may, on recommendation of the Board, prescribe;
- “ general insurer ” means a company that carries on general insurance business;
- “ holding company ” has the meaning assigned to the words in the Companies Act, 2017; Act No. 10 of 2017
- “ insolvent ” has the meaning assigned to the word in the Corporate Insolvency Act, 2017, and includes a failure to meet the solvency margins or capital adequacy requirements prescribed by the Minister; Act No. 9 of 2017
- “ inspector ” means a person appointed by the Authority as an inspector under section 114;
- “ insurance ” means a mechanism or service for the transfer of all or part of certain risks of financial loss or defined benefit by one party, the insured or beneficiary, to another party, the insurer or entity that assumes the financial liability in exchange of payment of a premium or contribution, through which—
- (a) the insurer or entity that assumes the liability undertakes to indemnify or compensate the insured or beneficiary on the occurrence of loss as defined in the policy or contract between parties;
  - (b) the insurer or entity that assumes the liability collects and pools the premium or contribution paid for the purposes of providing indemnity, compensation or creating reserves for future loss; and
  - (c) the insurer or entity that assumes the liability on the expiry of the policy or contract between the parties retains the premium or funds earned from such a service;
- “ insurance agency business ” means a business, by a person who is not an employee of an insurer who initiates insurance business on behalf of the insurer;
- “ insurance agent ” means a person who is licensed to engage in an insurance agency business under this Act;
- “ insurance broker ” means a company not being an agent of

an insurer or reinsurer, acting independently and carries on insurance or reinsurance brokerage, in consideration for a commission or other compensation from an insurer or reinsurer;

“ insurance brokerage ” means the business of—

- (a) bringing together persons seeking a contract of insurance or reinsurance;
- (b) carrying out work preparatory to the conclusion of a contract of insurance or reinsurance; or
- (c) assisting in the administration and performance of a contract of insurance or reinsurance;

“ insurance business ” means a business—

- (a) of undertaking liability by way of insurance, including reinsurance, in respect of any loss of life and personal injury and any loss or damage, including liability to pay damage or compensation, contingent on the happening of a specified event, and any business incidental to insurance business;
- (b) by a person, other than a person carrying on banking business, of carrying on contracts for fidelity bonds, performance bonds, administration bonds or customs bonds or similar contracts of guarantee in return for the payment of one or more premiums; or
- (c) by a person, other than a person carrying on banking business, or carrying on capital redemption contracts and any business incidental to insurance business;

“ Insurance Fidelity Fund ” means the Insurance Fidelity Fund continued under section 180;

“ insurer ” means a company licensed to carry on an insurance business under this Act and includes a microinsurer;

“ intermediary ” means an insurance agent, insurance broker, underwriting agent or microinsurance aggregator or a licensee who invites other persons to make offers or proposals or to take other steps with a view to taking up a policy, but excludes a person who publishes invitations on behalf of, or to the order of, some other person;

- “legal practitioner ” has the meaning assigned to the word “practitioner” in the Legal Practitioners Act; Cap. 30
- “legally disqualified ” means having no legal capacity as prescribed in section 4 of the Mental Health Act, 2019; Act No. 6 of 2019
- “licence ” means a licence issued under this Act;
- “licensee ” means a holder of a licence issued under this Act;
- “life policy ” means a contract under which an insurer assumes a contingent obligation dependent on human life, including a contract of insurance customarily regarded as a contract of life insurance, but excludes a policy—
- (a) under which the contingent obligation forms a subordinate part of the insurance effected by the policy; or
  - (b) of a kind prescribed by statutory instrument in accordance with this Act;
- “long-term insurer ” means a company that carries on long term insurance business;
- “long term insurance business ” means insurance business of a class that the Minister may, on the recommendation of the Board, by statutory instrument, prescribe;
- “long term policy ” means a policy classified as a long term policy in guidelines issued by the Authority under this Act;
- “loss adjuster ” means a person who, in the event of a claim against an insurer, investigates the circumstances of the loss, assesses and quantifies the insurer’s liability under a policy;
- “medical scheme fund management business ” means the business of undertaking liability in return for contributions from members to partially or fully discharge the expenditure incurred in connection with a member, or that member’s dependents for health services received from health services providers, and includes the provision of a personal medical saving facility;
- “merger ” has the meaning assigned to the word in the Competition and Consumer Protection Act, 2010; Act No. 24 of 2010
- “microinsurance agency business ” means an insurance business of a class that the Minister may, on recommendation of the Board, prescribe;
- “microinsurance agent ” means a person licensed to carry on a microinsurance agency business;
- “microinsurance aggregator ” means—

- Act No. 10  
of 2017
- (a) an entity incorporated under the Companies Act, 2017;
- Cap. 397
- (b) an entity registered as a cooperative society under the Cooperative Societies Act; or
- (c) any other association of persons for the mutual benefit of its members and registered as a microinsurance aggregator by the Registrar;
- “ microinsurance business ” means the business of a class prescribed by the Minister under this Act;
- “ microinsurance policy ” means a contract under which a person, in return for a premium, undertakes to provide policy benefits subject to the limitations prescribed by the Minister under this Act;
- “ microinsurer ” means a company that carries on microinsurance business;
- “ minor ” means a person who has not attained the age of eighteen;
- Act No. 14  
of 2001
- “ money laundering ” has the meaning assigned to the words in the Prohibition and Prevention of Money Laundering Act, 2001;
- “ National Reinsurance Company ” means a company established under section 77;
- “ partnership ” means the relation which subsists between persons carrying on a business in common with a view to profit;
- “ policy ” means a contract of insurance of any kind;
- “ policyholder ” means a person who is entitled to enforce a benefit provided for in a policy;
- “ premium ” means a payment paid by a policyholder under a policy;
- “ premium rate ” means the cost of insurance broken down to price per unit;
- “ register ” means the register of insurance service providers established and maintained under section 168;
- Act No. 28  
of 1996
- “ Registrar ” means the person appointed as Registrar under the Pension Scheme Regulation Act, 1996;

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- “regulatory statement ” means a directive, guideline, order, circular or bulletin issued by the Authority for the efficacious implementation of this Act;
- “reinsurance ” means the transfer of a risk assumed by an insurer to a reinsurer;
- “reinsurer ” means a company licensed to carry on the business of reinsurance under this Act, and includes a retrocessionaire;
- “Reinsurance Company ” means the ZEP-RE (Preferential Trade Area Reinsurance Company), established under Article 2 of the Agreement, as a regional organisation responsible for promoting trade, development and integration within the Common Market for Eastern and Southern Africa region through the trade of insurance and reinsurance business;
- “Reinsurance Corporation ” means the African Reinsurance Corporation established by the Africare Agreement;
- “related company ” has the meaning assigned to the words in the Companies Act, 2017; Act No. 10 of 2017
- “repealed Act ” means the Insurance Act, 1997; Act No. 27 of 1997
- “risk surveyor ” means a person who assesses the potential financial risk posed to an insurer by issuing a policy and provides the insurer with information on how to reduce the risk or whether to issue the policy;
- “secretary ” has the meaning assigned to the word in the Companies Act, 2017; Act No. 10 of 2017
- “senior officer ” means a chief executive officer, chief financial officer, head underwriting, head claims, manager or other management personnel of a licensee;
- “subsidiary ” has the meaning assigned to the word in the Companies Act, 2017; Act No. 10 of 2017
- “statutory fund ” means a fund established and maintained in accordance with section 63;
- “surrender value ” means the sum of money payable by an insurer to a policyholder in the event that the policyholder voluntarily terminates the policy before its maturity or the occurrence of the insured event;

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Act No. 41 of 2016	“ take-over ” has the meaning assigned to the words in the Securities Act, 2016;
Act No. 6 of 2018	“ terrorist ” has the meaning assigned to the word in the Anti-Terrorism and Non-Proliferation Act, 2018;
Act No. 6 of 2018	“ terrorism financing ” has the meaning assigned to the words in the Anti-Terrorism and Non-Proliferation Act, 2018;
	“ treaty reinsurance ” means a contract of reinsurance in which the reinsurer accepts a specific level of risk from the primary insurer, and cognate expressions shall be construed accordingly;
	“ underwriting agency business ” means the business of issuing and pricing policies on behalf of an insurer;
	“ underwriting agent ” means a person licensed to carry on underwriting agency business under this Act;
	“ unexpired risk ” means an obligation of an insurer under a policy for the remainder of the duration of the policy;
	“ unsafe and unsound practice ” means—
	(a) the conduct of affairs by a licensee in a manner that is—
	(i) detrimental to the stability of the insurance industry or the interests of a policyholder or creditor;
	(ii) prejudicial to the interest of the licensee; or
	(iii) in contravention of this Act or any other relevant written law; or
	(b) any other practice that the Authority may designate as unsafe and unsound;
Act No. 28 of 1996	“ Vice-Chairperson ” means the person appointed as Vice-Chairperson of the Board in accordance with the provisions of the Pensions Scheme Regulation Act, 1996; and
Act No. 13 of 2008	“ Zambia Institute of Chartered Accountants ” means the Zambia Institute of Chartered Accountants established by the Accountant’s Act, 2008.

## PART II

## ADMINISTRATION

3. This Act shall be administered by the Authority. Administration of Act
4. The seal of the Authority kept in terms of the Pension Scheme Regulation Act, 1996, shall be used for the purposes of this Act and the impression made for that purpose shall be judicially noticed. Seal of Authority Act No. 28 of 1996
5. The Registrar appointed under the Pension Scheme Regulation Act, 1996, shall, in addition to the Registrar's functions and powers specified in that Act and any other written law, exercise the power and perform the functions conferred on the Registrar in this Act. Registrar Act No. 28 of 1996

## PART III

## REGULATION OF INSURANCE INDUSTRY

6. (1) A person shall not carry on insurance business or hold oneself out as an insurer, reinsurer, intermediary, assessor, claims agent, loss adjustor or risk surveyor unless the person is licensed under this Act. Prohibition on carrying on insurance business without licence
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
7. A licence issued by the Authority shall authorise the licensee to provide any of the following types of insurance services: Types of licences
- (a) insurance;
  - (b) reinsurance;
  - (c) microinsurance;
  - (d) insurance brokering;
  - (e) loss adjusting;
  - (f) microinsurance agregation;
  - (g) microinsurance agency;
  - (h) risk surveyor;
  - (i) assessor;
  - (j) claims agency;
  - (k) insurance agency; and
  - (l) underwriting agency.

Categories of insurance business	<p><b>8.</b> Subject to section 9, a person may engage in—</p> <ul style="list-style-type: none"> <li>(a) long-term insurance business;</li> <li>(b) general insurance business; or</li> <li>(c) microinsurance business.</li> </ul>
Restriction on composite insurance	<p><b>9.</b> (1) Subject to subsection (2), the Authority shall not issue a licence to carry on—</p> <ul style="list-style-type: none"> <li>(a) long-term insurance business if the applicant is already carrying on, or has applied to be licensed to carry on, general insurance business; or</li> <li>(b) general insurance business if the applicant is already carrying on, or has applied to be licensed to carry on, long term insurance business.</li> </ul> <p>(2) Subsection (1) shall not apply to a reinsurer and microinsurer.</p>
Application for insurance licence	<p><b>10.</b> A person who intends to provide an insurance service under section 7 shall, apply to the Authority, for a licence, in a prescribed manner and form on payment of a prescribed fee.</p>
Consideration and grant or refusal to grant licence	<p><b>11.</b> (1) The Authority shall, on receipt of an application, made under section 10, within ninety days, grant a licence to the applicant on terms and conditions that may be prescribed, if the applicant—</p> <ul style="list-style-type: none"> <li>(a) is capable of carrying on insurance business as specified in this Act;</li> <li>(b) is capable of protecting the interests of policyholders in preference to, but not to the exclusion of, the interests of the shareholders and other providers of the applicant's capital;</li> <li>(c) meets the minimum financial, solvency and liquidity requirements, or other criteria that may be prescribed in accordance with this Act or any other written law in respect of the insurance business to which the application relates; and</li> <li>(d) is competent to conduct the insurance business for the class to which the application relates.</li> </ul> <p>(2) A licensee shall—</p> <ul style="list-style-type: none"> <li>(a) comply with the prescribed terms and conditions of a licence;</li> <li>(b) meet the prescribed minimum capital requirements; and</li> <li>(c) comply with other conditions that may be prescribed, for the protection of a policyholder.</li> </ul>

(3) The Authority shall, where an application fails to comply with the requirements under subsection (1), refuse to grant the licence to the applicant.

(4) The Authority shall, within ninety days of receipt of an application under subsection (3), notify the applicant of the decision to reject the application, stating the reasons for the rejection.

(5) Where the Authority fails to notify an applicant of the Authority's decision to grant or refuse the licence within the period specified under subsections (1) and (4), the application is considered to be granted.

**12.** (1) A licence granted under this Part shall remain in force subject to the prescribed conditions unless earlier suspended, cancelled or surrendered. Duration of licence

(2) A licensee shall pay the prescribed annual fee and comply with the terms and conditions of the licence, or this Act.

**13.** Where a licensee decides not to continue operating, the licensee shall surrender the licence to the Authority. Surrender of licence

**14.** (1) Subject to section 120, the Authority may take supervisory action by suspending or cancelling a licence. Suspension and cancellation of licence

(2) The Authority shall, before suspending or cancelling a licence, in accordance with subsection (1)—

- (a) give to the licensee, in the prescribed form and manner, written notice of its intention to suspend or cancel the licence;
- (b) give the reasons for the intended suspension or cancellation; and
- (c) direct the licensee to show cause, within a period of thirty days, why the licence should not be suspended or cancelled.

(3) Where a licensee takes remedial measures to the satisfaction of the Authority, within the period specified in subsection (2), the Authority shall not suspend or cancel the licence.

(4) The Authority shall, in making its final determination on the suspension or cancellation of a licence, consider the submissions made by the licensee, under subsection (2), and any remedial measures taken under subsection (3).

(5) The Authority may suspend or cancel a licence if the licensee, after being notified under subsection (2), fails to show cause or does not take any remedial measures to the satisfaction of the Authority within the specified period.

(6) The Authority shall, where it suspends or cancels a licence under this section—

- (a) publish a notice of the suspension or cancellation in the Gazette, daily newspaper of general circulation or in other electronic media in the Republic; and
- (b) take any additional steps necessary to inform the public of the suspension or cancellation of the licence.

Effect of  
suspension  
or  
cancellation  
of licence

**15.** (1) Where a licence is suspended under this Act, the licensee shall, for the period of the suspension of the licence, cease to be entitled to the rights and benefits conferred by the licence and this Act.

(2) Where a licence is cancelled under this Act, the licensee shall—

- (a) with effect from the date of the cancellation, cease to be entitled to the rights and benefits conferred by the licence and this Act; and
- (b) surrender the licence to the Authority.

(3) A licensee whose licence is suspended or cancelled under this Act shall not, from the date of receiving a notice of the suspension or cancellation from the Authority—

- (a) enter into a new contract in relation to the business authorised by the licence; or
- (b) renew or vary a contract entered into with any person in relation to the business authorised by the licence.

(4) Where a licence is suspended or cancelled under this Act, and the licensee has a liability in respect of the business authorised by the licence—

- (a) this section shall not be a defence by the licensee against that liability; and
- (b) the licensee shall take necessary action, or an action that the Authority may direct, to make good the liability.

**16.** (1) A licensee who loses a licence, issued under this Act, shall—

Loss or  
damage of  
licence

- (a) within seven days of the loss, inform the Registrar in writing; and
- (b) apply to the Authority, in the prescribed manner and form, for a duplicate licence.

(2) A licensee whose licence is defaced or damaged shall apply to the Authority for a duplicate licence.

(3) The Authority shall, where an application made under subsection (1) or (2) meets the requirements of this Act, issue a duplicate licence in a prescribed manner and form on payment of a prescribed fee.

**17.** (1) Subject to section 6, a licensee may apply to the Authority for an amendment to a licence to authorise the licensee to carry on insurance business, of a class not authorised by the licence in the prescribed manner and form on payment of a prescribed fee.

Application  
for  
amendment  
of licence

(2) The Authority shall, within sixty days of receipt of an application to amend a licence under subsection (1)—

- (a) amend the licence on the terms and conditions that the Authority may specify in the licence and endorse the licence; or
- (b) refuse to amend the licence.

(3) Subject to subsection (2), the Authority shall within seven days of its decision, notify the applicant of the Authority's decision.

**18.** (1) Subject to section 166, a licensed insurer or reinsurer shall not accept insurance business or pay commission or other form of remuneration to a person who is not licensed in accordance with this Act.

