

CONSOLIDATED VERSION

THE INSURANCE ACT, 1997

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SCHEDULE

(Sections 104 and 106)

Repealed

GOVERNMENT OF ZAMBIA

ACT
No. 27 of 1997

Date of assent: 11th November, 1997

An Act to regulate the insurance industry; to repeal the Insurance Act (Cap 392); and to provide for matters connected with or incidental to the foregoing.

[14th November, 1997]

ENACTED by the parliament of Zambia.

Enactment

PART I
PRELIMINARY

Short title and commencement

1. This Act may be cited as the insurance Act, 1997, and shall come into operation on such dates as the Minister may, by statutory order, appoint.

2. In this Act, unless the context otherwise requires -

“admitted asset”, in relation to an insurer, has the meaning assigned to it in section *thirty-eight*;

“assessor” means a person who, where a claim is made against an insurer for loss or damage, assesses the extent of the loss or damage;

“auditor” has the meaning assigned to it in the Companies Act;

“**Authority**” means the **Pensions and Insurance Authority established by section four of the Pensions Scheme Regulation Act;**

Cap.414

(as amended by Act No.26 of 2005)

“**Board**” means the **Pensions and Insurance Authority Board established by section six of the pensions Scheme Regulation Act**
(as amended by Act No.26 of 2005)

“broker” means a person who, on behalf of an insured person or a person who intends to take up an insurance policy, arranges insurance policies;

“child” includes a child born out of wedlock, a step child, **an unborn child** or an adopted child;

(as amended by Act No.26 of 2005)

Cap.414

“claims agent” means a person who negotiates, on behalf of an insured person, the settlement of an insurance claim with an insurer or the insurer’s representative;

“committee” means the policy Holders’ Protection committee referred in section one hundred and six;

(as amended by Act No.26 of 2005)

“company” has the meaning assigned to it in the Companies Act;

“director” has the meaning assigned to it in the Companies Act

“due date of premium” means the date of commencement of the period of insurance cover referable to that premium under the contract of insurance;

“Fidelity Fund” means the Insurance fidelity Fund established under section *one hundred and nine*;

“Financial year” has the meaning assigned to it in the Companies Act;

“general insurance business” means insurance business other than life insurance business;

“holder”, in relation to a policy, means the person who is entitled to enforce a benefit provided for in the policy;

“holding company” has the meaning assigned to it in the Companies Act;

“insurance agent” means a person who, not being a salaried employee of an insurer-

- (a) initiates insurance business; or
- (b) does any act in relation to the receiving of proposals for insurance, the issue of temporary insurance cover-notes, or the collection of premiums;

on behalf of an insurer;

“insurance brokerage” means the business of acting as a broker;

“insurance business” means the business of issuing policies of insurance, and includes re-insurance business

“insurer” means a company that carries on insurance business;

“life insurer” means a company that carries on life insurance business;

“life policy” means a policy under which the insurer assumes a contingent obligation dependent on human life, and includes any contract of insurance customarily regarded as a life insurance contract, but does not include-

- (a) a funeral policy;

- (b) a policy under which the contingent obligation dependent on human life forms a subordinate part of the insurance effected by the policy;
- (c) a policy for a period of less than two years; or
- (d) a policy of a kind or description prescribed by regulations made under this Act;

Act No.26 of
1996
Cap. 414

“long term insurance business’ means insurance business of such classes as the Minister may, on recommendation of the Board by statutory instrument, prescribe
(as amended by Act No.26 of 2005)

“loss adjustor” means a person who makes assessments of liability, or settle claims, on behalf of an insurer;

“minor” means a person under the age of eighteen years;

“policy” means an insurance contract of any kind;

“re-insurance” means the transfer, whether in whole or in part, of a risk assumed by an insurer, to another insurer;

“Registrar” means the Registrar of Pensions and Insurance appointed under the Pensions Scheme Regulation Act, 1996;

“Secretary” has the meaning assigned to it in the Companies Act;

“subsidiary” has the meaning assigned to it in the Companies Act;

“statutory fund” means a fund maintained under section *thirty-five*;

“Unexpired risk” means the obligation of an insurer under a policy during the period remaining under the policy at any particular time.

3. (1) Subject to subsections (2) and (3), insurance business shall, for the purposes of this Act, be divided into -

Classification
of
Insurance
Business

(a) **Long term** insurance business; and (as amended by Act No.26 of 2005)

(b) General insurance business.

- (2) Notwithstanding subsection (1), and subject to subsection (3) the Registrar may, at the request of an insurer, and on such conditions and limitations as the Registrar may fix, determine that any **long term** insurance business or general insurance business of any particular kind which the insurer carries on or intends to carry on shall be established under this subsection in such a manner that it consists partly of **long term** insurance business and partly of general insurance business, without the insurer having obtained a separate Licence for each of the two types of insurance business.
(as amended by Act No.26 of 2005)

(3) The Registrar shall not accede to a request made under subsection (2) unless he is satisfied that his determination will not be detrimental to the interests of any person and that it will not defeat the objects and purposes of this Act.

(4) Subject to subsection (5), no insurer may transact both general and long term insurance business.
(as amended by Act No.26 of 2005)

(5) Notwithstanding subsection (4) an insurer transacting both general and long term insurance immediately before the coming into operation of this Act shall be permitted to transact both general and long term insurance business for a period not exceeding one year from the date on which this Act comes into operation

Provided that the Zambia State Insurance Corporation may be permitted to transact both general and long term insurance business for such longer period not exceeding three years from the date on which this Act comes into operation as the Minister may, in consultation with the Board, in writing authorise.
(as amended by Act No.26 of 2005)

PART II
REGULATION OF INSURERS AND OTHERS

Insurance
Business

4. (1) On and from a date prescribed by the Minister by statutory instrument, a person shall not carry on insurance business unless the person is a company licensed under this Act as an insurer
- (2) On and from the date prescribed under subsection (1), an insurer shall not carry on insurance business except-
- (a) in accordance with the terms and conditions of its licence under this act; or
- (b) Where a licence is suspended or revoked or its terms and conditions are changed, to the extent certified by the Registrar, or by the

liquidator of the insurer, as reasonably necessary for the protection of the interest of policyholders.

- (3) A person who contravenes this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

- (5) (1) On and from a date prescribed by the Minister by statutory instrument, a person shall not engage in insurance brokerage unless the Person is a company **or partnership** licensed under this Act as a broker.
(as amended by Act No.26 of 2005)

Insurance
brokerage

- (2) A person who contravenes this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

- (6) (1) On and from a date prescribed by the Minister by statutory instrument, an insurer shall not engage a person, otherwise than under a contract of employment, to act as a loss adjustor unless the person is licensed under this Act as a loss adjustor.

Loss
adjuster

- (2) where this section is contravened-
- (a) the insurer; and
 - (b) the person engaged to act as a loss adjustor,

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units, and where it is proved that the offence was committed with the knowledge of connivance of the Director, Chief Executive Officer or employee,

then the director, chief Executive Officer or employee then that Director, Chief Executive Officer or employee shall be guilty of the like offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding two years or both.

7. (1) an insurer shall not engage a person, otherwise than under a contract of employment, to act as an assessor unless The person is licensed under this Act as an assessor.

Assessment
Of losses

- (2) where this section is contravened, both-
(a) the insurer; and
(b) the person engaged to act as an assessor;

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units, and where it is proved that the offence was committed with the knowledge of connivance of the Director, Chief Executive Office or employee then that Director, Chief Executive Officer or employee shall be guilty of the like offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for A period not exceeding two years, or both.

8. (1) A person shall not carry on claims agency business unless the person -

Claims
agency

- (a) is licensed under this Act as a broker or as a claims agent;
or
(b) Is a registered legal practitioner.

(2) A person who contravenes this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not Exceeding two years, or both.

9. (1) A person shall not carry on an insurance agency business Insurance Unless the person is licensed under this Act as an insurance agent.

Insurance
agency

- (2) An insurance agent's licence shall allow the holder of the Licence to act as and insurance agent for only one registered insurer named in the licence.
- (3) A person who contravenes this section shall be guilty of an offence and shall be liable, on conviction, to a fine a not exceeding Twenty thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

10. (1) A company having share capital may apply for an insurer's licence

Application
For insurer's
licence

(2) An application under subsection (1) shall be in a form Approved by the Registrar and shall specify-

- (a) the name and address of the company;
- (b) the class or classes of insurance business for which the applicant seeks authorisation under the licence;
- (c) such other matters, including any matters relating to the assets and liabilities of the company and its ability to meet its obligations, as may be required to complete the form

(3) The application shall be accompanied by copies of –

- (a) the certificate of incorporation of the company;
- (b) the certificate of share capital of the company;
- (c) the articles of the company;
- (d) each proposal and policy form that is to be used by the company;
- (e) a detailed statement of assets and liabilities of the company, and their locations if not located in Zambia;
- (f) such other documents as to the manner in which the applicant proposes to carry on business, and such financial forecasts and other documents and information the Registrar may require

11. (1) A person shall not carry on insurance business in Zambia unless that person is registered as such under this Act

Claims of
insurer's
licence

(2) The Registrar shall issue the applicant with a

licence authorising the applicant to engage in insurance business in the classes for which licensing is sought if on the lodgement of an application by the applicant for an insurer's licence, the Registrar is satisfied that-

- (a) the business to be authorised by the licence will be carried on the applicant in accordant with this Act and with generally accepted and prudent insurance principles and practices;
 - (b) the applicant's articles will not prevent compliance by the applicant with any of the requirements of this Act that are applicable to the licence and are in all other respects satisfactory;
 - (c) the applicant will protect the interest of policy holders in preference to, but not to the exclusion of, the interests of shareholders or other providers of its capital;
 - (d) the applicant is likely to be at all times capable of meeting its obligation to policy holders;
 - (e) the applicant is able to meet such minimum financial, solvency and liquidity requirements, or other criteria, as may be prescribed by or under this Act in respect of insurance business of the kind authorised by the licence; and
 - (f) The applicant is generally competent to conduct insurance business in the classes for which licensing is sought.
- (3) Where the Registrar is not satisfied as to the matters referred to in paragraphs (e) and (f) of subsection (1), he may allow the applicant to amend the application in respect of the classes for which licensing is sought.
- (4) Subject to this Act, a licence under this section shall remain in force for a term of one

year, but shall be renewable on application made as prescribed by regulations made under this Act.

12. (1) An insurer may apply for amendment of its licence so as to obtain authorisation to conduct a class of insurance business Not currently authorised by the insurer's licence. Amendment of licence
- (2) An application under subsection (1) shall be in a form approved by the Registrar and shall specify the class of insurance Business for which authorisation is sought.
- (3) The application shall be accompanied by copies of-
- (a) each proposal and policy form that is to be used by the insurer in relation to that class of insurance;
 - (b) a detailed statement of assets and liabilities of the insurer, and their locations if not located in Zambia; and
 - (c) such proposals as to the manner in which the applicant proposes to carry on the business, and such financial forecasts and other documents and information, as the Registrar may require.
- (4) The Registrar shall amend the licence so as to authorise the applicant to engage in insurance business of the class for which authorisation is sought if on the lodgement of an application under subsection (1), the Registrar is satisfied that-
- (a) the class of business to be authorised by the licence, as amended in accordance with the application, will be carried on by the applicant in accordance with this Act and with generally accepted and prudent insurance principles and practices;
 - (b) the applicant's articles are consistent with the conduct of that class of insurance business;

- (c) The applicant is likely to at all times capable of meeting its obligations to policy holders;
- (d) The applicant has sufficient capital to conduct insurance business in that class; and
- (e) The applicant is generally competent to conduct insurance business in that class.

(5) The amendment referred to in subsection (4) shall be subject to such conditions or limitations as the Registrar may specify in the licence.

13. (1) A person shall carry on insurance brokerage in Zambia unless that person is registered as such under this Act.
- (2) The Registrar shall issue a broker's licence to an individual who has a minimum of ten years experience as a licensed agent.
- (3) Except as provided by section *eighteen*, the Registrar shall issue a broker's licence to a partnership or corporate firm if –
- (a) a majority of its directors are persons who, in the opinion of the Registrar, are of good repute and-
 - (i) have had ten years' practical experience at management level in insurance brokerage or other comparable work; or
 - (ii) hold qualifications approved by the Registrar and have had an adequate practical experience of insurance brokerage: or
 - (b) where there are only two directors, one of them meets the criteria specified in paragraph (a) and the Registrar is satisfied that the business will be under the management of that director; and

Brokers
licence

- (c) **the applicant is able to meet such minimum financial or other criteria as may be prescribed under this Act**

(as amended by Act No.26 of 2005)

- 14. Except as provided by section *twenty*, the Registrar shall issue a loss adjuster's licence to-

Loss
Adjuster's
licence

- (a) any individual who, in the opinion of the Registrar, is of good repute and who satisfies the Registrar that he has suitable qualifications and experience to perform the duties of a loss adjustor; or
- (b) any company other than an insurer or broker that, in the opinion of the Registrar, is of good repute and which satisfies the Registrar that its managers and employees have suitable qualifications and experience to enable the company to perform the duties of a loss adjustor.

14A. A person shall not carry on business as an insurance risk surveyor unless that person is registered and licensed as such under this Act.

(as amended by Act No.26 of 2005)

- 15. Except as provided by section *twenty*, the Registrar shall issue an assessor's licence to-

Assessor's
licence

- (a) any individual who, in the opinion of the Registrar, is of good repute and who satisfies the Registrar that he has suitable qualifications and experience to perform the duties of an assessor; or
- (b) any company that, in the opinion of the Registrar, is of good repute and which satisfies the registrar that its managers and employees have suitable qualifications and experience to enable the company to perform the duties of an assessor.

16. (1) A person shall not carry on business as an insurance agent in Zambia unless that person is registered as such under this Act. Insurance Agent's licence

(2) Except as provided by section *twenty*, the Registrar shall issue an insurance agent's licence to-

- (a) any individual who, in the opinion of the Registrar, is of good repute and who satisfies the Registrar that he has suitable qualifications and experience to perform the duties of an insurance agent; or

any company that, in the opinion of the registrar, is of good repute and which satisfies the Registrar that its managers and employees have suitable qualifications and experience to enable the company to perform the duties of an insurance agent.

17. Subject to this Act, a licence under this Act shall remain in force for a term of one year, or for such shorter or longer terms as may Be specified in the licence, but shall be renewable on application made in accordance with the regulations made under this Act. Duration of licence

Refusal of licence

18. (1) The Registrar may refuse to license an individual as a loss adjustor, assessor, or insurance agent or broker under this Act on the ground that-
- (a) he has not provided the Registrar with such information relating to him or any person employed by or associated with him, or to any circumstance likely to affect his method of conducting business, as may be prescribed by regulations made under this Act;
 - (b) he has become mentally or physically incapable of performing the duties that are to be performed under the licence;
 - (c) he is an undischarged bankrupt;
 - (d) it appears to the Registrar that the applicant should not be licensed because the applicant or any of his employees has been convicted, whether in Zambia or elsewhere, of an offence, involving fraud or dishonesty, or has been convicted of an offence against this Act or any regulations made under this Act;
 - (e) it appears to the Registrar that, by reason of any other circumstances which either are likely to lead to improper conduct of business b, or reflect

discredit on the method of conducting business of the applicant, the applicant should not be licensed ;
or

- (f) the Registrar has reason to believe that the applicant will not efficiently, honestly and fairly perform the duties that are to be performed under the licence.