Accepting  
insurance  
business  
from  
unlicensed  
person

(2) A licensed insurer or reinsurer who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**19.** (1) A person shall not cause another person to enter into, or to make an application to enter into, an insurance business with a person who is not licensed in accordance with this Act.

Entering into  
insurance  
contract with  
unlicensed  
person

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Repayment  
of funds

**20.** (1) A person holding funds obtained by conducting insurance business in contravention of this Act shall repay the funds in accordance with the directions that the Registrar may give.

(2) A person who fails to comply with the directions given under subsection (1) commits an offence and is liable, on conviction, to pay the Authority a fine of twenty thousand penalty units for each day that the failure to comply continues.

(3) Funds repayable under this section which remain unpaid at the end of the period directed by the Registrar for repayment is a debt due to the Authority in trust for a person who appears to the Authority to be lawfully entitled to the funds.

(4) The Authority may institute an action in a court of competent jurisdiction to recover funds repayable under this section.

(5) Nothing in this section relieves a person from criminal liability as provided in this Act, or any other written law, as a result of the person's contravention of this section.

Insurance  
broker to  
transmit  
premium

**21.** (1) A licensed insurance broker shall, where a premium on a policy is paid to the licensed insurance broker by a client, within fourteen days or other period that may be agreed, in writing, between the licensed insurer and the licensed insurance broker, transmit the premium to the licensed insurer, less any agreed commission or other charges payable by that licensed insurer to the licensed insurance broker.

(2) A licensed insurance broker who contravenes subsection (1) shall, in addition to the outstanding premium payable to the licensed insurer, be liable to pay interest to the licensed insurer at the prevailing Bank of Zambia policy rate plus ten percent of that rate.

(3) Despite subsection (2), a licensed insurance broker who contravenes this section commits an offence and is liable, to pay to the Authority an administrative penalty not exceeding ten thousand penalty units for each day that the offence continues.

Separate  
client  
account

**22.** (1) A licensed insurance broker shall deposit, in a separate client account, moneys received by the licensed insurance broker from or on behalf of a client and shall keep that money separate from the money belonging to the licensed insurance broker.

(2) The Registrar may, in writing, direct a licensed insurance broker to disclose a client account and the manner in which the account is being maintained.

(3) A licensed insurance broker shall not maintain a client account in a bank in which the licensed insurance broker, a director or partner of that licensed insurance broker is the beneficial owner.

(4) A licensed insurance broker who contravenes this section commits an offence and is liable, to an administrative penalty not exceeding ten thousand penalty units for each day that the offence continues.

#### PART IV

##### INSURANCE POLICIES

**23.** (1) A licensed insurer shall at least thirty days before use of a policy form or proposal form, lodge with the Registrar a copy of the policy form. Lodging of insurance form

(2) The Registrar may, for reasons that may be prescribed, prohibit the use of a form lodged under subsection (1), unless the form meets the requirements that the Registrar may determine.

(3) A licensed insurer who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding twenty thousand penalty units.

**24.** (1) A licensed insurer shall issue a policy which contains terms and conditions that are in legible print and clear typeface of a legible font as prescribed. Form of policies

(2) A licensed insurer who contravenes subsection (1) commits an offence.

**25.** (1) The Authority may request a licensed insurer to submit to the Registrar, within a period that the Authority may determine, the premium rates being charged by that licensed insurer. Premium rates

(2) The Authority shall, where the Authority finds a premium rate being charged by a licensed insurer is below a pure risk premium, direct that licensed insurer, in writing, to cease charging that rate.

(3) A licensed insurer who continues to charge the premium rate, after being directed by the Authority to cease charging the rate under subsection (2), commits an offence and is liable, to pay the Authority a penalty of twenty thousand penalty units for each day that the licensed insurer continues to charge the rate.

(4) Despite this section, the Authority shall not be prevented from enforcing section 173 against a chief executive officer of a licensed insurer where that licensed insurer contravenes this section.

Payment of premium

**26.** (1) A policy of general insurance shall cease to operate if a premium is not paid within thirty days after the due date of the premium or within a period that the policy may specify.

(2) Despite subsection (1), a licensed insurer who issued the policy shall cancel a policy of general insurance where the premium is not paid by the policyholder and notify the policyholder of the cancellation in writing.

(3) The Minister may, on the recommendation of the Board, by statutory instrument, make Regulations relating to the payment of premiums for all categories of insurance business.

(4) For the purposes of this section, where a policyholder pays a premium to a licensed insurance broker that arranged a policy with the policyholder, the premium is considered to have been paid to the licensed insurer.

(5) For the purposes of subsection (1), “ due date ” means the date on which the first premium falls due.

Currency

**27.** A sum insured, premium and any other sum of money mentioned in a policy, shall be stated in the currency of the Republic or in any foreign currency acceptable to a bank and financial institution licensed under the Banking and Financial Services Act, 2017.

Act No. 7 of 2017

Settlement of claims

**28.** (1) A licensed insurer shall, where a claim is made, in writing, by a policyholder and the licensed insurer accepts liability, the licensed insurer shall settle the claim within a prescribed period.

(2) Where a licensed insurer does not accept liability, under subsection (1), the licensed insurer shall not later than a prescribed period from the date on which the claim is delivered to the licensed insurer, deliver to the person making the claim or that person’s authorised representative a statement, in writing, stating the reasons for disclaiming liability.

(3) A licensed insurer who contravenes this section commits an offence and is liable to pay the Authority an administrative penalty not exceeding ten thousand penalty units for each day that the offence continues.

- 29.** A licensed insurer who receives a proposal for a policy shall issue the policy in the Republic and any premium and payment arising from the policy is payable in the Republic. Policies and payments
- 30.** (1) A policyholder may, despite a provision to the contrary in the policy, enforce that policyholder's rights under the policy against a licensed insurer or licensed broker in the court. Action against insurer and insurance broker
- (2) Despite subsection (1), where a policy provides that a question of law arising in an action between the policyholder and the licensed insurer shall be determined by arbitration, the court shall give effect to that provision and order that the action be determined by arbitration in accordance with the Arbitration Act, 2000. Act No. 19 of 2000
- (3) Where a policy does not provide expressly or by implication that a question of law arising in an action between a policyholder and the licensed insurer shall be determined by arbitration, a court shall proceed to hear and determine the action in accordance with this Act.
- 31.** (1) A minor may, with the consent of the minor's guardian, effect a life policy on the minor's own life and pay any premium under the policy with money at the minor's disposal. Life insurance by minor
- (2) Subject to subsection (1), a minor may effect a life policy on the minor's life and pay a premium due under the policy with money at the minor's disposal for the minor's own benefit or for the benefit of a child of the minor.
- (3) A minor who effects a life policy, under subsection (1), shall not, without the consent of the minor's guardian, pledge, assign or surrender the policy.
- (4) A minor shall—
- (a) be the holder of the life policy; and
  - (b) have the right to exercise all powers and privileges in relation to the policy as if the minor were of full age.
- 32.** (1) A life policy shall name the beneficiary and the beneficial owner under the policy. Customer due diligence to life insurance policies
- (2) A licensed insurer or reinsurer shall carry out customer due diligence measures in identifying the beneficiary of a policy as provided under any relevant written law.

Protection of  
proceeds  
during life of  
policyholder

**33.** (1) The proceeds on realisation of the policy shall, during the lifetime of that person and to the extent specified in subsection (2), be protected against a creditor or a claim in connection with an attachment or bankruptcy, where a life policy taken by a person on the person's own life has subsisted for three years or more from the date of payment of the first premium and the policy—

- (a) is attached in execution of a judgment or order of a court at the instance of a creditor of the person; or
- (b) becomes part of the estate in the bankruptcy of that person.

(2) The protection afforded by this section shall—

- (a) subject to paragraph (b), apply if the policy is pledged to an amount of the proceeds, on realisation of the policy, that exceed the amount of the liability secured by the pledge; and
- (b) not extend to prescribed amount of the proceeds realised under this Act.

(3) Money or an asset shall, to the extent specified under subsection (4), be protected against that creditor or a claim in connection with the attachment or bankruptcy during the period of five years from the date the money first became due or payable under the policy, where money due or payable to a person by a licensed insurer under a life policy under subsection (1), or asset acquired or partly acquired with that money—

- (a) is attached in execution of a judgment or order of court at the instance of a creditor of that person; or
- (b) becomes part of the estate in bankruptcy of that person.

(4) The protection provided under subsection (3) in respect of the money or assets of a person under that subsection shall—

- (a) subject to paragraph (b), apply in the case of an asset which is pledged or mortgaged, to an amount of the proceeds, on realisation of the asset, that exceed the amount of the liability secured by the pledge or mortgage;
- (b) extend to that money, or the proceeds realised from the assets, insofar as that money or realised proceeds, together with—
  - (i) other money due or paid to the person under subsection (1);
  - (ii) the value of other existing assets of the person acquired with the money paid under a life policy under subsection (1); and

- 
- (iii) the realisable value of a life policy under subsection (1) of which the person is the holder, do not exceed three thousand three hundred and thirty three fee units or a prescribed amount; and
- (c) not extend to money due or paid under a life policy under subsection (1) on the surrender of the policy, or to an asset acquired with that money.
- (5) For the purposes of this section, a life policy issued by a licensed insurer—
- (a) in exchange for, or in consideration of, the surrender of another life policy under which the licensed insurer was previously liable, is considered to have been effected on the date on which the surrendered policy was issued, if the licensed insurer did not receive a payment other than the value of the surrendered policy as consideration for the new policy; and
- (b) under section 35(3), is considered to have been effected on the date on which the old life policy for which it was substituted was issued.
- 34.** A beneficiary shall have the protection provided under section 33, where on the death of a holder of a life policy, or the holder of money or an asset in respect of which protection is afforded under that section, the beneficiary has a claim under the policy or to the money or asset, and that policy, money or assets—
- (a) are attached in the execution of a judgment or order of a court at the instance of a creditor of the deceased holder of the policy, money or asset; or
- (b) become part of the estate in bankruptcy of the deceased holder of the policy, money or assets.
- 35.** (1) A policy or money payable under a policy shall not, where a person before or during the subsistence of that person's marriage, effects or assigns a policy for the benefit of that person's spouse or child, subject to this section and in the case of a policy which is assigned to the terms of the assignment—
- (a) be attached in execution of a judgment or order of a court at the instance of a creditor of the person by whom the policy was effected or assigned; or
- (b) form part of the estate in bankruptcy of the person by whom the policy was effected or assigned.
- Protection of beneficiary on death of policyholder
- Protection of policy for spouse and children

(2) A benefit conferred or purported to be conferred on a spouse or child by the assignment of a life policy under subsection (1), shall be enforceable against the licensed insurer who is liable under the policy at the suit of the spouse or child, despite the spouse or child not accepting the benefit and not being a party to the policy—

- (a) or any agreement to the contrary between the licensed insurer and the person by whom the policy was effected; and
- (b) subject, in the case of a policy which is assigned, to the terms of the assignment.

(3) A life policy shall not, for the purposes of this section, be treated as having been effected for the benefit of the spouse or child of the person who effected the policy unless, expressly provided for at the time of issue, of the policy.

Further  
protection  
for spouse

**36.** (1) The proceeds realised under a policy shall, to the extent specified in section 35(2), be protected against the creditor or a claim in connection with the attachment or bankruptcy where a person, before or during the person's marriage, effects or assigns for the benefit of the person's spouse a life policy on the person's life or the life of the person's spouse, and the policy—

- (a) is attached in execution of a judgment or order of a court at the instance of a creditor of the spouse for whose benefit the policy was effected or assigned; or
- (b) becomes part of the estate in bankruptcy of that spouse.

(2) Section 33(3), (4) and (5) and section 35(2) and (3) shall, with the necessary modifications, apply to—

- (a) a life policy under subsection (1);
- (b) money due or paid under the policy by the licensed insurer; and
- (c) assets acquired with money under paragraph (b) or with that money and other money.

Selection for  
realisation of  
life policy

**37.** A judgment creditor or trustee of the estate in bankruptcy shall determine the policies or assets realised, wholly or partly, in order to make available to a person the aggregate realisable value not protected where—

- (a) two or more life policies or assets which are the property of one person and in respect of which protection is afforded by section 33, 34 or 35 are attached in execution of a judgment or order of a court at the instance of a creditor; or

- (b) the holder of two or more life policies or assets in respect of which protection is afforded under section 33, 34 or 35 is declared bankrupt; and a part only of the aggregate realisable value of the policies or assets is protected.

**38.** (1) A judgment creditor of the holder of a life policy or the trustee of the policyholder's estate in bankruptcy who is entitled to a part of the realisable value of the policy may, where the judgment creditor or trustee is in possession of the policy, deliver it to a licensed insurer who is liable under the policy for payment to the judgment creditor or trustee of the sum to which the judgment creditor or trustee is entitled.

Partial  
realisation  
and  
conversion  
of policy

(2) A policyholder or other person in possession of the policy shall, where a judgment creditor or trustee, under subsection (1), is not in possession of the life policy to which the subsection relates, at the request of the judgment creditor or trustee, deliver it to the licensed insurer who is liable under the policy for payment to the judgment creditor or trustee of the sum to which the judgment creditor or trustee is entitled.

(3) A licensed insurer shall, on receipt of a life policy, delivered under subsection (1) or (2), at the request of the—

- (a) judgment creditor or trustee, under subsection (1), pay to the judgment creditor or trustee a sum equal to the part of the realisable value of the policy to which the judgment creditor or trustee is entitled; or
- (b) policyholder under subsection (2), issue to the policyholder a new policy of the same class but for a sum insured equal to the difference between—
- (i) the full sum under the old policy, including any bonus which may have accrued in connection with it; and
  - (ii) an amount which bears the same ratio to the full sum insured under the old policy, including any bonus, as the amount paid by the licensed insurer to the judgment creditor or trustee under subsection (1) bears to the full realisable value of the old policy.

(4) Where a licensed insurer makes a payment or issues a new life policy, under subsection (3), the old life policy shall lapse.

Agreement  
to exchange  
life policy

**39.** Where a person who effects or assigns a life policy for the benefit of the person's spouse or holds a life policy in trust for another person is unable to pay the premiums expected to be paid on the life policy, the person may, with the consent of a person having an interest in the policy, or a minor's guardian, where the person interested in the policy is a minor, agree with the licensed insurer under the policy to—

- (a) exchange the policy with a paid up life policy of a value equal to that of the original policy in accordance with the licensed insurer's current tariff payable at the time and in the manner stipulated in the original policy to the person entitled to the sum insured by the original policy;
- (b) borrow from the licensed insurer, on terms and conditions of the policy, sums that may be necessary to keep the policy in force or revive it; or
- (c) apply a bonus, which has accrued in connection with the policy, to a temporary or permanent reduction of premiums or to the payment of premiums which have fallen due.

Incorrect  
statement in  
proposal for  
life policy

**40.** (1) A policy shall not be avoided by reason of an incorrect statement made in a proposal or other document based on which the policy was issued or reinstated by a licensed insurer, unless the statement was material to the risk of the licensed insurer, and made knowing that it was false or without reason to believe that the statement was true.

(2) Despite any written law or agreement between the proposer and the licensed insurer, where a licensed insurance agent or a servant of a licensed insurer completes a proposal for a policy with the licensed insurer, a policy issued on the basis of the proposal shall not be avoided by reason of an incorrect or false statement contained in those particulars, unless the incorrect or false statement was made by the proposer to the licensed insurance agent or the servant of the licensed insurer for the purposes of the proposal.

(3) The burden of proving that a statement, under subsection (2) was made by the proposer for the purposes of the proposal lies with the licensed insurer.

Life policy  
intended to  
defraud  
creditor

**41.** (1) This section shall not be construed as derogating from the power of a court of competent jurisdiction to set aside, under the law relating to bankruptcy, an assignment of a life policy made with intent to benefit a person at the expense of a creditor.

(2) A court of competent jurisdiction may, where a premium on a life policy is paid with the intent to benefit a person at the expense of a creditor of the person making the payment, order the policyholder to pay a sum equal to the aggregate of premiums paid, with interest at the prevailing Bank of Zambia rate, on the amount of each premium paid from the date of its payment to—

- (a) the person to whose detriment the premium was paid; or
- (b) where the person, under paragraph (a) is declared bankrupt, to the trustee of the estate in bankruptcy of that person.

(3) An order, made under subsection (2) shall have the effect of pledging, as security, the life policy under subsection (2) to a person entitled to the payment and, until the payment is made, the person is entitled to the policy.