(2) The Registrar may refuse to license a company as a broker, loss adjustor, assessor, claims handler or insurance agent under this Act on the ground that-

- (a) the company has not provided the Registrar with such information relating to it or any person employed by or associated with it, or to any circumstance likely to affect its method of conducting business, as may be prescribed by regulations made under this Act;
- (b) any director of the company has become mentally or physically incapable of performing the duties of a broker;
- (c) any director of the company is an undischarged bankrupt;
- (d) it appears to the Registrar that the company should not be licensed because-
 - (i) the company;
 - (ii) or any director, controller or secretary of the company;
 - (iii) any officer concerned in the management of the company's business; or
 - (iv) any employee of the company; has been convicted, whether in Zambia or elsewhere, of an offence involving fraud or dishonesty, or had been convicted of an offence against this Act or any regulations made under this Act;
- (e) it appears to the Registrar that, by reason of any other circumstances which either are likely to lead to improper conduct of business by, or reflect discredit on the method of conducting business of, the company, the company should not be licensed; or
- (f) the Registrar has reason to believe that the company will not efficiently, honestly and fairly perform the duties that are to be performed under the licence.

19. An insurer shall not carry on any business other than insurance business, unless Restrictions
On business
Of insurer
- (a) the Registrar has, by notice in writing, approved the business as reasonably ancillary to insurance business carried on by the insurer; and
 - (b) the proportion of turnover of the insurer attributable to the non-insurance business in any financial year does not exceed five per centum, or such other proportions as the Minister may, by statutory instrument, prescribe
20. A broker shall not carry on any business other than insurance brokerage, unless- Restriction
On business
Of broker
- (a) the registrar has, in writing, approved the business as reasonably ancillary to insurance brokerage carried on by the broker; and
 - (b) the proportion of turnover of the **broker** attributable to the non-insurance business in any financial year does not exceed such proportions as the Minister may, by statutory Instrument, prescribed.
(as amended by Act No.26 of 2005)
21. (1) where any premium on a policy is paid to a broker by a client, the broker shall, within, **thirty** days of due date of the premium, transmit the premium, less any agreed commission or other charges payable by the insurer to the broker, to the insurer, to the insurer who is the insurer of the policy concerned. Broker to
transmit
premium
(as amended by Act No.26 of 2005)
- (2) If the broker contravenes subsection (1), the Broker shall, in addition to the outstanding premium pay to the insurer interest on the premium at the Bank of Zambia rate; and**
- (3) Notwithstanding sub clause (2) any broker who contravenes this section shall be guilty of an offence and be liable,

on conviction, to a fine exceeding twenty thousand penalty units.

(4) All moneys received by a broker either from, or for , a client shall be deposited in a separate client account and shall not in any circumstances be mixed with monies belonging to the broker provided that monies earned by way of interests on sums deposited in such clients accounts shall accrue to the benefit of the broker.

(5) The Registrar may require a broker to disclose where the client accounts referred to in subsection (4) are maintained and in what form they are maintained

(6) No client account shall be maintained in a bank in which the broker or a director of such broker has a financial interest.

(7) A broker shall prepare, as at 31st March, 30th June, 30th September and 31st December of each year, a statement, duly signed, to the registrar within two months after the end of the period to which it relates

(as amended by Act No.26 of 2005)

22. A person who falsely holds himself out to be licensed under This Act in any capacity shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding two years, or to both. Holding out
23. An insurer who accepts any insurance business from an unlicensed insurance agent shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand penalty units. Insurers not To accept Business From Unlicensed agents
24. (1) Subject to subsection (2), a person who causes another person to enter into, or to make an application to enter into, a contract of insurance with a person who is not a licensed insurer shall be guilty of an offence. Persons acting on Behalf of unlicensed insurer
- (2) Notwithstanding subsection (1), a person who contravenes

subsection (1) shall have a good defence if-

- (a) the insurance as a whole is placed by a licensed insurance broker;
 - (b) a substantial portion of the risk insured is placed with a licensed insurer; and
 - (c) the insurance broker concerned notified the Registrar in the manner prescribed of the placing of the insurance business.
- (3) where the insurance broker concerned notified the Registrar in accordance with paragraph (c) of subsection (2), the Registrar shall, on receipt of the notification, advise the insurance broker-
- (a) that he has approved the placing of the insurance business;
 - (b) has served in the insurance industry for a period-
 - (i) of not less than ten years for an insurer;
 - (ii) of not less than seven years for a broker; or
 - (iii) of not less than five years for an assessor, insurance agent of loss adjuster.
- (4) The Registrar may, if he is not prepared to give his approval, under paragraph (b) of subsection (3) give such directions to the insurance brokers as he thinks fit to the action such broker should take.
- (5) A broker who neglects or fails to comply with any reasonable direction of the Registrar under subsection (3) shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

PART III

MANAGEMENT AND SHAREHOLDING

25. (1) A licensed insurer or broker shall maintain a principal office in Zambia

Principal Office for Insurance business

(2) The office referred to in subsection (1) shall only be used for the address purpose of transacting insurance business.

(3) The licensed insurer or broker shall notify the Registrar of the address of the principal office of that insurer or broker and, where the insurer or broker proposes to change that address, shall notify the Registrar of the new address not later than three weeks after the change.

26. (1) A licensed insurer or broker shall be represented in Zambia by a chief executive officer who shall be **the principle officer of the insurer or broker and shall be** appointed in writing subject to the prior approval of the Registrar in accordance with this section.

Appointment of chief executive

(as amended by Act No.26 of 2005)

(2) Where the appointment of a chief executive officer is revoked, notice of the revocation shall be given to the Registrar.

(3) Every notice to the Registrar regarding the appointment of a person as chief executive officer shall contain the following particulars:

- (a) the person's full name;
- (b) his date and place of birth;
- (c) his citizenship;
- (d) his academic and professional qualifications;
- (e) his work experience, giving dates and nature of previous employment
- (f) whether he has ever been convicted of an offence involving fraud or dishonesty, and if so, the date, place and full details of the offence; and
- (g) whether he has ever been adjudged bankrupt, applied

to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his creditors or made any assignment of his remuneration for their benefit and, if so, full details thereof.

- (4) The Registrar shall not approve the appointment of a person as chief executive officer unless he is satisfied that the person-
- (a) is resident in Zambia
 - (b) has served in the insurance industry for a period
 - (i) of less than ten years for an insurer;
 - (ii) of not less than seven years for a broker; or
 - (iii) of not less than five years for an assessors, insurance agent or loss adjustor.
 - (c) Has a power of attorney sufficient to authorise him to act for the licensed insurer or broker in all matters necessary to secure the compliance by the insurer or broker with the provisions of this Act and the regulations made under Act; and
 - (d) Is not disqualified by any regulations under this Act from the appointment, and is in all respects a fit and proper person to be the chief executive officer of the insurer or broker.
- (5) A copy of the power of attorney referred to in paragraph (c) of subsection (4) shall be lodged with the Registrar immediately after any appointment of a chief executive office.

27. Where the Chief executive officer of an insurer or broker is, or is about to be, absent from Zambia for a period exceeding three months, or is for any reason unable to perform his duties as chief executive officer, the insurer or broker shall appoint another person resident in Zambia to act as the chief executive officer of the insurer or broker for the purposes of this Act during such absence or inability and shall notify the Registrar

Absence of
Chief
Executive
officer

immediately.