**42.** A written statement made in an insurance proposal as to the age or date of birth of the insured person shall, for purposes of the claim, be accepted as the correct age or date of birth of the insured person, where—

Proof of age

- (a) a claim for a benefit under a life policy has been insured for a period of three years or more from the date of the payment of the first premium;
- (b) the age or date of birth of an insured person is not admitted by the licensed insurer, unless the contrary is proved by submission of medical examination records of the insured person by the licensed insurer; or
- (c) a person claiming a benefit shows that as a result of circumstances beyond the person's control, that person or the person by whom the policy was effected was not aware of a document showing proof of the age or date of birth of the insured person.

**43.** (1) Where, after the issuance of a life policy, it is reasonably proved that the life policy issued is based on an incorrect statement of the age of the person whose life is being insured, the sum insured and other benefits under the policy shall, subject to subsection (2), be payable on that premium as if the policy was secured on a correct statement of the person's age.

Incorrect age  
in life policy

(2) The Authority may, where the Authority is satisfied that the nature of a life policy of a particular kind issued by a licensed insurer on the basis of an incorrect statement renders subsection (1) inequitable, direct the licensed insurer to apply, in relation to policies of that kind, other methods of making adjustments, in respect of the incorrect statement of age, as the Authority considers equitable.

Death  
occasioned  
by insured  
person or  
beneficiary

**44.** (1) A life policy shall not be void—

- (a) due to a provision in that policy stating that the life policy is made void by the death of the insured person caused by the person's own act resulting in death of that person; and
- (b) by reason of the death of an insured person arising from that person's actions within two or more years after the issue of the policy, despite the absence of a provision giving effect to that eventuality in the policy.

(2) A policy of life insurance shall not be void merely on the grounds that the person whose life is insured died by that person's actions, whether sane or insane, suffered capital punishment, where on the true construction of the policy, a licensed insurer has thereby agreed to pay the sum insured in the event that such an occurrence happened.

(3) Where a beneficiary intentionally causes the death of an insured person, the beneficiary's benefit under the policy is void.

Lost or  
destroyed  
life policy

**45.** (1) Where a life policy is lost or destroyed and advertised in a prescribed manner, the licensed insurer who is liable under the policy shall, at the request of the policyholder, and on payment of a prescribed fee, issue to the policyholder a correct and certified copy of—

- (a) the policy, in which is inscribed any endorsement made by a licensed insurer on the original policy after its issue; and
- (b) a record in the possession of the licensed insurer of any dealings with the policy after its issue.

(2) A certified copy of a life policy, issued under subsection (1), shall replace the lost or destroyed policy and be evidence of the contract made.

**46.** (1) A life policy, issued after the commencement of this Act, may be cancelled by the policyholder within thirty days of receipt of the policy by the policyholder.

Cancellation  
of life policy

(2) A policyholder shall, where a policy is cancelled under subsection (1), be refunded all premiums paid less any expenses or medical fee incurred by a licensed insurer and brought to the notice of the policyholder in writing.

**47.** (1) Subject to subsection (2), a licensed insurer shall not discriminate or permit any discrimination in the rate of premiums charged or the rate of bonus granted between life policies which are of the same kind and under which the persons whose lives are insured have an equal expectation of life.

Discrimination  
between life  
policy

(2) Subsection (1) shall not apply to a life policy which—

- (a) is a contract of reinsurance;
- (b) is for large sums at preferential rates in accordance with the current tariff of the licensed insurer concerned;
- (c) insures' at preferential rates, the lives of—
  - (i) employees of one or more employers or members of the families of those employees; or
  - (ii) a group of persons carrying on the same occupation; or
- (d) is of a prescribed class.

(3) A director, employee or agent of a licensed insurer shall not accept a proposal for a life policy in respect of which a promissory note, bill of exchange or other negotiable instrument, not being a financial instrument payable on the date of issue or an acknowledgement of debt, not being a stop order, is given in favour of the licensed insurer or any other person, for the first year's premium or a part of the first year's premium.

(4) A person who contravenes this section commits an offence.

**48.** (1) A licensed insurer shall not issue a life policy unless the—

Premium rate  
on life policy

- (a) rate of premium chargeable under the policy is approved as suitable by an actuary; and
- (b) rate and the basis for the rate, together with the actuary's certificate, is lodged with the Registrar, at least thirty days before giving effect to the rate.

(2) The Registrar may direct a licensed insurer to obtain and furnish the Registrar, within a period as the Registrar may specify—

- (a) a report by an actuary regarding the suitability of the rate of premium chargeable under a class of policy issued by the licensed insurer; and
- (b) where the actuary considers that the rate is not suitable, a report as to the rate of premium, which the actuary approved as suitable, in respect of that class of policy.

(3) A licensed insurer directed by the Registrar under subsection (2), shall not, after the expiry of the period specified by the Registrar, issue a policy of the class in question until the licensed insurer has—

- (a) obtained the actuary's written approval of the rate of premium chargeable under that class of policy;
- (b) notified the Registrar, in writing, that the actuary's approval has been obtained; and
- (c) attached a certified copy of the approval.

(4) An actuary shall, in approving a rate of premium in respect of a class of policy, consider the maximum rate of commission or rebate prescribed for that class of policy.

(5) Where a rate of premium is approved by an actuary in respect of a class of policy, a licensed insurer shall not, except with the approval of the Authority, pay or allow to be paid for that class of policy a commission or rebate at a rate greater than the maximum rate of commission or rebate which the actuary has considered when approving the rate.

(6) A person who contravenes this section commits an offence.

## PART V

### MANAGEMENT AND SHAREHOLDING FOR INSURER, REINSURER AND INSURANCE BROKER

Shareholding

**49.** (1) A licensed insurer or reinsurer shall not have less than thirty percent of the licensed insurer or reinsurer's subscribed share capital owned by citizens or a citizen owned company.

(2) A licensed insurance broker shall not have less than fifty-one percent of the licensed insurance broker's subscribed share capital owned by citizens or a citizen owned company.

(3) A licensed insurer, reinsurer or insurance broker, who immediately before the appointed date was licensed in accordance with the repealed Act shall, within a period prescribed by the Minister, comply with this section.

(4) The Minister may, on the recommendation of the Authority, prescribe the shareholding requirements for licensed microinsurer.

(5) A licensed insurer, reinsurer or insurance broker who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units.

**50.** (1) A licensed insurer, reinsurer or insurance broker shall—

- (a) set up and maintain the licensed insurer’s, reinsurer’s or insurance broker’s principal office in the Republic; and
- (b) furnish the Registrar with the details of the address of the principal office.

Principal office for insurance business

(2) A licensed insurer, reinsurer or insurance broker shall not use the licensed insurer’s, reinsurer’s or insurance broker’s principal office for transacting business other than the business for which the licensed insurer, reinsurer or insurance broker is licensed to carry on.

(3) Where a licensed insurer, reinsurer or insurance broker proposes to change the address of the licensed insurer’s, reinsurer’s or insurance broker’s principal office, the licensed insurer, reinsurer or insurance broker shall, notify the Registrar, in writing, of the new address at least twenty-one days before the change.

(4) A licensed insurer, reinsurer or insurance broker who contravenes this section is liable to pay to the Authority one thousand five hundred penalty units for each day that the contravention continues.

**51.** A licensed insurer, reinsurer or insurance broker shall be represented in the Republic by a chief executive officer who shall be the principal officer of the licensed insurer, reinsurer or insurance broker.

Representation by chief executive officer

**52.** (1) Where the licence of an insurer, a reinsurer or an insurance broker is cancelled in accordance with this Act, a director or senior officer of that insurer, reinsurer or insurance broker shall not, without the approval of the Authority, act as a director or senior officer, or be directly involved in the management of a licensee.

Acting as director or senior officer

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Appointment  
of directors  
and officers

**53.** (1) A licensed insurer, reinsurer or insurance broker shall appoint directors, a chief executive officer and other senior officers.

(2) A licensed insurer, reinsurer or insurance broker shall, within seven days of appointing a person as a director or senior officer of that licensed insurer, reinsurer or insurance broker, apply to the Registrar for the approval of each appointment in the prescribed manner and form.

(3) An application made under subsection (2) shall be accompanied by, in the prescribed manner and form—

- (a) a certified copy of the resolution of the—
  - (i) company appointing the director; and
  - (ii) board appointing the senior officer;
- (b) a statement of the following particulars in respect of each person appointed:
  - (i) full names;
  - (ii) date and place of birth;
  - (iii) citizenship;
  - (iv) academic and professional qualifications;
  - (v) work experience, dates and nature of previous employment;
  - (vi) whether the person has ever been convicted of an offence involving fraud or dishonesty; and
  - (vii) whether the person has previously been declared bankrupt by a court of competent jurisdiction or has applied to take the benefit of a written law for the relief of bankruptcy; and
- (c) other information or documents that the Registrar may require in order to determine the application.

(4) Subject to section 54(4), the appointment of a director or senior officer by a licensed insurer, reinsurer or insurance broker shall not become effective until it has been approved in writing by the Registrar.

54. (1) The Registrar shall, in considering an application made under section 53, have regard to whether—

Approval or  
refusal to  
approve  
appointment

- (a) a chief executive officer appointed by—
  - (i) a licensed insurer or reinsurer is a fit and proper person with not less than ten years' management experience in the financial sector, at least five of which are in insurance business; or
  - (ii) a licensed insurance broker, is a fit and proper person with not less than seven years' management experience in the financial sector, at least five of which are in insurance business; or
- (b) a senior officer, meets the prescribed qualifications.

(2) The Registrar shall, within ninety days of receipt of an application made under section 53 for approval to appoint a director or senior officer, approve or refuse the appointment.

(3) The Registrar shall, where the Registrar considers that a person appointed as a director or senior officer of a licensed insurer, reinsurer or insurance broker is not a fit and proper person to be a director or senior officer and after giving the person an opportunity to be heard, notify that person of the—

- (a) refusal to approve the appointment, stating the reasons for the decision; and
- (b) direct the licensed insurer, reinsurer or insurance broker to cancel the appointment with effect from the date specified in the notice.

(4) Where the Registrar fails to inform an applicant of the Registrar's decision within the period specified in subsection (2), the appointment is deemed to have been approved and becomes effective.

(5) A person whose appointment is cancelled, under subsection (3)(b), shall not, without the approval of the Registrar, act as a director or senior officer, to be directly involved in the management of a licensee.

(6) A person who contravenes subsection (5), commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Notice of  
termination  
of  
appointment

**55.** (1) Where a licensed insurer, reinsurer or insurance broker terminates the appointment of a director or senior officer, the licensed insurer, reinsurer or insurance broker shall, within fourteen days after the termination, notify the Registrar, in writing, stating the reasons for the termination.

(2) A licensed insurer, reinsurer or insurance broker who contravenes this section commits an offence and is liable to pay the Authority one thousand five hundred penalty units for each day that the contravention continues.

Absence of  
chief  
executive  
officer

**56.** (1) A licensed insurer, reinsurer or insurance broker shall, notify the Registrar of the chief executive officer's absence where a chief executive officer of the licensed insurer, reinsurer or insurance broker is to be absent from the Republic for a period exceeding three months, at least seven days before the date of commencement of the proposed absence.

(2) A licensed insurer, reinsurer or insurance broker shall, where a chief executive officer of the licensed insurer, reinsurer or insurance broker is for any other reason unable to perform the duties of the chief executive officer—

(a) appoint a senior officer of the licensed insurer, reinsurer or insurance broker who is resident in the Republic to act as chief executive officer; and

(b) apply to the Registrar, in writing, for the approval of appointment under paragraph (a).

(3) A licensed insurer, reinsurer or insurance broker who contravenes this section commits an offence and is liable, on conviction, to a fine of one thousand five hundred penalty units for each day that the contravention continues.

Restriction  
on  
employment

**57.** (1) A person shall not be a director or employee of more than one licensed insurer, reinsurer or insurance broker.

(2) Despite subsection (1), a director may sit on two Boards of different categories of insurance business.

(3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**58.** (1) A licensed insurer or reinsurer, a director or subsidiary of the licensed insurer or reinsurer shall not directly or indirectly hold shares, or acquire financial or controlling interest in the business of a licensed insurance broker.

Restriction on holding shares

(2) A licensed insurance broker, a director, shareholder or subsidiary of the licensed insurance broker, shall not directly or indirectly hold shares in the business of a licensed insurer or reinsurer.

(3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units.

**59.** (1) The board of directors of a licensed insurer or reinsurer shall have at least five members, sixty percent of whom shall be independent directors.

Board of directors of insurer or reinsurer

(2) The board of directors of a licensed insurance broker shall have at least three members, one of whom shall be an independent director.

(3) For the purposes of this section an “independent director” means a director who has no personal interest in the business of the licensed insurer or related company of the licensed insurer, which could reasonably be perceived to be capable of materially affecting the director’s judgment in serving the best interests of the licensed insurer or reinsurer.

**60.** The Authority may issue guidelines setting minimum corporate governance standards and practices to be applied by a licensed insurer, reinsurer and insurance broker.

Corporate governance standards

## PART VI

### FINANCIAL REGULATION OF INSURANCE BUSINESS

**61.** A licensed insurer carrying on general insurance business shall, in assessing the licensed insurer’s liabilities for purposes of annual financial statements, set aside reserves for the unearned premium to meet liabilities on the unexpired risk at the end of each financial year, using a method that the Minister may, by statutory instrument prescribe.

Reserves for unexpired risk

**62.** A licensed insurer shall make adequate provision in the licensed insurer’s accounts for liabilities in respect of claims incurred but not settled at the end of each financial year, including provision for claims not reported but computed as the Minister may, by statutory instrument, prescribe.

Reserves for outstanding claims

Statutory  
fund

**63.** (1) A licensed insurer carrying on long term insurance business shall, from the date of commencement of the business, establish and maintain a fund under an appropriate name in respect of—

- (a) each class of long term insurance business carried on by the licensed insurer; and
- (b) the assets identifiable to that fund.

(2) A licensed insurer carrying on general insurance business shall, from the date of commencement of the business, establish and maintain—

- (a) a fund under an appropriate name in respect of that business; or
- (b) separate funds under appropriate names in respect of different classes of general insurance business carried on by the licensed insurer.

(3) For the purposes of this section, primary insurance and reinsurance business of the same class shall be considered as different classes of insurance business.

Compliance  
with  
solvency  
requirements

**64.** (1) A licensed insurer or reinsurer shall not carry on insurance business unless the licensed insurer's or reinsurer's available capital exceeds the minimum capital adequacy requirements as the Minister shall, by statutory instrument, prescribe.

(2) The Minister may, by statutory instrument, prescribe minimum capital adequacy requirements in respect of risks inherent to assets, liabilities, classes and volume of insurance business.

(3) A licensed insurer or reinsurer who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(4) For the purposes of this section, "available capital" means the capital computed using a method that the Minister may, by statutory instrument, prescribe.

Solvency  
statement

**65.** (1) A licensed insurer or reinsurer shall, within ninety days after the end of each financial year, submit to the Registrar a solvency statement certified by the insurer's or reinsurer's auditor.

(2) Despite subsection (1), the Registrar may, by notice, in writing, direct a licensed insurer or reinsurer to submit to the Registrar a solvency statement within thirty days from the date of the notice.

(3) A licensed insurer or reinsurer who fails to comply with this section commits an offence and is liable to pay one thousand five hundred penalty units for each day that the failure to comply continues.

(4) For the purpose of this section, “ solvency statement ” means a statement that the Minister may, by statutory instrument, prescribe.

**66.** (1) Despite this Act, the Registrar may, by notice in writing, direct a licensed insurer, reinsurer or insurance broker to furnish the Registrar with information, specified in the notice, relating to a liability or asset of the licensed insurer, reinsurer or insurance broker.

Furnishing  
of  
information  
on assets  
and  
liabilities

(2) A licensed insurer, reinsurer or insurance broker shall deliver to the Authority in the prescribed manner and form specified by the Authority—

- (a) a statement showing assets and liabilities as at the close of the last business day of that month;
- (b) a statement showing the status of policies;
- (c) a statement showing the status of any loan facility; and
- (d) other statement, further detail or evidence relating to the operations, financial condition and resources as may be prescribed.

(3) The Authority may request a licensed insurer, reinsurer or insurance broker to provide periodic reports showing information on its operations, financial condition and resources as may be prescribed.

(4) The Registrar may, where the Registrar considers it necessary that the value of a liability or asset of a licensed insurer, reinsurer, or insurance broker is not correctly determined by the licensed insurer, reinsurer or insurance broker for purposes of this Act, direct the licensed insurer, reinsurer or insurance broker to make representations, in writing, on the matter.

(5) The Registrar shall, where the Registrar requests an independent valuator to produce a valuation of a liability or asset of a licensed insurer, reinsurer or insurance broker, inform the licensed insurer, reinsurer or insurance broker, in writing, of the request and direct the licensed insurer, reinsurer or insurance broker to bear the cost of the valuation.

(6) The Registrar shall, when a valuator under subsection (5) produces a valuation of a licensed insurer, reinsurer or insurance broker liability or asset to the satisfaction of the Registrar, direct the licensed insurer, reinsurer or insurance broker to substitute the valuation submitted by the licensed insurer, reinsurer or insurance broker with the valuation produced by the independent valuator.

(7) A licensed insurer, reinsurer or insurance broker who fails to comply with a directive under subsection (5), commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(8) The Authority may issue guidelines on valuation of assets and liabilities in accordance with generally accepted insurance principles, practices and standards.

Publication  
of  
authorised  
capital,  
subscribed  
capital and  
paid-up  
capital

**67.** A licensed insurer, reinsurer or insurance broker shall, where the licensed insurer, reinsurer or insurance broker intends to publish a statement or issue a document in which a statement of the licensed insurer's, reinsurer's, insurance broker's authorised capital is mentioned, ensure that the statement also indicates the amount of the subscribed capital and paid-up capital.

Investment  
of funds

**68.** The Minister may, on the recommendation of the Authority, by statutory instrument, issue investment guidelines for insurers relating to the limits for each investment category.

Licensee to  
appoint  
actuary

**69.** (1) A licensed insurer shall appoint a qualified actuary who shall be accredited as a Fellow by the Zambia Qualifications Authority to carry out the duties imposed or conferred on the actuary under this Act before commencing insurance business.

(2) A licensed insurer shall, within seven days of appointing an actuary under subsection (1), notify the Registrar, in writing, of the appointment.

(3) The Registrar shall, where a licensed insurer fails to appoint an actuary, under subsection (1), appoint an actuary for the licensed insurer who shall be considered to be appointed by the licensed insurer.

**70.** (1) A licensed insurer who ceases to have an actuary shall, within seven days of the cessation, notify the Registrar, in writing.

Notification  
of ceasing to  
have actuary

(2) A licensed insurer shall not carry on insurance business for more than three months without an actuary.

(3) A person who contravenes subsection (2), commits an offence and is liable, to pay the Authority one thousand five hundred penalty units for each day that the contravention continues.

**71.** (1) An actuary of a long term licensed insurer shall—

Actuarial  
investigations

(a) at the end of each third financial year, conduct an investigation into, and prepare a report on, the financial conditions of the licensed insurer's long term insurance business for purposes of ascertaining any surplus for distribution; and

(b) prepare an estimate of the present value of the liabilities of the long term licensed insurer using methods and assumptions that are based on generally accepted actuarial principles and practice, having regard to the circumstances of the licensed insurer, the insurer's policies or any other method that the Minister may, by statutory instrument, prescribe.

(2) An actuary shall, where a long term licensed insurer has an actuarial deficit, annually or within a period that the Registrar may direct, investigate the financial conditions of the licensed insurers long term insurance business.

(3) Despite subsection (1), the Registrar may review or appoint an independent actuary to review the assumptions and the calculations of liabilities made by the actuary of a long term licensed insurer and where the circumstances so warrant, order the substitution of the values obtained by the actuary of the long term licensed insurer with those of the independent review.

(4) The actuary of a long term licensed insurer shall, within ninety days after the end of each third financial year, furnish the directors of the licensed insurer and the Registrar with a report, prepared in accordance with subsection (1), to enable an abstract of the report to be circulated to shareholders at the same time as the accounts of the company for that financial year.

(5) An actuary shall, where an actuary fails to obtain information for an investigation, state that fact in the report under subsection (4).

(6) An actuary of a long term licensed insurer shall—

(a) during normal working hours, have a right of access to the accounting records, including registers of the licensed insurer, and to request from the chief executive officer or other senior officer of the licensed insurer, information and explanations that the actuary considers necessary for the performance of the actuary's duties; and

(b) be entitled to—

(i) attend general meetings of the licensed insurer and to receive notices and other communications relating to a general meeting which a shareholder of the licensed insurer is entitled to receive; and

(ii) be heard, at a general meeting, on business under consideration in relation to the duties of the actuary.

(7) An actuary of a long term licensed insurer shall report to the Registrar where the actuary considers that—

(a) the licensed insurer has contravened or failed to comply with this Act; and

(b) the circumstances are such that, in the actuary's opinion, the contravention or failure to comply has not been or shall not be adequately dealt with by

(i) a comment in the actuary's report; or

(ii) bringing the matter to the notice of the directors of the licensed insurer or, if the licensed insurer is a subsidiary, to the directors of the holding company of the licensed insurer.

Distribution  
of surplus  
to  
policyholders

**72.** Where a report, prepared by an actuary in accordance with section 71, shows a surplus in the statutory fund maintained in respect of a long term licensed insurer, the licensed insurer shall distribute not less than ninety percent of the surplus to policyholders as the Minister may, by statutory instrument, prescribe.

- 73.** (1) The board of directors of a licensee shall inform the Registrar, in writing, where the board of directors has reason to believe that the licensed insurer, reinsurer and insurance broker—
- Notification where capital requirements unlikely to be met
- (a) may not be able to conduct business as a going concern;
  - (b) appears to be, or is likely in the near future to be, unable to meet the licensed insurer, reinsurer and insurance broker's obligations as they fall due; or
  - (c) does not or may not be able to meet the licensed insurer, reinsurer and insurance broker's capital adequacy requirements as prescribed.
- (2) Where the board of directors fail to comply with subsection (1)—
- (a) the Registrar may suspend or remove the board; and
  - (b) each director, shareholder and senior manager who had knowledge of the failure to comply commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units, or to imprisonment for a term not exceeding two years, or to both.

## PART VII

## REINSURANCE

**74.** A licensed insurer shall, before the beginning of each financial year, submit to the Registrar particulars relating to the licensed insurer's reinsurance programmes for the following year in the prescribed manner and form.

Reinsurance programmes

**75.** (1) The Registrar may, by notice in writing, direct a licensed insurer to submit to the Registrar, for examination, reinsurance treaties and other contracts of reinsurance entered into by the licensed insurer and furnish the Registrar with certified copies of documents under section 74.

Submission of reinsurance treaties and contracts

(2) The Registrar may refuse to approve a reinsurance treaty or other contract of reinsurance where, on examination of the contract, the Registrar considers that the terms or conditions of the contract are not—

- (a) favourable to the licensed insurer;
- (b) in the interest of the Republic's economy or insurance industry; or
- (c) in the public interest.

Promotion  
of local  
cessions and  
conduct of  
reinsurance  
business

**76.** (1) The Minister shall, by statutory instrument, prescribe the promotion of local cessions among insurers and placement of reinsurance with reinsurers licensed under this Act.

(2) The Authority may issue guidelines for the conduct of reinsurance business.

National  
Reinsurance  
Company

**77.** (1) The National Reinsurance Company shall be designated by the Minister and shall be an entity in which the Government of the Republic of Zambia holds an interest as prescribed.

(2) Mandatory cessions shall be made to a National Reinsurance Company according to thresholds prescribed by the Minister.

Mandatory  
cessions

**78.** (1) A licensed insurer shall offer a minimum mandatory cessions made according to thresholds prescribed by the Minister to place with the—

(a) Reinsurance Corporation; and

(b) Reinsurance Company.

(2) Despite subsection (2), a licensed insurer shall not be prevented from entering into direct reinsurance arrangements with the Reinsurance Corporation, Reinsurance Company or National Reinsurance Company in respect of the whole or part of the risks undertaken by the licensed insurer or from making other arrangements which are mutually acceptable to the licensed insurer and the Reinsurance Corporation, Reinsurance Company or National Reinsurance Company.

(3) The Reinsurance Corporation, Reinsurance Company or National Reinsurance Company may accept or decline all or part of the business offered to be placed with the Reinsurance Corporation, Reinsurance Company or National Reinsurance Company in accordance with this Act.

(4) Where a placement is declined as provided in subsection (3), the Reinsurance Corporation, Reinsurance Company or National Reinsurance Company shall furnish the insurer concerned with the reasons for the refusal.

## PART VIII

## MERGERS AND TAKEOVERS OF INSURANCE BUSINESS

**79.** (1) Despite any other written law, a licensed insurer, reinsurer or insurance broker shall not, without the written approval of the Authority—

Prohibition on mergers and takeovers

- (a) agree to a merger with another licensed insurer, reinsurer or insurance broker; or
- (b) agree to a takeover or transfer of the whole or part of the licensed insurer's, reinsurer or insurance broker's insurance business by another licensed insurer, reinsurer or insurance broker.

(2) An approval of a merger or takeover by the Authority in accordance with this Part shall not relieve any parties to the merger or takeover from complying with any other applicable law.

(3) For the purposes of this Act, an arrangement entered into by two or more licensed insurers, reinsurers or insurance brokers shall be a scheme for the takeover of the insurance business, except where the Authority is satisfied that all the policyholders are made aware of the nature of substitution and has the Authority's consent in writing, where—

- (a) the liability of a licensed insurer, reinsurer or insurance broker towards policyholders is to be substituted for another licensed insurer, reinsurer or insurance broker's liability towards the policyholders, whether the liability of the licensed insurer, reinsurer or insurance broker is expressed in or created by, existing or new policies; or
- (b) the terms of the new policy under paragraph (a), are the same as, or different from, those of the original policies.

**80.** (1) Where it is proposed that the insurance business of a licensed insurer, reinsurer or insurance broker be merged with, or a takeover be undertaken by, another licensed insurer, reinsurer or insurance broker, the licensed insurer, reinsurer or insurance broker concerned shall, prior to the merger or takeover, apply to the Authority for approval of the merger or takeover.

Approval of merger or takeover or transfer

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

- (a) a draft agreement or deed containing proposed terms of the proposed merger or takeover;
- (b) audited accounts for the last five years, or a shorter period that the Registrar may permit, in writing, in respect of the insurance business of each of the insurers, reinsurers or insurance brokers concerned;
- (c) documents containing particulars of other arrangements giving effect to the proposed merger or takeover;
- (d) an application for—
  - (i) a new licence, where the proposed merger will result in the formation of a new company; or
  - (ii) amendment of an existing licence, in the case of a takeover of insurance business that shall require amendment of the licence of the licensed insurer, reinsurer or insurance broker taking over the business;
- (e) a report made by the actuary of the licensed insurer, where a party to a proposed merger is a long term licensed insurer or the business to be taken over includes life insurance, which shall contain information on the state of each—
  - (i) statutory fund affected by the proposed merger or takeover; or
  - (ii) fund that would result from the division, where only part of the licensed insurance business of a licensed insurer is to be taken over; and
- (f) any other report or document the Registrar may require.

(3) The accounts and reports, under subsection (2), shall relate to the period specified in subsection (2)(b) ending on the date of the agreement for the proposed merger or takeover of insurance business.

(4) The parties to a proposed merger or takeover of insurance business shall, after making an application to the Authority in accordance with this section, cause to be published in the *Gazette* and in a daily newspaper of general circulation or in other electronic media in the Republic, notice of the proposed merger or takeover.

(5) A notice, under subsection (4), shall invite the public to submit objections to the proposed merger or takeover of the insurance business on the grounds that a person objecting has reasonable grounds to believe that the person would be adversely affected by the merger or takeover.

(6) An objection provided for in subsection (5) shall be made to the Authority in a prescribed manner and form within thirty days of the date of the publication of the notice of the proposed merger or takeover of insurance business.

**81.** The Authority may, where the Authority considers it necessary, appoint a person to inquire into, and report to the Authority, the effect of a proposed merger or takeover of insurance business, and the cost of that inquiry shall be met by the parties to the proposed merger or takeover.

Inquiry into effect of merger or takeover

**82.** (1) Where a long term licensed insurer is party to a merger, or the business to be taken over includes long term insurance business, the licensed insurer concerned shall, subject to subsection (2), send to each holder of a life policy—

Notice to policyholders

- (a) a statement on the nature of the merger or takeover;
- (b) an abstract of the material—
  - (i) facts contained in the agreement for a merger or takeover of the insurance business; and
  - (ii) findings of the actuary's report; and
- (c) details of an address at which a copy of the documents lodged with the Registrar may be inspected.

(2) A long term licensed insurer shall not send to a policyholder statements and abstracts of an actuary's reports that have not been approved by the Registrar.

(3) Where a licensed insurer who is party to a proposed merger is a general insurer, or the insurance business to be taken over is general insurance business, the licensed insurers concerned shall send to the policyholders—

- (a) a statement, approved by the Registrar, on the nature of the proposed merger or takeover; and
- (b) details of an address at which a copy of the documents lodged with the Registrar may be inspected.

**83.** (1) The Authority shall, within ninety days of receipt of an application made under section 80, approve or refuse to approve a merger or takeover of the insurance business and inform the applicants, by notice in writing.

Determination of application

(2) The Authority shall not approve a merger or takeover of insurance business unless the Authority is satisfied that the—

- (a) policyholders and shareholders of the licensed insurers concerned, and any other person the Authority considers entitled to be heard, shall not be disadvantaged by the merger or takeover;
- (b) transaction is consistent with this Act; and
- (c) Commission has approved the merger or takeover.

(3) Where the Authority refuses to approve a merger or takeover of an insurance business, the notice under subsection (1) shall contain, or be accompanied by, a statement of the reasons for the refusal.

(4) Where the Authority fails to respond to an application for approval of a merger or takeover of insurance business, within the period specified under subsection (1), the merger or takeover is deemed to have been approved.

Notification on finalisation of merger or takeover

**84.** A licensed insurer, reinsurer or insurance broker in a proposed merger or takeover shall, within fourteen days of the date of finalisation of a merger or takeover of insurance business, notify the Registrar, in writing accompanied by—

- (a) written approval by the Commission of the merger or takeover; and
- (b) evidence that the requirements of the Competition and Consumer Protection Act, 2010, and the Companies Act, 2017 in relation to the merger or takeover have been complied with.

Act No. 24 of 2010  
Act No. 10 of 2017

Effect of merger or takeover on insurer

**85.** The Authority shall, on approval of a merger or takeover of an insurance business—

- (a) cancel the licence of a licensed insurer, reinsurer or insurance broker that has been merged with, or taken over by, another licensed insurer; and
- (b) grant a new licence to a licensed insurer, reinsurer or insurance broker formed as a result of the merger or takeover with effect from the date of approval of that merger or takeover.

Effect of merger or takeover on policyholder

**86.** Where a merger or takeover has taken place, in accordance with this Part, a policyholder shall no longer have a claim against the original licensed insurer, reinsurer or insurance broker but against the licensed insurer who is granted a licence under section 85 after the merger or takeover.

## PART IX

## AUDITORS, ACCOUNTS AND RETURNS

**87.** (1) A licensed insurer, reinsurer or insurance broker shall appoint an individual or firm as an external auditor. Appointment of external auditor

(2) An external auditor appointed under subsection (1) shall be a member of the Zambia Institute of Chartered Accountants, and meet other conditions that the Authority may determine.

(3) A person that contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(4) The Minister may, by statutory instrument, exempt certain classes of insurance businesses from the requirements of this section.

**88.** Where a licensed insurer, reinsurer or insurance broker appoints a firm or body corporate as external auditor, the firm or body corporate shall designate a dealing partner or person who shall, for purposes of this Act and without limitation of the obligations and liabilities of other partners, carry out the responsibilities and obligations as if the partner or person were appointed by the licensed insurer, reinsurer or insurance broker. Appointment of firm or body corporate

**89.** An external auditor shall audit the financial statements of a licensed insurer, reinsurer or insurance broker and make a report to the shareholders of the licensed insurer, reinsurer or insurance broker and express an opinion, in accordance with this Act, any other relevant written law and standards promulgated by the Zambia Institute of Chartered Accountants on the— Duties of external auditor

(a) statement of financial position, statement of comprehensive income, statement of cash flow and other financial statements required to be submitted by the licensed insurer, reinsurer or insurance broker in accordance with this Act; and

(b) compliance of the licensed insurer, reinsurer or insurance broker with requirements of this Act or any other relevant written law, with respect to financial statements.