- | | | |
|-----|---|---|
| 28. | <p>(1) If it appears to the Registrar that the person appointed as chief executive officer of an insurer or broker is not a fit and proper person to hold office as such, the Registrar, after giving the person concerned an opportunity to be heard, may, if he thinks fit, by notice To the insurer or broker, direct the insurer or broker to revoke the Appointment, with effect from a time specified in the notice.</p> <p>(2) A notice under this section shall specify the reasons for the Registrar's action, and the insurer or broker to whom the notice is Addressed shall comply with the notice.</p> | Dismissal of Executive officer |
| 29. | The Minister may, by statutory instrument, extend the provisions of sections <i>twenty-six to twenty-eight</i> , with or without modification, to any office having duties of a kind prescribed by that instrument in relation to the business of an insurer or broker | Supervision Of other Appoin-tments |
| 30. | <p>(1) A manager or employee of an insurer or broker shall</p> <p style="text-align: center;">Prohibition</p> <p>(2) A person who contravenes this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.</p> | Prohibition of employ-ment in more than one insurer or broker |
| 31. | <p>(1) An insurer, any subsidiary company of an insurer or any director of an insurer or any of its subsidiary companies, shall not, directly or indirectly hold shares in, or have any other financial or controlling interest in, the affairs of a broker or insurance agent.</p> <p>(2) A person who contravenes this section shall be guilty of an offence and shall be liable on conviction-</p> <p>(a) to a fine not exceeding twenty thousand penalty units; and</p> <p>(b) if the offence continues, to a fine of twenty thousand penalty units for every month during which the offence continues.</p> | Insurer's Share-holhing in a broker or agent |
| 32. | Where an offence under this Act committed by a company is proved to have been committed with the consent or connivance of any director or chief executive officer, then such director or chief | Criminal Liability of directors |

executive officer shall be guilty of the like offence and punishable accordingly.

PART IV

FINANCIAL REGULATION OF INSURERS

33. (1) In assessing liabilities for the purposes of its annual accounts, an insurer transacting general insurance business shall set aside reserves for unearned premium, to meet liabilities on the unexpired risk as at the end of the financial year, using-

Reserves for
Unexpired
risks

- (a) the 24th method or fifty per centum of the net premium income in respect of all classes of business, whichever is higher;
- (b) the total uncollected premium in addition to forty per centum of the premium income received in respect of policies or renewals issued during they year; or
- (c) any other method approved in writing by the Registrar.

(2) In subsection (1)-

“gross premium” means a premium after deduction of any discount or rebate and any tax relating thereto, but without any deductions for commissions or re-insurance premiums;

“net premium income” means income from the balance of the gross premium after deduction there from of any premium paid or payable by the insurer to intermediaries and for re-insurance ceded;

“the 24th method” means the method by that name prescribed by regulations made under this Act;

“unearned premium” means that part of a premium collected under a policy that, at any particular time, is attributable to the unexpired risk or the unexpired period of insurance.

- | | | |
|-----|--|---|
| 34. | An insurer shall make adequate provision in its accounts for liabilities in respect of claims incurred but not settled at the end of the financial year, including provision for claims incurred but not reported Computed in accordance with a method not less than that prescribed by the Minister. | Reserves for Outstanding claims |
| 35. | <p>(1) As from the date on which it commences to carry on life insurance business in Zambia, an insurer shall established and maintain A fund, under, under an appropriate name, in respect of the life Insurance business carried on by it, with assets identifiable to that fund.</p> <p>(2) As from the date on which it commences to carry on any general insurance business in Zambia, an insurer shall, subject to subsection (3), establish and maintain a fund, under an appropriate name or names, in respect of the general insurance business carried on by it.</p> <p>(3) As an alternative to complying with subsection (2), an insurer may, in respect of its general insurance business, establish and maintain, from the date on which it commences to carry on any general insurance business in Zambia, a number of separate funds, under appropriate names, in respect of different classes of general insurance business carried on by it.</p> <p>(4) The insurer shall keep separate accounts of receipts and payment in respect of each insurance fund maintained for the purposes of this section.</p> <p>(5) For the purposes of this section, primary insurance and re-insurance business of the same class shall be as belonging to different classes.</p> | Statutory funds |
| 36. | <p>(1) An insurer shall not carry on life insurance business unless the admitted assets of the insurer, so far as they are identifiable with the statutory fund maintained in respect of life insurance, exceed the admitted liabilities in respect of that fund, or exceed it by such margin as may be prescribed by regulations made under this Act in relation to life insurance.</p> | Insurer not to carry on business unless solvency Requirements are met |

(2) An insurer shall not carry on insurance business of any class other than life insurance unless the admitted assets of the insurer, so far as they are identifiable with the statutory fund maintained in respect of that class, exceed the admitted liabilities in respect of that class by ten per centum, or such higher or lower margins as may be prescribed by regulations made under this Act in relation to that class of insurance business.

(3) An insurer that carries on business contravention of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty thousand penalty units.

37. (1) An insurer shall, within **one hundred and twenty** days after every financial year, submit to the Registrar as solvency statement as at the end of the financial year
(as amended by Act No.26 of 2005)

Insurers to
submit
solvency
statements

(2) The Registrar may at any time require an insurer to submit, within thirty days after the requisition, a solvency statement as at the date specified in the requisition.

(3) for the purposes of this section, “solvency statement” means-

- (a) in relation to general insurance business, a statement, made in a manner approved by the registrar, that sets out the admitted assets and liabilities in respect of each class of insurance business of an insurer and, if the insurer satisfies the requirements of section *thirty-nine*, demonstrates that fact; and
- (b) in relation to the life insurance business, an actuary’s report on the state of the statutory fund maintained in respect of life insurance, conforming to section *forty-eight*.

38. (1) For the purposes of this Act, an asset shown in the accounts of an insurer and which is not excluded by or under this section shall be an admitted asset of the insurer.

Admitted
assets

(2) Subject to this section, the following assets shall be excluded.

- (a) an unpaid premium that became due to the insurer

more than sixty days previously, other than-

- (i) an amount due to it under a reinsurance policy; or
 - (ii) a premium that is secured under automatic non-forfeiture conditions against the surrender value of a life policy; that has not actually been received by the insurer, (even if it has been received on its behalf by a broker or other intermediary);
- (b) any asset title which is held by a person other than the insurer;
 - (c) a loan that is unsecured or, in the opinion of the Registrar, inadequately secured;
 - (d) an asset that is mortgage or charge for the benefits of a person other than the insurer, to the extent that it is a so mortgage
 - (e) a loan to, debenture of, or share in any insurer that is a related company of the insurer;
 - (f) a guarantee given to the insurer, other than a guarantee given by a re-insurer in the course of re-insurance transactions;
 - (g) an asset defined by regulations made under this Act to be either-
 - (i) an intangible asset; or
 - (ii) a prepaid preliminary or organisational expense;
 - (h) an asset held outside Zambia, other than an amount due from a foreign insurer
 - (i) such other classes of asset as may be prescribed by the Minister, **on recommendation of the Board**, by statutory instrument.
(as amended by Act No.26 of 2005)

(3) Paragraph (b) of subsection (2) shall not have the effect of excluding

- (a) a security or other document endorsed in favour of a bank solely for the purpose of collection or realization of any interest, bonus or dividend; or
- (b) assets held on trust for the insurer in compliance with

any direction given under this Act, except the extent that their value exceeds the amount or proportion specified in the direction.

- (4) The insurer shall attribute each admitted asset to a statutory fund.
- (5) for the purposes of subsection (4), a particular admitted asset may be divided and the several parts attributed to different statutory funds.

39. (1) For the purposes of this Act, any current, contingent or prospective liability shown in the accounts of an insurer that is not excluded by or under this section is an admitted liability of the insurer.

Admitted liabilities

- (2) The following liabilities shall be excluded;
 - (a) a liability in respect of share capital or reserve in lieu of capital approved by the Registrar
 - (b) a liability in respect of such matters as the Registrar may by notice in writing direct; and
 - (c) a liability prescribed by the regulations made under this Act.
- (3) The insurer shall attribute each admitted liability to statutory fund.
- (4) For the purposes of subsection (3), a particular admitted liability may be divided and the several parts attributed to different statutory funds. books and statements of the company.