**90.** (1) An external auditor shall report to the Authority, in the prescribed manner and form within fourteen days, where the auditor, in the course of carrying out the auditor's duties, under section 89, finds that— External auditor's duty to report

- (a) the licensed insurer, reinsurer or insurance broker's financial soundness is prejudiced;
- (b) there is a material change in the business of the licensed insurer, reinsurer or insurance broker which is likely to jeopardise the ability of the licensed insurer, reinsurer or insurance broker to continue as a going concern;
- (c) the licensed insurer, reinsurer or insurance broker has contravened this Act in relation to the keeping of accounting records, or has committed an offence involving fraud or dishonesty;
- (d) the licensed insurer, reinsurer or insurance broker's program to counter money laundering, financing of terrorism and proliferation or any other associated serious offence is inadequate or lacking;
- (e) the licensed insurer, reinsurer or insurance broker is unable or unlikely to meet the margin of solvency; or
- (f) an irregularity has occurred which jeopardises the interests of the policyholders of the licensed insurer.

(2) An external auditor that reports on the matters under subsection (1) in good faith, is not in breach of a duty owed to a licensed insurer, reinsurer or insurance broker.

Immunity  
of external  
auditor

**91.** Where an external auditor of a licensed insurer, reinsurer or insurance broker, in good faith, certifies or makes a report in accordance with this Act—

- (a) the external auditor shall not be in contravention of any—
  - (i) enactment or code of professional conduct to which the auditor is subject to; or
  - (ii) contractual provision binding the auditor to confidentiality whether to the licensed insurer, reinsurer or insurance broker or other party; and
- (b) civil, criminal or disciplinary proceedings shall not be instituted against the external auditor.

Disqualification  
of external  
auditor

**92.** An external auditor shall not be appointed as an external auditor of a licensed insurer, reinsurer or insurance broker if the auditor is—

- (a) a director, senior officer or other employee of the licensed insurer, reinsurer or insurance broker or of any person associated or affiliated with the licensed insurer, reinsurer or insurance broker;

- (b) an associate of a director or senior officer of the licensed insurer, reinsurer or insurance broker; or
- (c) a person who personally, or through that person's partner or employee, regularly performs the duties of secretary or book keeper to the licensed insurer, reinsurer or insurance broker.

**93.** The accounts of a licensed insurer, reinsurer or insurance broker shall be audited annually by an external auditor appointed in accordance with this Part. Auditing of account

**94.** The Registrar may, where the Registrar considers it necessary, direct an external auditor of a licensed insurer, reinsurer or insurance broker at the licensed insurer's, reinsurer's or insurance broker's expense, to— Request for extended scope audit

- (a) carry out an extended scope audit or other examination and make necessary comments and recommendations to the Registrar;
- (b) submit to the Registrar additional information in relation to an audit, extended scope audit or other examination that the Registrar considers necessary;
- (c) submit to the Registrar a report on the financial accounting systems and internal controls of the licensed insurer, reinsurer or insurance broker; or
- (d) submit to the Registrar a report as to whether, in the auditor's opinion, the licensed insurer's, reinsurer's or insurance broker's provisioning against liabilities and maintenance of assets is being done in accordance with this Act.

**95.** An external auditor of a licensed insurer, reinsurer or insurance broker shall, in a certificate relating to the accounts and statements of the licensed insurer, reinsurer or insurance broker, in respect of a financial year, state whether— External auditor's certificate

- (a) the accounts and statements to which the certificate relates appear to the auditor to be in accordance with the requirements of this Act and shall give particulars of matters that appear not to be in accordance with the requirements;
- (b) the accounting records of the licensed insurer, reinsurer or insurance broker appear to the auditor to have been properly kept and shall give particulars of accounting records that do not appear to have been properly kept or of transactions that do not appear to have been properly recorded;

- (c) the external auditor obtained from the licensed insurer, reinsurer or insurance broker all information and explanations that the auditor requested for purposes of performing the auditor's duties;
- (d) the licensed insurer, reinsurer or insurance broker has failed to provide information or explanations requested by the auditor and shall set out the particulars of the information and explanations;
- (e) the auditor is satisfied that the accounts and statements under paragraph (a)—
  - (i) conform to the accounting records of the licensed insurer, reinsurer or insurance broker; and
  - (ii) appear to the auditor to be in accordance with the generally accepted accounting principles;
- (f) management expenses incurred in respect of the licensed insurer, reinsurer or insurance broker's business, directly or indirectly, have been fully debited in the licensed insurer, reinsurer or insurance brokers revenue account or profit and loss account, and give particulars of expenses not so debited; and
- (g) every reserve is calculated in accordance with section 61 and 62 or any other prescribed methods.

Information  
by external  
auditor to  
Authority

**96.** (1) The Authority may, request an external auditor of a licensed insurer, reinsurer or insurance broker, whether current or in the past, by notice, to provide information about the licensed insurer, reinsurer or insurance broker, a subsidiary or an affiliate of the licensed insurer, reinsurer or insurance broker.

(2) An external auditor who fails, refuses or neglects to provide the information under subsection (1) or provides false or misleading information, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Access to  
Information  
by external  
auditor

**97.** An external auditor of a licensed insurer, reinsurer or a insurance broker has the right to access all the books, accounts and records of a licensed insurer, reinsurer or insurance broker and is entitled to require from directors, senior officers and agents information and explanations that the external auditor requires to perform the external auditor's duties under this Act and any other relevant written law.

**98.** (1) A report made by an external auditor for the purposes of this Act shall—

External  
auditor's  
report

- (a) express whether, in the external auditor's opinion, the licensed insurer, reinsurer or insurance broker made available all information necessary for the external auditor to comply with the requirements of this Act or other relevant written law;
- (b) state whether, in the external auditor's opinion, any of the statements in the annual financial statement—
  - (i) exhibits a true and fair statement of the licensed insurer, reinsurer or insurance broker's financial condition; and
  - (ii) requires an explanation or information from the board, senior officer or agent of the licensed insurer, reinsurer or insurance broker or receives a satisfactory response;
- (c) state whether in the external auditor's opinion the licensed insurer, reinsurer or insurance broker has complied with this Act and any other relevant written law; and
- (d) state the transactions or conditions that have come to the attention of the auditor affecting the well-being of the licensed insurer, reinsurer or insurance broker that, in the opinion of the external auditor, are not satisfactory and require rectification including—
  - (i) a transaction of the licensed insurer, reinsurer or insurance broker that has come to the attention of the external auditor and which in the opinion of the external auditor, has not been within the powers of the licensed insurer, reinsurer or insurance broker or which was contrary to the Act or any other relevant written law; and
  - (ii) a non-performing loan that is outstanding, is restructured or the terms of repayment are extended, if the principal amount of the loan is five percent or more of the regulatory capital of the licensed insurer, reinsurer or insurance broker.

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	<p>(2) The board of directors shall submit to the Authority a copy of the report of the external auditor, together with a copy of the financial statement.</p>
Dismissal of external auditor by Authority	<p><b>99.</b> (1) The Authority may cause the dismissal of an external auditor of a licensed insurer, reinsurer or insurance broker for failure to perform the auditor's responsibilities under this Act, or auditing standards approved by the Zambia Institute of Chartered Accountants.</p> <p>(2) Where an external auditor to a licensed insurer, reinsurer or insurance broker is dismissed, under subsection (1), the licensed insurer, reinsurer or insurance broker shall appoint another external auditor, subject to requirements determined by the Authority.</p>
Resignation of external auditor	<p><b>100.</b> Where an external auditor of a licensed insurer, reinsurer or insurance broker resigns, the external auditor shall prepare and deliver to the Authority, a written statement specifying the reasons for the resignation, within ten days after submission to the licensed insurer, reinsurer or insurance broker of the auditors resignation.</p>
Termination of appointment of external auditor by insurer, reinsurer or insurance broker	<p><b>101.</b> (1) Where a licensed insurer, reinsurer or insurance broker terminates the appointment of the external auditor, the licensed insurer, reinsurer or insurance broker shall submit to the Authority and the external auditor, within ten days of the decision to terminate the appointment, a written statement setting out reasons for the termination.</p> <p>(2) An external auditor may, within ten days of receiving the statement under subsection (1), submit to the Authority and the licensed insurer, reinsurer or insurance broker a written statement responding to the reasons set out by the licensed insurer, reinsurer or insurance broker.</p>
Audit committee	<p><b>102.</b> A licensed insurer, reinsurer or insurance broker shall establish an audit committee and appoint persons that the licensed insurer, reinsurer or insurance broker considers necessary as members of the committee.</p>
Financial statements and other returns	<p><b>103.</b> (1) A licensed insurer, reinsurer or insurance broker shall, within ninety days after the end of each financial year, cause to be prepared the following documents, in accordance with applicable financial reporting standards and regulations made in accordance with this Act:</p> <ul style="list-style-type: none"><li>(a) a statement of financial position;</li><li>(b) a statement of comprehensive income;</li></ul>

- 
- (c) a cash flow statement for the financial year in relation to the licensed insurer's, reinsurer's or insurance broker's business; and
- (d) an insurance account statement for that financial year end.
- (2) A licensed insurer, reinsurer or insurance broker shall effect a reconciliation between the statements specified in subsection (1) and the company accounts for that year.
- (3) An auditor shall prepare—
- (a) a report of the insurance accounts, the reconciliation and the company accounts; and
- (b) supplementary report to the report on the company accounts, stating that, in the auditor's opinion, the insurance accounts—
- (i) are properly prepared under this Act; and
- (ii) give a true and fair view of the state of the licensed insurer, reinsurer or insurance broker's business in that financial year.
- (4) A licensed insurer shall lodge with the Registrar a copy of the insurance accounts and the auditor's report, together with a copy of the company accounts and the external auditors report circulated to the shareholders under the Companies Act, 2017. Act No. 10  
of 2017
- (5) A holding company shall provide a copy of the group accounts to the Registrar, where a licensed insurer is a subsidiary of a holding company which is—
- (a) not an insurer; and
- (b) required, in accordance with the Companies Act, 2017, to prepare group accounts. Act No. 10  
of 2017
- (6) Where a licensed insurer, reinsurer or insurance broker of foreign origin is required, in accordance with the law of the licensed insurer, reinsurer or insurance broker's country of origin, to prepare and submit to an authority in that country an abstract, account or return, the licensed insurer, reinsurer or insurance broker shall, within three months of submission of that abstract, account or return to that authority, submit certified copies of the abstract, account or return to the Registrar.

(7) Amounts that a licensed insurer, reinsurer or insurance broker is required to show in an account or balance sheet shall be shown in the currency of the Republic to the nearest kwacha or in like manner in a foreign currency approved by the Authority.

(8) A licensed insurer, reinsurer or insurance broker shall not change the licensed insurer, reinsurer or insurance broker's balance sheet without prior notification to, and written approval of, the Registrar.

(9) For the purposes of this section—

(a) “ company accounts ” means the financial statements for the financial year of a company prepared in accordance with the Companies Act, 2017;

(b) “ group accounts ” means—

(i) a set of consolidated accounts for a group of companies; or

(ii) a combination of sets of consolidated accounts and separate accounts covering a group of companies; and

(c) “ insurance accounts ” means the annual insurer, reinsure or insurance brokers return prepared in the prescribed manner and form.

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of 2017

Financial  
year

**104.** The financial year for a licensee is a period of twelve calendar months ending on 31st December in each year or other date that the Registrar shall approve in writing.

Submission  
of signed  
financial  
statements

**105.** (1) A licensed insurer, reinsurer or insurance broker shall submit to the Registrar a copy of financial statements and insurance accounts, signed in accordance with section 109, within three months after the end of the period to which the account, balance sheet, return or statement relates.

(2) A licensed insurer, reinsurer or insurance broker shall submit to the Registrar a certified copy of a report made to its shareholders or policyholders, as applicable, on the affairs of the licensed insurer, reinsurer or insurance broker within one month after the making of the report.

(3) A licensed insurer, reinsurer or insurance broker who fails to comply with this section commits an offence and is liable to pay to the Authority one thousand five hundred penalty units for each day that the failure to comply continues.

**106.** (1) A licensed insurer or reinsurer shall prepare and furnish to the Registrar a quarterly return in the prescribed manner and form.

Insurer and reinsurer quarterly returns

(2) The quarterly return under subsection (1) shall be—

- (a) signed by the chief executive officer of the licensed insurer or reinsurer; and
- (b) furnished to the Registrar not later than—
  - (i) 30th April for the first quarter;
  - (ii) 31st July for the second quarter;
  - (iii) 31st October for the third quarter; and
  - (iv) 31st January for the fourth quarter.

(3) A licensed insurer or reinsurer who contravenes this section is liable to pay to the Authority a fine of one thousand five hundred penalty units for each day that the failure to comply continues.

**107.** (1) A licensed insurance broker shall prepare and furnish to the Registrar quarterly returns in each financial year in accordance with this section.

Broker's quarterly returns

(2) The quarterly return under subsection (1) shall be—

- (a) signed by the chief executive officer of the licensed insurance broker;
- (b) signed by the chief executive officer of the licensed insurer; and
- (c) furnished to the Registrar not later than—
  - (i) 31st May for the first quarter;
  - (ii) 31st August for the second quarter;
  - (iii) 30th November for the third quarter; and
  - (iv) 28th February for the fourth quarter.

(3) A licensed insurance broker who contravenes this section is liable to pay the Authority a fine of Authority a fine of one thousand five hundred penalty units for each day that the failure to comply continues.

**108.** (1) A licensed insurer carrying on more than one class of insurance business in a category of insurance business shall keep separate accounts of receipts and payments in respect of each class.

Separate accounts for classes of insurance business

(2) A licensed insurer shall, where an amount is received or paid by the licensed insurer for the purposes of this section, apportion between the classes of insurance business in respect of which the amount is received showing premium per class, investment income per class, claims per class, reinsurance cost per class administration and management costs or taxes per class of business.

Signing of  
accounts  
and  
statements

**109.** (1) Financial statements and insurance accounts prepared under this Act by a licensed insurer, reinsurer or insurance broker shall be signed, in the case of—

- (a) the licensed insurer, reinsurer or insurance broker, by the auditor and two directors;
- (b) the licensed insurance broker—
  - (i) by the auditor and two directors; or
  - (ii) where the licensed insurance broker has only one director, by the auditor and that director; or
- (c) a foreign licensed insurer, reinsurer or insurance broker, by an agent authorised in writing by that licensed insurer, reinsurer or insurance broker.

(2) Financial statements and annual returns shall, in the case of a foreign licensed insurer, reinsurer or insurance broker, be signed by the authorised agent, under subsection (1)(c), unless the Registrar directs that it be signed by the auditor of the licensed insurer, reinsurer or insurance broker.

Publication  
of returns  
and  
statements

**110.** (1) A licensed insurer, reinsurer or insurance broker shall publish, in a newspaper of general circulation, or other electronic media in the Republic, its quarterly financial statement and audited annual financial statements.

(2) The Authority shall prescribe the manner and form of publication of the financial statements under subsection (1).

(3) A licensed insurer, reinsurer or insurance broker shall display, in a conspicuous place in each branch, at all times when the branch is open for business, a copy of the licensed insurer's quarterly and audited annual financial statement.

Unauthorised  
publication  
of returns  
and  
statements

**111.** (1) Subject to subsection (2), a licensed insurer, reinsurer or insurance broker shall not publish, whether in the Republic or elsewhere, a return or statement required in accordance with this Act in a form other than the form in which the return or statement is furnished to the Registrar.

(2) Despite subsection (1), a licensed insurer, reinsurer or insurance broker is not prevented from publishing a true and accurate abstract from the return or statement submitted to the Registrar in accordance with this Act.

**112.** (1) The Registrar may, for the purposes of ascertaining the accuracy or completeness of a return or report furnished by a licensed insurer, reinsurer or insurance broker, by notice in writing, direct the licensed insurer, reinsurer or insurance broker, or the auditor of the licensed insurer, reinsurer or insurance broker, to—

Examination  
of returns  
and reports

- (a) furnish the Registrar, within a period specified in the notice, with further information that the Registrar considers necessary; or
- (b) submit to the Registrar, within the period specified in the notice, documents that the Registrar considers necessary.

(2) The Registrar may, where a licensed insurer, reinsurer or insurance broker fails to provide information or submit a document to the Registrar, within the period specified under subsection (1), reject the return or report and shall notify the licensed insurer, reinsurer or insurance broker in writing.

(3) Where the Registrar rejects a return or report, under subsection (2), the licensed insurer, reinsurer or insurance broker is considered to have failed to comply with this Act in relation to submission of returns or reports to the Registrar.

(4) A person commits an offence if that person for the purposes of subsection (1)—

- (a) provides information or a document which the person knows to be false in a material particular; or
- (b) recklessly provides information or a document which is false in a material particular.