40. (1) The Registrar may, by notice in writing, require an insurer to furnish him with such information as he specifies in the notice, with respect to any liability or asset of the insurer

Valuation of Asset and liabilities

- (2) Where the Registrar is not satisfied that the value of a liability

or asset of the insurer as determined by the insurer has been correctly determined for the purposes of this Act, he may, after giving the insurer an opportunity or making representations, by notice in writing require the insurer to produce a valuation of the liability or asset made by an independent valuator approved by the Registrar.

(3) the Registrar may order the company to substitute the value obtained by the independent valuator for the asset or liability in the

41. (1) The Minister may, **on recommendation of the Board**, by statutory instrument, prescribe the minimum paid-up share capital to be maintained by a licensed insurer

Capital and other requirements.

(2) For the purpose of this section, the Minister may prescribe different amounts in respect of insurers authorised to conduct different classes, or different combinations of classes, of insurance business.

(as amended by Act No.26 of 2005)

42. (1) An insurer shall not publish a statement or issue a document in which a statement of its authorised capital is mentioned, unless the statement also mentions the amount of its subscribed capital and of its paid-up capital.

Publication of authorised capital etc.

(2) An insurer shall, not publish a statement or issue a document in which a statement of its subscribed capital is mentioned, unless the statement also mentions the amount of its paid-up capital.

43. An insurer shall, within three months after the beginning of each financial, year, submit to the Registrar such particulars as the Minister may, **on recommendation of the Board**, by statutory instrument prescribe in relation to its re-insurance programme for the year.

Re-insurance

44. (1) an insurer shall, after the commencement of this Act, prepare and furnish to the Registrar a statement of the investment policy.

Investment programme

(2) the investment policy shall be reviewed annually and the update statement shall be filed with the Registrar.

44A. (1) An insurer may invest in such type of investment as may be

approved by the registrar.

(2) The Minister may, on the recommendation of the Board, by statutory instrument issue investment guidelines to insurers relating to the limits for investment categories.

(as amended by Act No.26 of 2005)

45. (1) In this Section-

Accounts and
balance sheets.

“company accounts” means the annual accounts for the financial year of a company prepared for the purposes of Companies Act;

“insurance accounts” means the documents required by subsection (2) to be prepared by an insurer in relation to a financial year.

(2) An insurer shall, within ninety days after the end of each financial year, cause to be prepared in accordance with the regulations-

- (a) a balance sheet as at the end of that financial year;
 - (b) a profit and loss account for that financial year; and
 - (c) a revenue account for that financial year;
- in relation to the insurance business of the insurer, and shall effect a reconciliation between them and the company accounts for that year.

(3) The insurance accounts and the reconciliation shall be audited by the auditor together with the company accounts, and the auditors shall prepare a report of them, supplementary to his report on the company accounts, which shall state whether, in the auditor’s opinion-

- (a) the insurance accounts have been properly prepared in accordance with the regulations; and
- (b) such accounts give a true and fair view of the state of the insurer’s insurance business in that financial year.

(4) The insurer shall lodge a copy of the insurance accounts and auditor’s report to the Registrar with the copy of the company accounts and auditor’s report circulated to the shareholders for the purposes of the Companies Act.

(5) Where the insurer is a subsidiary of a holding company that-

- (a) is not an insurer; and

(b) is required to prepare group accounts for the purposes of the Companies Act; the holding company shall provide a copy of the group accounts to the Registrar at the same time as it makes its annual return to the Registrar of Companies.

45A. The financial year for every insurer and insurance broker shall be a period of 12 months ending on 31st December in each year.
(as amended by Act No.26 of 2005)

46. (1) A life insurer shall, before commencing the business of life insurance, appointment a person to be the actuary of the insurer. Life insurer to appoint an actuary

(2) If a life insurer-

- (a) appoints an actuary
- (b) removes an actuary from office; or
- (c) for any reason ceases to have an actuary

it shall within seven days after the event lodge a notice of that fact with the Registrar, and, where an actuary is dismissed or not re-appointment at the end of his term, shall specify the reasons for the change.

(3) if a life insurer does not have an actuary for a period of three months, that life insurer shall be guilty of an offence and shall be liable to a penalty of one thousand penalty units for every day during which it continues to operate without an actuary.

47. A life insurer shall not appoint a person as actuary to the insurer for the purposes of this Act unless he has an actuarial qualification approved by the Registrar for the purposes of this Act. Qualifications of actuary

48. (1) The actuary of a life insurer make, at the end of every third financial year, an investigation into the financial condition of the insurer's life insurance business for the purpose of ascertaining whether there is any surplus for distribution, and shall make report thereon. Actuary's rights and duties

(2) the actuary shall prepare the estimate of the present value of the liabilities of the insurer for all its unmatured obligations using

assumptions that are, in the opinion of the actuary reasonable and appropriate, a having regard to the circumstances of the insurer and its policies in force.

(3) the Registrar may review these assumptions and the calculations of the liabilities, or may retain the services of an independent actuary to conduct to conduct such a review, and if the circumstance so warrant, may order the insurer to substitute the values obtain under the direction of the Register for those used by the insurer in the books and statements of the insurer for the financial period under review.

(4) The actuary may make similar investigations at any other time.

(5) The actuary's triennial report shall be furnished by him to the directors of the insurer in sufficient time to enable an abstract of the report to be circulated to members with the accounts of the company for the financial year just ended.

(6) The Minister may, by statutory instrument, prescribe the form and content of an abstract under subsection (3).

(7) the actuary of a life insurer shall have a right of access at all reasonable times to the accounting records and other records, including registers, of the insurer and to require from any officer such information and explanation as he thinks necessary for him to perform his duties as actuary.

(8) If the actuary fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of an investigation, he shall state that fact in his report.

(9) An actuary of a life insurer shall be entitled to attend any general meeting of the company and to receive all notices of and other communications relation relating to any general meeting which any member of the insurer is entitled to receive, and to be heard at any general meeting on any part of the business of the meeting which concerns him as actuary, notwithstanding that he retires at that meeting or a resolution to remove him from office is passed at that meeting.

(10) If an actuary, in the course of the performance of his duties as actuary of a life insurer, is satisfied that –

(a) there has been a contravention of, or failure to

- comply
with, any of the provisions of this Act; and
- (b) the circumstance are such that in his opinion matter has not been or will not be adequately dealt with.
- (i) by comment in the actuary's report; or
(ii) by otherwise bringing the matter to the notice of the directors of the insurer or, if the insurer is a subsidiary, of the directors of any holding company of the insurer; he shall forthwith report the matter to the Register in writing.

49. (1) Where the actuary's triennial report on a life insurer assesses a surplus in the statutory fund maintained in respect of life to distribute insurance, at least ninety per centum of the surplus shall be distributed to the policyholders.
- (2) If the statutory fund maintained for life insurance is in deficiency, no dividend shall be declared by the insurer or by a holding company of the insurer.

Life insurers to distribute surplus to policy holders

PART V

TRANSFER OF INSURANCE BUSINESS

50. Notwithstanding any other law, an insurer shall not-
- (a) amalgamate with another insurer; or
(b) transfer his insurance business or part of his insurance business to another insurer;
- unless the amalgamation or transfer has been approved by the Registrar in accordance with this Part.
51. (1) where it is proposed to amalgamate two or more insurers, or otherwise to transfer insurance business from one insurer to another, the insurers concerned shall lodge with the Registrar an application for approval of the amalgamation or transfer, together with-
- (a) the proposed agreement under which the amalgamation or transfer will take place
(b) either-
- (i) an application for a new licence, where an amalgamation

Amalgamation or transfer of insurance business

Application for approval of amalgamation or transfer

will result in the formation of a new company; or

- (ii) an application for an amendment of an existing licence, in the case of a transfer of any insurance business that will require an amendment of the licence of the transferee insurer so as to authorise it to conduct the insurance business to be transferred;
- (c) where an insurer that is party to the amalgamation is a life insurer, or the business to be transferred includes life insurance-
 - (i) a report made by the actuary of the insurer concerned, on the state of each statutory fund affected by the amalgamation or transfer and, if only part of the life insurance business of an insurer is to be transferred, a report on the state of each such fund that would result from the division; and
 - (ii) an abstract of any such report.
- (2) After lodging an application under this section with the Registrar, the insurers concerned, shall cause to be published in the *Gazette* notice of the proposed amalgamation or transfer.

52. (1) Where an insurer that is party to the amalgamation is a life insurer, or the business to be transferred includes life insurance business, each insurer concerned shall send to each of its life policy holders-

Notification of policy holders

- (a) a statement of the nature of the amalgamation or transfer;
- (b) an abstract of the material facts in the agreement for the amalgamation or transfer; and
- (c) an abstract of each of the actuary's reports;

being statements and abstract approved by the Registrar; together with an address at which a copy of the documents lodged with the Registrar may be inspected.

- (2) where an insurer to be amalgamated conducts general

insurance business, or where general insurance business is to be transferred, the insurers concerned shall send to the holders of policies other than life policies-

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

53. (1) The Registrar, after considering an application under this Part and such representations as may be made by policy holders and shareholders of the insurers concerned and by any other persons whom he considers are entitled to be heard, shall approve the agreement if he is satisfied-

Determination of application for approval of amalgamation or transfer

- (a) that policy holders will not be disadvantaged by the amalgamation or transfer ;and
- (b) that he should grant a licence to any insurer for which a licence is sought and approve any required licensed amendment

(2) When the amalgamation or transfer has been finalised, the insurers concerned shall forthwith notify the registrar of the fact and supply him with such evidence as he may require, including evidence that all requirements of the companies Act have been complied with in relation to the amalgamation or transfer.

(3) On receipt of the requisite evidence, the Registrar shall-

- (a) revoke the licence of any dissolved insurer;
- (b) as may be appropriate-
 - (i) issue a licence to an amalgamated company as an insurer as from that date of the amalgamation; and
 - (ii) approve any necessary licence amendments so as to authorize the transferee of any insurance business to engage in the appropriate classes of insurance business.

54. (1) If an amalgamation or transfer has taken place in accordance with the foregoing provisions of this Part, the owner of a policy shall no longer have any claim against the amalgamated insurer or transferee insurer, as the case may be.

Effect of amalgamation

PART VI

WINDING-UP OF INSURERS

55. (1) A court that makes any order for the winding-up of an insurer shall give such directions to the liquidator as appear to it necessary or desirable with respect to the winding up.

Registrar
Entitled to be
Informed and
To be heard in
connection
With winding
up of insurer

(2) The liquidator of an insurer shall give the Registrar such information as the Registrar may require in connection with the winding-up of any insurer, and shall report to the Registrar whenever he intends to apply to the court for instructions and shall furnish the Registrar with a copy of any application intended to be lodged.

56. Where an insurer is being wound, the liquidator shall ascertain, in such manner and upon such basis as the court may approved, the value of the liability of the insurer to every person appearing by its books to be the holder of, or interested in, policies of the insurer, and shall in such manner as he thinks appropriate give notice to every such person of the value so ascertained, and every person to whom notice is so given shall be bound by the value so ascertain, unless he disputes the valuation in such manner and within such time as is prescribed by rules of the court as the court may in a particular case allow.

Ascertainment
of
Value of
liability under
policies

57. (1) The Registrar shall make arrangements for the re-insurance by another licensed insurer, of policies of policy holders who have policies with the insurer that is being wound-up, at face value or at a discount calculated in accordance with subsection (2).

Scheme for re-
insurance
Of policy
holders of
Insurer that is
winding up

(2) for the purposes of any arrangements under this section, the value of the liability under any policy affected by the arrangements shall be the value thereof as ascertained in accordance with section *fifty-six*.

(3) A court supervising the winding up may, on the application of the Registrar, approve a scheme for implementation of arrangements under this section.

(4) In considering any scheme referred to in subsection (3), the courts shall have primary regard to the interests of policyholders.

(5) Without limiting the generality of subsection (3), the terms of a scheme referred to in that subsection may deem a policy holder to be a party to a contract with another licensed insurer in relation to the policies concerned, and the scheme, when approved by the court, shall have effect in accordance with its terms.

58. In the winding –up of an insurer, the value of the liabilities and assets of any of its statutory funds shall be ascertain separately from the value of any other assets or liabilities of the insurer, and no assets of any such shall be applied to the discharged of any liabilities of the insurer other than those in respect of which the fund was created, except in so far as those assets exceed the liabilities of the fund concerned.

Valuation and application of the statutory funds

59. Notwithstanding any provision of the Companies Act to the contrary, in the distribution, for the purposes of a winding-up of a licensed insurer, of assets of the insurer other than those identified with a statutory fund-

Preferred creditors of an insurer
Cap. 414

- (a) the holders of life policies issued by the insurer shall have preference against all other unsecured creditors of the insurer; and
- (b) the owners of all other policies issued by the insurer shall rank before any other unsecured creditors of the insurer after the holder of life policies:

Provided that such claims shall not have priority claims in respect of costs of or incidental to the conduct of the winding-up.

PART VII

RETURNS TO BE MADE BY INSURERS

60. An insurer shall prepare at the end of each financial year of the insurer, in respect of that year, statements in the prescribe form relating to the business carried on during the year and the business in force at the end of the year and shall furnish those statements to the Registrar within three months after the end of the financial year.

Returns

61. (1) An insurer shall lodge with the Registrar a certified copy of any document circulated to its shareholders, policyholders or debenture holders, or to any class of them, at the same time, as it is so circulated.

Insurer to provide Registrar with copies of circulated documents

(2) an insurer shall lodge with the Registrar a certified copy of the minutes of the proceedings of any general meeting, as entered in the minute book of the insurer, within twenty-eight days after the holding of the meeting.

62. An insurer shall notify the registrar of any proposed change in the following particulars of the insurer, together with the date of the proposed change, before the change occurs:
- Notification of changes in particulars of the insurer
- (a) the name of the company;
 - (b) the type of company (whether public or private);
 - (c) the share capital of the company;
 - (d) the articles of the company;
 - (e) the financial year of the company; or
 - (f) any other particular prescribed by regulations made under this Act.

- 63. (1) An insurer or broker shall, with the prior approval of the Registrar given in writing, appoint an auditor and shall notify the Registrar of the dismissal of such auditor within seven days of the dismissal.**
- (2) Where an auditor is dismissed or fails to be reappointed at the annual general meeting the insurer or broker shall, by written notice to the registrar, specify the reason for the dismissal or failure to reappoint.**
- Notification of appointment or dismissal of auditor

(as amended by Act No.26 of 2005)

PART VIII

DISCIPLINARY ACTION

64. (1) The powers conferred on the Registrar by this part may only be exercised in relation to any person licensed under this Act if it appears to the Registrar that-
- Scope of powers under this Part
- (a) the person is not a fit and proper person to be the holder of this licence;
 - (b) the person has contravened or failed to comply with any provision of, or requirement under, this Act or regulations made under this Act or, in purported compliance with any such provision or requirement, has furnished the Registrar with information that is false, inaccurate or misleading; or
 - (c) the exercise of the power is otherwise necessary for the protection of current or future policy holders;

- (2) For the purposes of this section, the Registrar may take into account any matters that could be taken into account in deciding whether to suspend or revoke a licence.
- (3) The powers conferred on the Registrar by this Part, other than the power to suspend or revoke a licence, may be exercised in relation to a person whose licence has been suspended or revoked, whether or not the suspension or revocation is the subject of appeal, as if a reference in this Part to a licensed person include a reference to any such person
- (4) The Registrar shall, before taking any action under this section. Satisfy himself, so far as he reasonably can, that the action would not unfairly operate to the detriment of any person
- (5) The Registrar may reverse, vary, or discharge any direction given by him under this Part or suspend the operation of such a direction.