(5) A person convicted of an offence under subsection (4) is liable to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

## PART X

### INSPECTIONS AND CO-OPERATION

**113.** The Authority shall establish an inspectorate to administer, monitor and enforce measures for the effective supervision of the insurance industry.

Establishment  
of  
inspectorate

**114.** (1) The Authority shall appoint suitably qualified persons as inspectors to ensure compliance with this Act.

Appointment  
of  
inspectors

(2) The Authority shall provide an inspector with an identification card which shall be evidence of the inspector's appointment as inspector.

- (3) An inspector shall, in performing a function under this Act—
- (a) be in possession of the identification card under subsection (2); and
  - (b) show the identification card to a person who requests to see the identification card or is the subject of an investigation under this Act.

Conduct of inspections

**115.** (1) For the purposes of ensuring compliance with this Act, an inspector may during normal working hours enter premises used, or which the inspector reasonably believes to be used, by a licensee for conducting business, and—

- (a) inspect the business and affairs of the licensee, including the licensee's systems, procedures and controls;
- (b) inspect assets, including cash, belonging to or held by the licensee on behalf of another person;
- (c) examine and make copies of documents, including accounting records, belonging to, or in the possession of the licensee;
- (d) demand information, explanation or clarification from the licensee on a matter under paragraph (a), (b) or (c);
- (e) record or make copies of information kept by the licensee in an electronic form; and
- (f) undertake other actions that the inspector considers necessary for the effective carrying out of an inspection under this Act.

(2) An inspector shall, when undertaking an inspection, have regard to matters which are relevant to the supervision of licensees, including—

- (a) verifying the capital, solvency and reserves of a licensed insurer, reinsurer or intermediary;
- (b) determining that a licensed insurer or intermediary has adequate procedures in place for purposes of preventing money laundering, financing of terrorism or proliferation or any other serious offence;
- (c) determining whether the licensee is treating policyholders fairly; or
- (d) determining whether a licensee is complying with this Act, or with conditions on which the licence was granted.

(3) Without limiting the generality of subsection (1), the Authority shall carry out an inspection in respect of a licensee at a time that the Authority may determine.

(4) A person shall not, directly or indirectly, hinder an inspector from carrying out the functions of the inspector under this Act.

(5) A person commits an offence if that person—

- (a) delays or obstructs an inspector in the performance of the inspector's functions;
- (b) refuses to give an inspector reasonable assistance that the inspector may require for the purpose of carrying out the inspector's functions; or
- (c) knowingly gives an inspector information which is misleading or false in a material particular.

(6) A person convicted of an offence under subsection (5) is liable to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**116.** (1) The Registrar may request a licensee to furnish the Registrar with any information, books, papers or any other documents within a period that the Registrar shall determine.

Request for  
information

(2) The information, books, papers or any other documents furnished under this Part shall be certified by a principal officer or any other employee of the entity authorised to certify the production of that information, books or papers as provided for under any other relevant written law.

(3) Subject to this Act, the Registrar may request or provide information furnished in accordance with subsection (2) to other local and foreign regulatory authorities in accordance with agreements that may be in force.

(4) A person commits an offence if that person—

- (a) furnishes information, books, papers or other documents which the person knows to be false in a material particular; or
- (b) alters, mutilates, damages, destroys, conceals or removes the information, books, papers or other documents from their lawful custody with intent to conceal the information requested for.

(5) A person convicted of an offence under subsection (4) is liable to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Appointment  
of expert  
investigators

**117.** The Registrar may appoint a number of expert investigators that the Registrar may consider appropriate to carry out investigations for purposes of this Act.

Consolidated  
supervision

**118.** (1) The Authority shall, where it considers necessary for the safety and soundness of the licensed insurer, reinsurer or intermediary or policyholders, or to determine whether this Act is being complied with, request, in writing, an affiliate, associate holding or subsidiary company or a person that controls the insurer, reinsurer or intermediary, to provide the Authority or its appointed agent information or documents that may be necessary, including financial statements and other financial records of that affiliate, associate, holding or subsidiary company or person in control, within the period specified in the notice.

(2) The Authority may appoint a competent person to undertake an examination of the operations and affairs of an affiliate, associate, holding or subsidiary company of a licensed insurer, reinsurer, intermediary or any person that controls a licensed insurer, reinsurer or intermediary in order to determine whether the operations and affairs of the affiliate, associate, holding or subsidiary company or the person in control are detrimental to the safety and soundness of the licensed insurer, reinsurer or intermediary.

(3) The Minister may, by statutory instrument, prescribe methods for group wide supervision and regulation.

Co-operation  
with other  
institutions

**119.** The Registrar may liaise and cooperate with relevant institutions in conducting investigations of insurance businesses licensed and regulated under this Act.

## PART XI

### SUPERVISORY ACTION

Supervisory  
action by  
Authority

**120.** (1) The Authority may take supervisory action against a licensee that—

- (a) contravenes this Act, code of practice or market conduct rules made under this Act or any other relevant written law;
- (b) is carrying on business in a manner that is unsafe and unsound;
- (c) is likely to become insolvent;
- (d) fails to comply with a directive given or a regulatory statement issued by the Authority;

- (e) is in breach of a condition of a licence;
- (f) provides the Authority with false, inaccurate or misleading information, whether on an application for a licence or subsequent to the grant of the licence;
- (g) carries on the business in a manner contrary to the sound principles of insurance;
- (h) in the case of a licensed insurer, lacks adequate arrangements for the reinsurance of risks against which persons are insured by the licensed insurer;
- (i) effects a corporate restructuring transaction without the prior written approval of the Authority;
- (j) ceases to fulfill the eligibility requirements in accordance with this Act;
- (k) refuses to permit, or obstructs an investigation or inspection made under this Act;
- (l) without reasonable justification, fails to cooperate with the Authority in relation to findings of an inspection conducted under this Act;
- (m) six months after being granted a licence, fails to commence the business to which the licence relates;
- (n) is convicted of an offence involving fraud or dishonesty, or any other offence under this Act; or
- (o) is declared bankrupt by a court of competent jurisdiction.

(2) The Authority may exercise its authority over a licensee where the Authority considers that it is necessary to implement supervision for the purposes of prevention and combatting of money laundering and financing of terrorism or proliferation or any other serious offence related to money laundering and financing of terrorism or proliferation.

**121.** (1) The Authority may take supervisory action in respect of a licensee, including—

Nature of  
supervisory  
action

- (a) taking possession of the licensed insurer, reinsurer or intermediary in accordance with the Act;
- (b) suspending, for a period not exceeding six months, a licence granted to the licensee;
- (c) imposing restrictions on a licence granted to licensee;

- (d) revoking a licence granted to the licensee;
- (e) making directions, in writing, that the licensed insurer, reinsurer or intermediary takes remedial action to comply with any rule or regulatory statement;
- (f) issuing a regulatory statement or measure to be taken to improve the management, financial soundness or business methods of a licensed insurer, reinsurer or intermediary;
- (g) requiring the board or senior officers to execute an agreement on implementation of a regulatory statement issued under paragraphs (e) and (f);
- (h) performing or appointing an agent to perform a special investigation of a licensee to determine the financial condition of a licensee at the cost of the licensed insurer, reinsurer or intermediary; or
- (i) publish in a newspaper of wide circulation or other forms of public media the nature of supervisory action taken against a licensee.

(2) The Authority may, where a licensed insurer, reinsurer or intermediary fails, refuses or neglects to comply with a regulatory statement issued or an agreement made, under subsection (1)—

- (a) issue a cease and desist order, of temporary or indefinite duration, requiring a licensed insurer, reinsurer or intermediary and its board to—
  - (i) stop the unsafe or unsound practice;
  - (ii) limit its investments or borrowing;
  - (iii) stop any declaration or payment of dividends;  
or
  - (iv) stop any other activity that may be specified by the Authority;
- (b) remove or suspend a person from the management of the affairs of the licensed insurer, reinsurer or intermediary;
- (c) impose an administrative penalty on the offending senior officer, which shall be paid by that senior officer;
- (d) appoint a person who is suitably qualified and competent to advise and assist the licensed insurer, reinsurer or intermediary, generally or for the purposes of implementing the orders, made under paragraph (a), (b) or (c);

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- (e) appoint a person who is suitably qualified and competent to manage the affairs of the licensed insurer, reinsurer or intermediary for a period that shall be necessary to rectify the problem;
- (f) require the licensed insurer, reinsurer or intermediary to reconstitute its board within a period that shall be specified;
- (g) withhold approvals on establishment of new branches;
- (h) restrict or vary the licensed insurer, reinsurer or intermediary's licence;
- (i) require the licensed insurer, reinsurer or intermediary to increase its capital to levels that may be specified; or
- (j) impose any administrative penalty as the Authority may consider appropriate in the circumstance.
- 122.** Despite section 120, the Authority may, by notice in writing, restrict a licensed insurer, reinsurer or intermediary from—
- (a) entering into transactions of a class or description specified in the notice, except in circumstances or to an extent specified in the notice;
- (b) soliciting business from persons of a class or description specified in the notice or from persons other than persons of a class or description; or
- (c) carrying on business in a manner specified in the notice.
- 123.** The Authority may, in taking supervisory action, relating to the assets of a licensed insurer, reinsurer or intermediary, by notice in writing—
- (a) prohibit the licensed insurer, reinsurer or intermediary from disposing of, or dealing with, the licensed insurer, reinsurer or intermediary's assets in a manner specified in the notice; or
- (b) direct the licensed insurer, reinsurer or intermediary to deal with the licensed insurer, reinsurer or intermediary's assets in a manner specified in the notice.
- 124.** Where it appears to the Authority that a restriction or prohibition imposed on a licensed insurer, reinsurer or intermediary, under this Act is no longer necessary, the Authority may, either on its own motion, or on application by the licensed insurer, reinsurer or intermediary, by notice in writing vary the restriction or rescind the prohibition.

Restrictions  
on classes of  
transactions

Prohibition  
from dealing  
with assets

Variation or  
rescission  
of  
restriction  
or  
prohibition

Notice of  
taking  
possession

**125.** (1) The Authority may, where the Authority considers it necessary for the protection of policyholders take possession of a licensed insurer, reinsurer or intermediary.

(2) The Authority shall, when taking possession of a licensed insurer, reinsurer or intermediary—

- (a) notify the licensed insurer, reinsurer or intermediary, in writing of the action;
- (b) specify the date, hour and minute at which the possession shall take effect; and
- (c) where the intended possession relates to insolvency proceedings under the Corporate Insolvency Act, 2017, transmit a copy of the notice to the court.

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Powers of  
Authority  
on taking  
possession

**126.** (1) Despite any other relevant written law, the Authority shall, on taking possession of a licensed insurer, reinsurer or intermediary under section 125, be vested with full and exclusive powers of management and control of the licensed insurer, reinsurer or intermediary, including the power to—

- (a) continue or discontinue operations of the licensed insurer, reinsurer or intermediary;
- (b) employ, re-employ or retain in employment officers or other employee of the licensed insurer, reinsurer or intermediary, or professional advisors that the Authority considers necessary;
- (c) terminate the employment of a director or employee of the licensed insurer, reinsurer or intermediary;
- (d) terminate the interests of shareholders and refer the determination of the value of the shareholders' interests to the court or arbitrator; or
- (e) enforce the personal liability of the directors and shareholders of the licensed insurer, reinsurer or intermediary incurred in the ordinary course of the licensed insurer, reinsurer or intermediary business on unpaid shares.

(2) Despite subsection (1), the Registrar may, where the Registrar considers it proper to do so, take possession of the licensed insurer, reinsurer, or intermediary where the Registrar finds that—

- (a) the assets of a licensed insurer, reinsurer or intermediary whose voluntary winding-up or liquidation or dissolution will not be sufficient for the full discharge of its obligations; or
- (b) the completion of the winding-up, liquidation or dissolution is unduly delayed.

**127.** (1) The Authority shall, on taking possession of a licensed insurer, reinsurer or intermediary, prepare a statement of affairs showing the financial position of the licensed entity and take actions under subsection (2).

Statement of  
assets and  
liabilities

(2) The Authority shall, where a statement made under subsection (1) shows a licensed insurer, reinsurer or intermediary to be—

(a) solvent—

- (i) restructure or reorganise the licensed insurer, reinsurer or intermediary;
- (ii) sell the licensed insurer, reinsurer or intermediary as a going concern;
- (iii) close the licensed insurer, reinsurer or intermediary;
- (iv) transfer all or part of business to another licensed insurer, reinsurer or intermediary;
- (v) initiate a purchase and assumption transaction;
- (vi) dispose of some of the assets of the licensed insurer, reinsurer or intermediary; or
- (vii) take the action that the Authority considers necessary to enable the Authority carry out its functions in accordance with this Act.

(b) insolvent, subject to the Corporate Insolvency Act, 2017—

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- (i) revoke the licensed insurer's, reinsurer's or intermediary's licence and place the licensed insurer, reinsurer or intermediary under compulsory liquidation under Part XII; or
- (ii) take appropriate action in accordance with subsection (2)(a).

**128.** A licensed insurer, reinsurer or intermediary, or an interested person acting on behalf of the licensed insurer, reinsurer or intermediary may, within twenty-one days after the date on which the Authority takes possession of the licensed insurer, reinsurer or intermediary, petition the Minister to establish the Tribunal to inquire into the decision of the Authority to take possession thereof.

Petition to  
Minister  
against  
possession

Effect of  
possession

**129.** Where the Authority takes possession of a licensed insurer, reinsurer or intermediary—

- (a) despite any relevant law relating to extension of time, a term, whether statutory or contractual, on the expiration of which a claim or right of the licensed insurer, reinsurer or intermediary would expire or be extinguished, shall be extended by six months of the date of that expiration or extinction;
- (b) an attachment or lien which has been in existence for less than twelve months shall be vacated, and no attachment or lien shall attach to an asset or property of the licensed insurer, reinsurer or intermediary during the period that the possession continues; and
- (c) a writ of execution, attachment, garnishee order or other process of a similar nature shall not be issued or made against an asset of the licensed insurer, reinsurer or intermediary during the period that the possession continues.

Restructuring  
and re-  
organisation

**130.** (1) The Authority shall, where the Authority decides to restructure or reorganise a licensed insurer, reinsurer or intermediary, under subsection (2), cause to be published in the *Gazette* and in a daily newspaper of general circulation, or in other electronic media in the Republic a notice—

- (a) accompanied by the restructuring or reorganisation plan; and
- (b) inviting interested persons to submit to the Registrar, within thirty days from the date of publication of the notice, written objections to the plan and the reasons for objecting.

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(2) The Authority shall proceed to carry out the restructuring or reorganisation, in accordance with the Corporate Insolvency Act, 2017, if—

- (a) no objection is received by the Registrar, within the period specified in subsection (1), or the Authority is not satisfied with the reasons for the objection; and
- (b) the court does not order a stay of proceedings.

**131.** Any expenses incurred by the Authority in the application of this Part shall be defrayed from the funds of the licensed insurer, reinsurer or intermediary concerned.

Expenses incurred in taking possession

**132.** The Authority may appoint an agent to carry out the functions of the Authority on taking possession of the licensed insurer, reinsurer or intermediary.

Power of Authority to appoint agent on taking possession

## PART XII

### INSOLVENCY, DISSOLUTION AND LIQUIDATION OF INSURER, REINSURER OR INTERMEDIARY

**133.** The Corporate Insolvency Act, 2017, shall apply where a licensed insurer, reinsurer or intermediary is insolvent, unless the Authority determines that the winding up or dissolution shall proceed in accordance with this Part.

Application of Corporate Insolvency Act, 2017

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**134.** (1) Subject to section 133, a licensed insurer, reinsurer or intermediary shall not, while insolvent, except where it is necessary or incidental to the orderly realisation, conservation or preservation of the assets of the licensed insurer, reinsurer or intermediary, enter into or continue to conduct business which—

Prohibition from conducting business while insolvent

Act No. 9 of 2017

(a) the insurer, reinsurer or intermediary is licensed to carry on; or

(b) is ancillary to the business which the licensed insurer, reinsurer or intermediary is licensed to carry on.

(2) A shareholder, director, senior officer or other employee of a licensed insurer, reinsurer or intermediary commits an offence if that shareholder, director, senior officer or other employee knows or, in the proper performance of duties, could reasonably be expected to know of the insolvency of the licensed insurer, reinsurer or intermediary and causes or permits an act in contravention of this section.