65. (1) The Registrar may by notice in writing prohibit a person licensed under this Act from doing any one or more of the following: Restriction of business

- (a) entering into transactions of a class or description specified in the notice or entering into them otherwise than in circumstances so specified or to an extent so specified;
 - (b) soliciting business from persons of a class or description specified in the notice or from persons other than persons of such a class or description; or
 - (c) carrying on business in a specified manner or otherwise than in a specified manner
- (2) A prohibition under this section may relate to transactions entered into in connection with or for the purpose of the business in respect of which the person is licensed or to other business which is carried on in connection with, or for the purposes of any such business.

66. The Registrar may, as regards any assets, whether they are the assets of a person licensed under this Act or not, by notice in writing- Restriction On dealings with assets

- (a) prohibit a person so licensed from disposing of such assets or prohibit him from dealing with them in a manner specified in the notice; or

- (b) require a person so licensed to deal with such assets in, and only in; a manner specified in the notice.

67. (1) The Registrar may by notice in writing require a person licensed under this Act to maintain assets of such values as appears top the Registrar to be desirable with a view to ensuring that the licensed person will be able to meet his liabilities in respect of the business to which his licence relates.

Maintenance of assets

- (2) The Registrar may direct that, for the purposes of any requirement under this section, assets of any specified class or description shall or shall not be taken into account.

68. (1) The Registrar may suspend or revoke a licence held under this Act by any person, or may refuse to renew such a licence, if

Suspension or revocation of licence
Or refusal of licence renewal

- (a) the licensee, after being reminded of his failure; has continued to fail to comply with any requirement made of him by or under this Act;
- (b) the licensee has become mentally or physically incapable of performing his duties under the licence;
- (c) the licensee has become bankrupt;
- (d) the licensee or any employee of the licensee, where the licensee was a party to the crime committed, has been convicted, whether in Zambia or elsewhere, of an offence involving fraud or dishonesty, or has been convicted of an offence against this Act or any regulations made under this Act;
- (e) it appears to the Registrar that, by reason of any other circumstance which either are likely to lead to improper conduct of business by, or reflect discredit on the method of conducting business of, the applicant, the licence-
 - (i) should be revoked; or
 - (ii) should be suspended, or remain unrenewed, until the licensee takes such action as the Registrar may specify;

- (f) the Registrar has reason to believe that the applicant is no longer efficiently, honestly and fairly performing the duties that are to be performed under the licence.

(2) The Registrar may suspend or revoke a licence under this Act by a company, or may refuse to renew such a licence, if-

- (a) the company, after being reminded of its failure, has continued to fail to comply with any requirement made of it by it or under this Act;
- (b) any director of the company has become mentally or physically incapable of performing his duties in connection with the company;
- (c) any director of the company has become bankrupt;
- (d) the company, any director or chief executive officer of the company if the Chief Executive Officer was a party to the crime committed has been involving fraud or dishonesty, or has been convicted of an offence against this Act or any regulations made under this Act.
- (e) It appears to the Registrar that by reason of any other circumstances which either are likely to lead to improper conduct of business by, or reflect discredit on the method of conducting business of, the company the licence-
 - (i) should be revoked; or
 - (ii) should be suspended, or remain unrenewed until the licensee takes such action as the Registrar may specify;
- (f) the Registrar has reason to believe the company is no longer efficiently, honestly, and fairly performing the duties that are to be performed under the licence; or
- (g) in the case of an insurer's licence or broker's licence, the company no longer meets such minimum financial, solvency and liquidity requirements, or other criteria, as may be prescribed by or under this Act;

- (h) in the case of a broker’s licence, the company no longer meets such minimum financial requirements or other criteria, as may be prescribed by or under this Act.
69. The Registrar may, either of his own motion or on the application of a licensed person on whom a prohibition or requirement has been imposed under this part, rescind or vary the prohibition or requirement if it appears to the Registrar that it is no longer necessary for the prohibition or requirement to take effect or continue in force, or that it should take effect or continue in force in a different form. Rescission or variation of prohibition or requirement
70. (1) the power to impose, rescind or vary a prohibition or requirement under this part shall be exercisable by written notice served by the registrar on the licensee concerned, and any such notice shall take effect on such date as it is specified in it. Notices
- (2) If the Registrar refuses to rescind or vary a prohibition or requirement on the application of the licensee to whom it applies, it shall serve notice on that person to that effect.
- (3) A notice imposing a prohibition or requirement, or varying a prohibition or requirement otherwise than on the application of the licensee to whom it applies, and any notice under subsection (2), shall state the reasons for which the prohibition or requirements has been imposed or varied or, as the case may require, why the application for variation or rescission was refused.
- (4) The Registrar may give public notice of any prohibition or requirement imposed by him under this part and of any rescission or variation thereof, and any such notice may, if the Registrar considers it necessary, include a statement of the reasons for the prohibition, requirement, variation or rescission.
71. Chapter VII of the banking and Financial Services Act, 1994, shall apply to the insolvency and liquidation of the insurers with the necessary modifications, so however that the words “insurer”, “premium”, “insurance business”, “chief executive officer”, “twenty million penalty units” and “Registrar” shall be substituted for the words “bank”, “deposit”, “banking or financial services business”, “officer” “ten million penalty units” and “Bank of Zambia”, respectively. Insolvency and liquidation of insurers Cap. 387

72. If it appears to the registrar that it is desirable for the protection of policy holders to do so, the Registrar may present a petition for a receiving order in accordance with the Bankruptcy Act against an individual licensed under this Act if the individual concerned has committed an act of bankruptcy within the meaning of that Act, and that Act shall, with the necessary modifications, apply in relation to any such petition as it applies in relation to a petition presented by a creditor.
- Receiving orders
Cap.92

PART IX

INSURANCE POLICIES

73. (1) An insurer shall not use any proposal or form unless
- (a) the form has been submitted to the Registrar at least thirty days before such use; and
- (b) the Registrar has not, by notice in writing to the insurer concerned, prohibited use of the form.
- (2) An insurer who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units.
- Approval of proposals and policy
74. (1) The Registrar may, request premium rates being charged by the insurer at any time to be submitted to him.
- (2) The Registrar may after considering the rates used by the insurer, order the insurer to cease using rates that are determined to be inappropriate.
- Premium rates
75. No person shall issue a policy containing printed provisions, which are not in clear typeface with letters of a size not less than eight point.
- Policies to be printed in clearly legible form
76. (1) A contract 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 such period as the contract may stipulate.
- (2) For the purposes of this section, a premium paid to a broker who arranged the contract shall be deemed to have been paid to the insurer. (as amended by Act No.26 of 2005)
- Payment of premium
77. In every policy the sum insured, the premium and every other sum of money mentioned in the policy shall be stated in the currency of Zambia or
- Currency