(3) A person convicted of an offence under subsection (2) is liable to a fine not exceeding five hundred thousand penalty units, or to imprisonment for a term not exceeding five years, or to both.

**135.** Where a licensed insurer, reinsurer or intermediary becomes insolvent, the Authority may—

Power of Authority on insolvency of insurer, reinsurer or intermediary

(a) take possession of the licensed insurer, reinsurer or intermediary in accordance with this Act; or

(b) order compulsory winding up or dissolution of the licensed insurer, reinsurer or intermediary in accordance with section 142.

Approval of  
voluntary  
winding-up  
or  
dissolution  
Act No. 10  
of 2017

Act No. 9 of  
2017

**136.** (1) A licensed insurer, reinsurer or intermediary shall not, except with the written approval of the Authority, pass a resolution for voluntary winding-up or dissolution in accordance with the Companies Act, 2017, the Corporate Insolvency Act, 2017 or any other written law.

(2) A licensed insurer, reinsurer or intermediary seeking approval for voluntary winding-up or dissolution shall submit to the Registrar an audited declaration of solvency by the directors of the licensed insurer, reinsurer or intermediary, accompanied by a statement of affairs of the licensed insurer, reinsurer or intermediary showing the—

- (a) assets and total amount expected to be realised from those assets;
- (b) liabilities; and
- (c) estimated expenses of the winding-up, made up to the latest practicable date before the intention to wind-up was arrived at.

(3) The Authority may, by notice in writing, grant a licensed insurer, reinsurer or intermediary the Authority's approval to voluntarily wind up or dissolve the licensed insurer, reinsurer or intermediary business if the Authority is satisfied that the licensed insurer, reinsurer or intermediary is solvent and has sufficient liquid assets to repay in full and without delay, in the case of—

- (a) the licensed insurer or reinsurer, its policyholders and other creditors; and
- (b) the licensed intermediary, the creditors of the licensed intermediary.

(4) Where a licensed insurer, reinsurer or intermediary passes a resolution for voluntary winding-up or dissolution, the licensed insurer, reinsurer or intermediary shall record the date, hour and minute of the passing of the resolution.

(5) A director, senior officer or other employee of a licensed insurer, reinsurer or intermediary who, in relation to subsection (2), makes a false declaration, or causes or permits a false declaration to be made, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**137.** (1) Where a licensed insurer, reinsurer or intermediary receives written approval of the Authority for voluntary winding-up or dissolution, the licensed insurer, reinsurer or intermediary shall, within twenty-one days of receipt of the approval—

Duties of insurer, reinsurer or intermediary on voluntary winding up

- (a) pass the resolution for voluntary winding up or dissolution;
- (b) surrender the licensed insurer, reinsurer or intermediary licence to the Registrar;
- (c) cease to carry on business, except so far as is required in the opinion of the liquidator, in consultation with the Registrar, for purposes of effecting an orderly winding up;
- (d) in the case of—
  - (i) the licensed insurer or reinsurer, repay or transfer to the licensed insurer's policyholders and creditors amounts due to them; or
  - (ii) the licensed intermediary, repay or transfer to the licensed intermediary's creditors amounts due to them; and
- (e) wind up the licensed insurer's, reinsurer's or intermediary's operations.

(2) Despite subsection (1), the corporate state and powers of a licensed insurer, reinsurer or intermediary shall not cease until the licensed insurer, reinsurer or intermediary is dissolved.

(3) A director or senior officer of a licensed insurer, reinsurer or intermediary who causes or permits a contravention of subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**138.** (1) A licensed insurer, reinsurer or intermediary shall, within seven days after receiving the approval of the Authority for voluntary winding up, cause to be published in the *Gazette* and in a daily newspaper of general circulation or other electronic media in the Republic a notice of the licensed insurer, reinsurer or intermediary intention to wind up, which shall include information that the Authority may specify in the notice given under section 136.

Notice of voluntary winding up or dissolution

(2) A licensed insurer, reinsurer or intermediary shall display, in a conspicuous place at each branch of the licensed insurer, reinsurer or intermediary, a copy of the notice published in accordance with subsection (1).

Rights of  
policyholders,  
creditors  
and other  
persons

**139.** (1) An approval by the Authority for the voluntary winding up or dissolution of a licensed insurer, reinsurer or intermediary under this Part shall not prejudice the right of—

- (a) a policyholder or creditor of the licensed insurer to the payment in full of a claim;
- (b) a creditor of the licensed intermediary to the payment in full of a claim; or
- (c) an owner of funds or other property held by the licensed insurer, reinsurer or intermediary to the return of those funds or property.

(2) A lawful claim against a licensed insurer, reinsurer or intermediary shall be paid promptly by the licensed insurer, reinsurer or intermediary and all funds and other property held by the licensed insurer, reinsurer or intermediary shall be returned to the rightful owners within a period that the Authority may direct in writing.

(3) Without prejudice to the generality of subsection (2), a long term licensed insurer or general licensed insurer shall, in the distribution of assets other than those identified with a statutory fund for purposes of a voluntary winding up or dissolution, ensure that the holders of policies issued by the licensed long term insurer or general licensed insurer have preference to all other unsecured creditors.

Cancellation  
of licence on  
voluntary  
winding up

**140.** (1) The Authority shall, where the Authority is satisfied that a licensed insurer, reinsurer or intermediary has discharged its obligations specified in this Act cancel the licensed insurer, reinsurer or intermediary licence.

(2) A licensed insurer, reinsurer or an intermediary whose licence is cancelled under subsection (1) shall distribute the remainder of the licensed insurer, reinsurer or intermediary assets among the shareholders of the licensed insurer, reinsurer or intermediary in accordance with the Corporate Insolvency Act, 2017.

Act No. 9  
of 2017

(3) A distribution of a licensed insurer's, reinsurer's or intermediary's assets, under subsection (2), shall not be made unless—

- (a) in the case of—
  - (i) a licensed insurer, all lawful claims of policyholders and other creditors of the licensed insurer are paid; or

- (ii) a licensed intermediary, all lawful claims of creditors of the licensed intermediary are paid;
- (b) in the case of a disputed claim, the licensed insurer, reinsurer or intermediary, or the liquidator of the licensed insurer, reinsurer or intermediary, has turned over to the Authority sufficient funds to meet any liability that may be judicially determined; and
- (c) the licensed insurer, reinsurer or intermediary has turned over to the Authority, unclaimed funds to be dealt with in accordance with section 150, and uncollected funds that are payable by the—
  - (i) licensed insurer or reinsurer to a policyholder or creditor; or
  - (ii) licensed intermediary to a creditor.

**141.** The Authority may, where it considers just and appropriate, take possession of a licensed insurer, reinsurer or intermediary whose voluntary winding up or dissolution is approved by the Authority if it becomes known to the Authority that the—

Powers of Authority where assets insufficient or completion unduly delayed

- (a) assets of the licensed insurer, reinsurer or intermediary are not sufficient to fully discharge the licensed insurer, reinsurer or intermediary obligations; or
- (b) completion of the winding up or dissolution is unduly delayed.

**142.** (1) Subject to the Corporate Insolvency Act, 2017, or any other law, the Authority may order the compulsory winding up or dissolution of a licensed insurer, reinsurer or intermediary, and cause to be recorded the date, hour and minute that the order shall take effect.

Compulsory winding up Act No. 9 of 2017

(2) The Authority shall, within seven days of making an order, under subsection (1), notify each director, shareholder, policyholder, creditor and any other interested party of the order in the prescribed manner and form.

**143.** (1) A licensed insurer, reinsurer or intermediary, or an interested person acting on behalf of the licensed insurer, reinsurer or intermediary may, within twenty-one days of publication of a notice under section 142, appeal to the court against the order of the Authority.

Appeal against order of compulsory winding up or dissolution

(2) The Court shall render its decision within thirty days of hearing an appeal made under subsection (1), and may make any order it considers just in the circumstances.

Powers of  
Authority in  
compulsory  
winding up

**144.** (1) The Authority may, in effecting a compulsory winding up or dissolution of a licensed insurer, reinsurer or intermediary under this Act, in addition to any other powers, exercise the powers of the licensed insurer, reinsurer or intermediary concerned.

(2) Without limiting the generality of subsection (1), the power of the Authority as liquidator of a licensed insurer, reinsurer or intermediary is to—

- (a) bring, carry on or defend an action or legal proceeding in the name and on behalf of the licensed insurer, reinsurer or intermediary; and
- (b) carry on the business of the licensed insurer, reinsurer or intermediary only for the beneficial winding-up or dissolution of the licensed insurer, reinsurer or intermediary.

Act No. 9 of  
2017

(3) Subject to the Corporate Insolvency Act, 2017 and any other relevant written law, the Authority shall after a decision to compulsorily wind-up or dissolve a licensed insurer, reinsurer or intermediary—

- (a) take all necessary steps to terminate safe custody functions performed by the licensed insurer, reinsurer or intermediary and shall return to each owner all assets and property held by the licensed insurer, reinsurer or intermediary as a bailee in relation to the owner; and
- (b) cause to be made available at each branch for collection for each policy holder, creditor, safe custody services customer and bailer of property held by the licensed insurer, reinsurer or intermediary a policy holder's statement of the nature and amount for which each one's claim is shown in the licensed insurer, reinsurer or intermediary's records and shall cause to be published in a newspaper of general circulation in the Republic, a notice informing all persons of the availability for collection of the policyholder's statement at their respective branches.

(4) A policyholder's statement under subsection (2), shall state that—

- (a) a claim by the policyholder or creditor shall be filed with the Authority within sixty days from the date of the customer's statement being made available; and
- (b) policyholders shall be required to withdraw their property within sixty days of the date of the policy holder's statement being made available.

(5) Any property held in safe custody, on the premises of a licensed insurer, reinsurer or intermediary that has not been withdrawn before the date specified in the customer's statement shall be taken into possession by the Authority in the manner prescribed by the Authority.

(6) Any unclaimed funds and property held by a licensed insurer, reinsurer or intermediary as a bailee, together with inventories that are withdrawn, in accordance with this section, shall be unclaimed funds for the purposes of this Act and shall be dealt with accordingly.

**145.** The Authority shall, within six months after the last day specified in a customer's statement, for the purpose of the filing of claims under section 144(4)(a)—

Limitation  
on filing  
claims

- (a) defer payment of any claim that is out of time;
- (b) determine the amount, if any, owing to each known policyholder or creditor and the priority class of the claim in accordance with this Act;
- (c) file into court, a liquidation schedule showing the steps that the Authority proposes to take;
- (d) reject any claim that appears to be of doubtful validity and notify, each person whose claim has not been allowed in full in the prescribed manner and form; and
- (e) publish once a week for three consecutive weeks, in the *Gazette*, a newspaper of general circulation, or in other electronic media in the Republic where the licensed insurer, reinsurer or intermediary had a branch, a notice of the date and place where the liquidation schedule is available for inspection and the date, not earlier than thirty days after the date of the third publication of the notice, on which the Authority or person appointed shall file the liquidation schedule into court.

Objection to  
liquidation  
schedule

**146.** (1) A policyholder, creditor or owner of a licensed insurer, reinsurer or intermediary and any other interested party may, within twenty days, after the filing of a liquidation schedule as specified in section 144, file with the court an objection to any step proposed.

(2) The court shall consider an objection filed under subsection (1) and may—

- (a) order that appropriate modification of the schedule be made; or
- (b) set aside the objection.

(3) The Authority may, after the filing of the liquidation schedule, under section 144, partially distribute to the holders of undisputed claims or claims that have been allowed by the court, on condition that a proper rescue account is established for the payment of disputed claims.

Priority of  
creditors Act  
No. 9 of  
2017

**147.** (1) Subject the Corporate Insolvency Act, 2017, or any other written law, in any compulsory winding up or dissolution of a licensed insurer, reinsurer or intermediary, the following shall be paid in priority to all other debts in the order set:

- (a) expenses incurred in the process of compulsory winding up or dissolution;
- (b) policyholders;
- (c) taxes and rates due;
- (d) wages and salaries of employees of the licensed insurer, reinsurer or intermediary, excluding senior officers, for a period of three months;
- (e) charges and assessments due to the Authority; or
- (f) other claims against the licensed insurer, reinsurer or intermediary in an order of priority that the court may determine on application by the Authority.

(2) After payment of all claims are submitted and accepted, the remaining claims that are not submitted within the time allowed in accordance with this Act shall be paid in the order of priority to their submission and at a rate to be fixed by the Authority.

(3) If the amount available for payment for any class of claims under subsections (1) and (2) is insufficient to provide full payment, the claims within a class shall abate in equal proportions.

(4) Where the amount available for payment for any class of claims under subsection (1) is insufficient to provide full payment, the amount shall abate in equal proportions.

(5) For the purposes of this section, subsection (1) constitutes a separate class of claims and the claims under subsection (2) constitute another separate class of claims.

**148.** Any undistributed funds remaining after final distribution, under this Act, shall be taken into possession and held by the Authority and subsequently dealt with in accordance with this Act.

Undistributed funds

**149.** Any asset remaining after all claims are paid in a compulsory winding up or dissolution of a licensed insurer, reinsurer or intermediary shall be distributed among the shareholders.

Final distribution in compulsory winding up or dissolution

**150.** The Authority shall take into its possession any unclaimed funds remaining after the final distribution of the assets of a licensed insurer, reinsurer or intermediary in accordance with the Corporate Insolvency Act, 2017, and those funds shall form part of the Insurance Fidelity Fund and be administered as if they were part of the Insurance Fidelity Fund.

Unclaimed funds

Act No. 9 of 2017

**151.** A person, other than the Authority, shall not where the Authority takes possession of a licensed insurer, reinsurer or intermediary, under this Part, commence proceedings for the winding up or dissolution of the licensed insurer, reinsurer or intermediary, except where the proceedings are commenced by a licensed insurer, reinsurer or intermediary.

Restriction on action by third party

**152.** (1) Where an application is made to the court for an order for the winding up of a licensed insurer, reinsurer or intermediary by a person other than the Authority, the court shall not consider the application unless the court is satisfied that a copy of the application is served on the Registrar.

Other person's applications to court for winding up

(2) The Authority is entitled to file documents in court in relation to an application under subsection (1).

**153.** Any necessary and reasonable expenses incurred by the Authority in the application of this Act is defrayed from the funds of the licensed insurer, reinsurer or intermediary concerned.

Recovery of expenses

**154.** Nothing in this Part is taken to impute liability, or place an obligation, on the Authority to meet a claim by a policyholder or creditor of a licensed insurer, reinsurer or intermediary that has been wound up or dissolved.

Immunity of Authority against claims

**155.** The Authority may appoint an agent to carry out the functions of the Authority under this Part.

Power of Authority to appoint agent

## PART XIII

## COMPLAINTS

Initiation of  
investigation

- 156.** (1) The Authority may investigate a complaint—
- (a) on the Authority’s own initiative; or
  - (b) on receipt of a complaint made by a complainant—
    - (i) acting in the complainant’s own interest;
    - (ii) that is an association acting in the interest of its members;
    - (iii) who is a person acting on behalf of a complainant;
    - (iv) who is a person acting on behalf, and in the interest, of a group or class of persons; or
    - (v) who is making a complaint anonymously.
- (2) A complaint, made as provided in subsection (1) shall be in the prescribed manner and form.
- (3) Subsection (2) shall not apply to a complaint made by a person specified in subsection (1)(b)(v).

Refusal to  
investigate  
or  
discontinue  
complaint

- 157.** (1) The Authority may refuse to investigate a complaint or, having commenced an investigation, discontinue the investigation if the—
- (a) complaint is frivolous, vexatious or not made in good faith;
  - (b) complainant does not have sufficient interest in the action complained of, except that this paragraph shall not apply to a complaint made by a person specified in section 156(1)(b)(v);
  - (c) complainant has a right of appeal, review or remedy that has not been exhausted;
  - (d) conduct or involvement to which the complaint relates is or has been the subject of an investigation or other action by any other appropriate authority under any other law; or
  - (e) complaint has been withdrawn.
- (2) The Authority shall not investigate a complaint unless the complaint is made within a period of one year from the date on which the complainant exhausted the complainant’s rights as prescribed.

(3) Despite subsection (1)(c), the Authority may investigate a complaint where the Authority is satisfied that the complainant has been prevented from exercising the complainant's rights as specified.

(4) The Authority shall, where it decides not to conduct an investigation or discontinue an investigation, inform the complainant, in writing, within fourteen days of its decision and give reasons for the decision.

**158.** Where the Authority is of the opinion that it is in public interest to do so, the Authority may continue an investigation initiated by a complaint despite the withdrawal by the complainant of the complaint.

Continuation of investigation where complaint withdrawn

**159.** The Authority may, at any stage of investigating or dealing with a matter as provided in this Act, refer the matter to an appropriate authority.

Referral of matter

**160.** The Authority may, where the Authority commences an investigation or is investigating a matter and the matter is being dealt with by an appropriate authority—

Collaboration on investigation

- (a) continue to investigate or decide on the matter and share its findings with the appropriate authority concerned;
- (b) refer the matter to the appropriate authority concerned and request a report on the matter, once the matter has been finalised; or
- (c) join the appropriate authority investigating the matter and produce a joint report.

**161.** (1) The Authority may issue an enforcement notice directing a licensed insurer, reinsurer or intermediary to carry out steps that the Authority considers appropriate, within a specified period where, after undertaking an investigation under this Act, the Authority is of the opinion—

Enforcement notice

- (a) that the action which was the subject matter of the investigation is contrary to this Act or any other written law, based wholly or partly on a mistake of law or fact;
- (b) that—
  - (i) the matter should be given further consideration;
  - (ii) an omission should be rectified;
  - (iii) a decision should be cancelled, reversed or varied;
  - (iv) the practice on which the act, omission, decision or recommendation was based should be altered;

(v) reasons should have been given for the decision;  
or

(vi) any other steps should be taken.

(2) Where, on the expiry of the period, specified under an enforcement notice, a licensed insurer, reinsurer or intermediary fails to comply with the enforcement notice without reasonable cause, the Authority shall make a decision to give effect to the steps specified in the enforcement notice.

Variation or  
cancellation  
of  
enforcement  
notice

**162.** (1) The Authority may, on its own initiative or on an application of a licensed insurer, reinsurer or intermediary, vary or cancel an enforcement notice issued in accordance with section 161.

(2) Where the Authority varies or cancels an enforcement notice, as provided in subsection (1), the Authority shall immediately notify the concerned licensed insurer, reinsurer or intermediary, in writing, stating the reasons for the variation or cancellation.

#### PART XIV

##### INSURANCE TRIBUNAL

Right to  
appeal

**163.** (1) A person who is aggrieved by a decision of the Authority may, within thirty days of receipt of the decision of the Authority, notify the Minister, in the prescribed manner and form, of the intention to appeal against the decision.

(2) Lodgment of an appeal under this Part does not stay the effect of the Registrar's decision against which the appeal is made.

Appointment  
and  
convening of  
appeals  
tribunal

**164.** (1) The Minister shall, within thirty days after receipt of a notice made under section 163, appoint and convene an *ad hoc* appeals tribunal consisting of a chairperson who is an advocate of the High Court of not less than ten years standing and two other persons having qualifications and experience in insurance, securities, commerce, finance, accounting or any other specialised field relating to the matter which is the subject of the appeal.

(2) The Tribunal shall have jurisdiction to hear and determine—

(a) appeals from decision of the Authority or a person exercising the functions or powers of the Authority;

- (b) proceedings relating to conduct in the insurance market; and
- (c) other matters as may be specified in, or prescribed in terms of this Act or any other written law.
- (3) A person aggrieved with a decision of the Tribunal may appeal to the Court of Appeal.

**165.** The Chief Justice shall prescribe rules of procedure for an ad hoc tribunal convened under this Act.

Tribunal  
Rules

## PART XV

### GENERAL PROVISIONS

**166.** (1) Subject to subsection (2), assets, liabilities and interests situated in the Republic shall be insured with an insurer licensed under this Act.

Insurance to  
be placed  
within  
Republic

(2) Despite subsection (1), the Registrar may, in writing and on terms and conditions that the Registrar may prescribe, authorise the placing outside the Republic of an insurance policy which is not available within the Republic.

(3) A person who fails to comply with this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(4) The Minister may prescribe, by statutory instrument, classes of insurance, businesses to be placed within the Republic including transport and property insurance.

**167.** (1) Subject to the Electronic Communications and Transactions Act, 2021, a document furnished to the Registrar by a licensee is signed, in the case of—

Documents  
to be signed  
and copies  
supplied  
Act No. 4  
of 2021

- (a) a document in a prescribed form, by the person specified in the form; and
- (b) any other document where the licensee is a company, by the chief executive officer of the company.

(2) Where a document furnished to the Registrar is a copy of the original document, the Registrar shall not accept the copy unless it is certified to be a true copy of the original document in the prescribed manner.

**168.** (1) The Registrar shall establish and maintain a register of licensees, which shall contain particulars of licensees and the licences issued under this Act as prescribed.

Register of  
licensees

- (2) The register shall be kept by the Registrar at the offices of the Authority and shall be open for inspection by members of the public during office hours on payment of a prescribed fee.
- (3) The Registrar may, on an application by a person, issue to that person a certified extract from the register or a copy of a licence issued to a licensee under this Act, on payment of a prescribed fee.
- 169.** The Registrar may, where the Registrar considers it necessary in the public interest, direct a licensee to display, in a conspicuous place in which the licensee carries on the business authorised by the licence, information or particulars that the Registrar shall specify.
- 170.** (1) A licensed insurer, reinsurer or insurance broker shall not change the licensed insurer, reinsurer or insurance broker's name without the Registrar's approval in writing.
- (2) The Registrar shall not approve a change of name, under subsection (1), if the Registrar reasonably considers that the change will be contrary to public interest.
- (3) The Registrar shall, where the Registrar approves a change of name under subsection (1), cause notice of the change to be published in the *Gazette* and in a daily newspaper of general circulation in the Republic.
- 171.** The Registrar may, where the Registrar considers it necessary, alter a form prescribed under this Act for the purpose of adapting the form to meet the circumstances of a licensee or a person applying for a licence under this Act.
- 172.** (1) A person shall not issue a document, provided for in this Act, which is false in a material particular.
- (2) A person who contravenes subsection (1) or who, knowingly falsifies a document, takes part in the preparation, issue or signing of the document, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
- 173.** Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner of the body corporate or unincorporate body, that director, manager, shareholder or partner commits the same offence as the body corporate or unincorporate body and is liable, on conviction, to the penalty specified for that offence under this Act.

Display of  
information

Publication  
on change of  
name

Alteration of  
prescribed  
forms

False  
documents

Offence by  
principal  
officers of  
body  
corporate or  
unincorporate  
body

**174.** A person who is not licensed in accordance with this Act shall not use in the description or title under which the person is carrying on business in the Republic—

Prohibition of use of certain titles

- (a) any of the following words, when applied to or used in respect of insurance business:
  - “ assure ”, “ assurer ”, “ assurance ”, “ broker ”, “ consultant ”, “ guarantee ”, “ indemnity ”, “ insure ”, “ insurer ”, “ insurance ”, “ reinsurer ”, “ reinsurance broker ” or “ international ”;
- (b) a literal translation of any of the words mentioned in paragraph (a); or
- (c) a combination of letters in which any of the words mentioned in paragraph (a) appears.

**175.** (1) A licensed insurer or reinsurer shall be a member of the Insurers Association of Zambia and shall subscribe and conform to the Association’s code of conduct.

Membership to associations

(2) A licensed insurance broker shall be a member of the Insurance Brokers Association of Zambia and shall subscribe and conform to the Association’s code of conduct.

(3) The Registrar may suspend a licensed insurer, reinsurer or insurance broker licence for a period of not less than one year if—

- (a) the licensed insurer, reinsurer or insurance broker refuses, neglects or fails to join the association specified in subsection (1) or (2) within ninety days of being granted a licence; or
- (b) the membership of the licensed insurer reinsurer or insurance broker to the association specified in subsection (1) or (2) is suspended or otherwise terminated.

(4) The Authority may, where the reason specified in subsection (3) for the suspension of the licence of an insurer, reinsurer or insurance broker continues to exist for thirty days after the suspension is lifted, cancel the licence in accordance with this Act.

**176.** A person who contravenes this Act or fails to comply with a directive made under this Act, for which no specific penalty is provided, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

General penalty

- Administrative penalty**      **177.** (1) An administrative penalty imposed under this Act shall be paid to the Authority within the period specified by the Registrar.
- (2) The Registrar may, where a person fails to pay an administrative penalty within the period specified in subsection (1), by way of civil action in a court, recover the amount of the administrative penalty from that person as an amount due and owing to the Authority.
- Immunity of officer, agent or employee of Authority**      **178.** An action or other proceeding shall not lie or be instituted against an officer, agent or employee of the Authority in respect of any act done or omitted to be done by that officer, agent or employee in good faith in the exercise or performance, of any powers, functions or duties conferred by or under this Act.
- Regulations**      **179.** (1) The Minister may, on the recommendation of the Board, by statutory instrument make Regulations for carrying out or giving effect to this Act.
- (2) Despite the generality of subsection (1), the Regulations made under subsection (1) provide for—
- (a) the forms for applications required for the purposes of this Act, and the fees to be paid in respect of that application;
  - (b) standards and conduct for licensees;
  - (c) prescribing or prohibiting business practices or methods;
  - (d) imposition of licence fees to be paid by licensees;
  - (e) types of licences that the Authority may issue;
  - (f) prohibiting unsafe and unsound practices by licensees;
  - (g) the Registrar’s exercise of powers to request information from—
    - (i) former and current shareholders, directors, senior officers or other employees of a licensee; or—
    - (ii) a former licensee;
  - (h) guidelines setting out criteria for the assessment of a fit and proper person to be a shareholder, director or senior officer;
  - (i) prescribing a period within which a licensee shall commence the business to which the licence relates;
  - (j) the procedure to be followed where a licensee is the subject of possession under this Act;

- 
- (k) prescribing requirements for the conduct of the business of insurance to ensure customers are treated fairly, both before and after a contract is entered into upto the point where obligations under a contract are discharged;
  - (l) formulating capital adequacy requirements for licensees;
  - (m) formulating licensing, supervision, procedures and standards for the conduct of medical scheme fund management businesses;
  - (n) formulating procedures for hearing persons required to appear before the Authority;
  - (o) categories of insurance businesses;
  - (p) anti-money laundering and countering terrorism and proliferation, financing or any other associated serious offence relating to money laundering countering of terrorism and proliferation financing by licensed insurer, reinsurer and intermediary;
  - (q) requirements for supervision, regulation and conduct of micro- insurance business
  - (r) any savings or transitional provisions the Authority considers necessary or convenient to be made after the commencement of this Act; and
  - (s) the effective administration and implementation of this Act.

**180.** (1) The Insurance Act, 1997, is repealed.

Repeal of  
Act No. 27  
of 1997

(2) Despite subsection (1), a licence issued in accordance with the repealed Act shall on the commencement of this Act continue to exist for the unexpired period as if issued in accordance with this Act.

(3) Despite subsection (1) the—

- (a) Committee, established in accordance with section 106 of the repealed Act is continued in existence as if established in accordance with this Act; and
- (b) Insurance Fidelity Fund established in accordance with section 109 of the repealed Act, 1997, is continued in existence as if established in accordance with this Act.

(4) The Schedule applies to the Committee and the Insurance Fidelity Fund.

## SCHEDULE

(Section 180(4))

CONTINUATION OF POLICY HOLDERS' PROTECTION COMMITTEE AND  
INSURANCE FIDELITY FUND

## PART I

## POLICY HOLDERS' PROTECTION COMMITTEE

Functions  
of  
Committee**1.** The Committee shall—

- (a) subject to the direction of the Board, be responsible for the—
  - (i) administration of the Insurance Fidelity Fund; and
  - (ii) settlement of claims against the Fund; and
- (b) perform other functions as may be directed by the Board.

Constitution  
of  
Policyholders'  
Protection  
Committee**2.** (1) The Committee shall consist of the following members appointed by the Minister:

- (a) a representative of the ministry responsible for finance, as Chairperson;
- (b) a representative from the Zambia Institute of Chartered Accountants;
- (c) a person nominated by an organisation representing insurers;
- (d) a person nominated by an organisation representing insurance brokers;
- (e) a person nominated by the Law Association of Zambia; and
- (f) two other persons representing policyholders.

(2) The ministries, institutions or organisations under subparagraph (1)(a) to (e) shall nominate their representatives for appointment by the Minister.

Appointment  
of Vice-  
Chairperson  
of  
Committee**3.** The Minister shall appoint the Vice-Chairperson of the Committee from among the members referred to in subparagraphs (1)(b) to (e).Tenure of  
office of  
Committee**4.** Subject to paragraph 5, a member of the Committee shall hold office for a period of three years from the date of the member's appointment, but the member may be re-appointed for a further period of three years.

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- 5.** A person shall cease to be a member of the Committee, and the person's office as a member becomes vacant if that member—
- Vacancy in the office of member of Committee
- (a) without reasonable cause, absent from three consecutive meetings for which the member had notice;
  - (b) dies;
  - (c) is declared bankrupt by a court of competent jurisdiction;
  - (d) is legally disqualified from a mental condition which makes the member incapable of performing the functions of a member of the committee; or
  - (e) is convicted of an offence against any written law and sentenced to imprisonment for a period exceeding six months without the option of a fine.
- 6.** Where a vacancy occurs, as provided in paragraph 5, the Minister may appoint a new member, in accordance with paragraph 2, and the member shall hold office for the unexpired period of the term of the person in whose place the member is appointed.
- Appointment of new member to fill vacancy
- 7.** A member of the Committee is paid an allowance determined by the Emoluments Commission, on the recommendation of the Minister.
- Allowances
- 8.** (1) The Committee shall meet for the transaction of business at least once in three months at a place and time the chairperson of the Committee may determine.
- Proceedings of Committee
- (2) The quorum at a meeting of the Committee is four of the members present.
- (3) The chairperson shall preside at a meeting of the Committee, except that where —
- (a) the chairperson is absent, the vice chairperson shall preside at the meeting; or
  - (b) both the chairperson and the vice chairperson are absent, the members present shall, for purposes of transacting the business of the meeting, elect a member from among themselves to act as chairperson.
- (4) The determination of a matter to be considered by the Committee is by a majority of the members present and voting at the meeting, and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote, in addition to that person's deliberative vote.

(5) The Committee may invite a person, whose attendance the Committee considers necessary, to attend and participate in the deliberations of the meeting but the person shall have no vote.

Minutes of meetings

9. The Committee shall cause to be kept minutes of the proceedings of every meeting of the Committee.

## PART II

### INSURANCE FIDELITY FUND

Constitution of Insurance Fidelity Fund

10. The Insurance Fidelity Fund shall consist of—

- (a) moneys paid to the Authority by way of annual or other periodic licence fees charged in accordance with this Act;
- (b) moneys recovered by, or on behalf of the Authority by exercise of a right of action conferred by this Act; and
- (c) all other moneys accruing to the Fund.

Purpose of Fund

11. (1) The Insurance Fidelity Fund is held and applied on terms and conditions that the Minister may, on the recommendation of the Board, by statutory instrument determine, for the purposes of compensating persons who suffer pecuniary loss occasioned by a licensed insurer or insurance broker.

(2) The Board may invest amounts constituting the credit of the Fund, which are not immediately required for purposes of the Fund, in securities or in any manner authorised by law for investment of trust funds.

(3) Despite subsection (1), the Fund shall apply to individuals and the micro small and medium enterprises as prescribed.

Disbursements from Insurance Fidelity Fund

12. There is paid out of the Insurance Fidelity Fund as and when required and in an order that the Board considers appropriate—

- (a) the amount of claims, including costs, allowed by the Board;
- (b) legal and other expenses incurred in—
  - (i) investigating or defending claims;
  - (ii) relation to the Fund; or
  - (iii) the exercise of the rights, powers and authority vested in the Board by this Act in relation to the Fund;

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- (c) premiums payable in respect of insurance or indemnity entered into by the Board;
  - (d) expenses incurred or involved in the administration of the Fund; and
  - (e) any other moneys lawfully payable out of the Fund in accordance with this Act or regulations made in accordance with this Act.

**13.** The Minister may, on the recommendation of the Board, make Regulations prescribing matters and things that are necessary or expedient to be prescribed with respect to the administration, management and application of the Insurance Fidelity Fund.

Management of the Insurance Fidelity Fund

**14.** The payment out of the Insurance Fidelity Fund is limited, in respect of a licensed insurer, reinsurer or insurance broker in default, to amounts that the Minister may, by statutory instrument, prescribe.

Limit of the payments under the Insurance Fidelity Fund

**15.** A disbursement from the Insurance Fidelity Fund that is accountable to the default of a licensed insurer or insurance broker is a debt due to the Fund from that licensed insurer or insurance broker.

Recovery of disbursements from defaulting insurer or insurance broker

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