in any foreign currency acceptable to banks and financial institutions licensed under the banking and Financial Services Act.	Cap.387
78. Every policy issued in respect of a proposal for insurance made to a licensed insurer shall be issued in Zambia by a licensed insurer, and all premiums and payments arising under or out of the policy shall be payable in Zambia	Policies and payments to be issued and made
79. (1) the holder of a policy shall, notwithstanding any contrary provision in the policy, be entitled to enforce his rights under the policy against the insurer named in the policy in any competent court in Zambia.	Action by policy holders against insurers
(2) Any question of law arising in any action under a policy provide that the amount of any liability under the policy shall be determined by arbitration and any such arbitration shall be held in Zambia.	
(3) Notwithstanding section (1), a policy may validly provide that the amount of any liability under the policy shall be determined by arbitration and any such arbitration shall be held in Zambia in accordance with the Arbitration Act.	
80. A policy issued to any person before or after the commencement of this Act shall not be invalid, nor shall it be unenforceable by that person, by reason only of the fact that the person contravened or failed to comply with the provisions of any enactment in force applying to that policy.	Policies not Invalidated by failure to Comply with law
81. (1) A minor may, with the consent of his guardian, effect a life policy upon his own life and pay any premium under the policy with any money at his disposal.	Minor may insure his life
(2) A minor who is married may effect a life policy upon his own life for his own benefit or for the benefit of his spouse or his spouse and children or any of them and pay any premium due under the policy with any money at his disposal.	
(3) Subject to this section, a minor who has effected a life policy upon his own life under subsection (1) or (2) shall be the holder of the policy and shall have the right to exercise all the powers and privileges of the holder in relation to the policy as if he were of full age.	
(4) A minor who has effected a life policy upon his own life shall not, without the consent of his guardian, pledge, assign or surrender the policy while he remains a minor.	
82. (1) A life policy shall name the beneficiary under that policy.	Beneficiary to be named in life policy

83. (1) Where a life policy that was taken by a person on his own life and which has subsisted for three years or more from the date of payment of the first premium -
- Protection of proceeds of life policy during life of holder
- (a) it attached in execution of a judgement or order of any court at the instance of a creditor of that person; or
 - (b) becomes part of that person's estate in bankruptcy;

during the lifetime of that person, the proceeds on realisation of the policy shall, to the extent specified in subsection (2), be protected against that person's creditors and against any claim in connection with the attachment or bankruptcy.

(2) The protection afforded by this section-

- (a) shall, subject to paragraph (b), extend, if the policy is pledge, to so much of the proceeds on realisation of the policy as exceeds the amount of the liability secured by the pledge, but no further; and
- (b) shall not, in any event, extend to so much of the proceeds of realisation as may exceed one million Kwacha or such large amounts as may be prescribed by regulations made under this Act.

(3) if moneys due or paid by the insurer under a life policy referred to in subsection (1) or assets acquired with, or partly with, those moneys-

- (a) are attached in execution of a judgement or order of any court at the instance of a creditor of a person by whom the policy was effected; or
- (b) become part of the estate in bankruptcy of the person by whom the policy was effected;

during the period of five years after the date when the money due or paid under the policy first became due, the money or assets concerned shall, to the extent specified in subsection (4), be protected against that person's creditors and against any claim in connection with the attachment or bankruptcy.

(4) The protection afforded by the provision of subsection (3) in respect of moneys or assets of a person referred to in that subsection-

- (a) shall, subject to the provision of paragraph (b), extend, in the case of an asset which is pledged or mortgaged, to so much of the proceeds on realisation of the asset as exceeds the amount of the liability, secured by the pledge or mortgage, but no further;
- (b) shall extend to those moneys or the proceeds on realisation of those assets in so far as those moneys or proceeds, together with-
 - (i) all other moneys due or paid to that person under life policies referred to in subsection (1);
 - (ii) the value of all other existing assets of that person acquired with moneys paid under life policies referred to in subsection (1) or with such moneys and other moneys; and
 - (iii) the realisable value of all life policies referred to in subsection (1) of which that person is the holder;

do not exceed one million Kwacha or such larger amount as may be prescribed by regulations made under this Act; and

- (c) shall not extend to any moneys due or paid under a life policy referred to in subsection (1) on surrender of the policy or to any assets acquired with those moneys or with those moneys and other moneys.

(5) For the purposes of this section-

- (a) a life policy which an insurer issues in exchange for or in consideration of the surrender of another life policy under which the insurer was previously liable shall be regarded as having been effected on the date on which the surrendered policy was issued, if the insurer received no payment other than the value of the surrendered policy as consideration for the new policy;
- (b) a life policy which an insurer issues in terms of subsection (3) of section *eighty-eight* shall be regarded as having been effected on the date on which the old life policy for which it was substituted was issued.

84. If, on the death of the holder of a life policy, money or assets in respect of which protection is afforded by section *eight-three*, a dependant has a claim under the policy or to the money or assets, and the policy, money or assets –

Protection of beneficiaries Of life policy on death of policy holder

- (a) are attached in the execution of a judgement or order of any court at the instance of the creditor of the deceased holder; or
- (c) become part of the deceased holder's estate in bankruptcy;

the dependant shall, in respect of his claim, enjoy the protection afforded by section *eight-three*.

85. (1) If-

- (a) before or during marriage, a person effects or assigns, for the benefit of his or her spouse or his or her spouse and children a life policy on his or her life or on the life of is or her spouse; or
- (b) a person effects or assigns such a life policy for the benefit of his or her children, including to be born to him or her;

Protection afforded in respect of policy insuring to spouse or children

then, subject to the provisions of this section and, in the case of a policy which is assigned, to the terms of the assignment, the policy or moneys due to be paid thereunder by those moneys-

- (i) shall not be liable to be attached in execution of a judgement order of any court at the instance of a creditor of the person by whom the policy was effected or assigned; and
- (ii) shall not form part of the estate in bankruptcy of the person by whom the policy was effected or assigned.

(2) A benefit conferred or purported to be conferred upon a spouse or child under a life policy referred to in subsection (1) by virtue of the assignment of a life policy referred to in that subsection shall, notwithstanding any agreement to the contrary between the insurer and the person by whom the policy was effected, but subject, in the case of a policy which is assigned, to the terms of the assignment, be enforceable against the insurer liable under the policy at the suit of the spouse or child or the legal representative of the spouse or child, notwithstanding that the spouse or child has not accepted the benefit and is not a party to the contract of insurance.

(3) A life policy shall not, for the purposes of this section, be treated as

having been effected for the benefit to the spouse or children of the person by whom the policy was effected unless, at the time of its issue, the policy expressly so provides.

86. (1) If, before or during marriage, a person effects or assigns for the benefit of his spouse a life policy on his or her life and the policy-
- (a) is attached in execution of a judgement or order of any court at the instance of the creditors of the spouse for whose benefit the policy was effected or assigned; or
 - (b) becomes part of the estate in bankruptcy of that spouse;

Further protection afforded in respect of life policy insuring to spouse

the proceeds on realisation of the policy shall, to the extent specified in subsection (2) of section *eight-five*, be protected against the creditors of the spouse for whose benefit the policy was effected and against any claim in connection with the attachment or bankruptcy.

(2) the provisions of subsections 930 to (5) of section *eighty-three* and if subsections 92) and 93) of section *eighty-five* shall, with any necessary modifications, apply to-

- (a) a life referred to in subsection (1)
- (b) moneys due or paid there under by the insurer; or
- (c) any assets acquired with those moneys or with those moneys and other moneys.

87. If-

- (a) two or more life policies or assets in respect of which protection is afforded by the provisions of section *eighty-three*, *eighty-four* or *eighty-five*, being the property of one person, are attached in execution of a judgement or order of any court at the instance of a creditor; or
- (b) the holder of two or more life policies of assets in respect of which protection is afforded by those provisions is adjudged or otherwise declared bankrupt;

Selection for realisation of life policies

and a part only of the aggregate realisable value of the policies or assets is protected, the judgement creditor, or as the case may be, the trustees of the estate in bankruptcy shall determine which policy or policies or other assets or asset shall be realise, wholly or partly, in order to make available to him so much of the aggregate realisable value as is not protected.

88. (1) A judgement creditor of the holder of a life policy or the trustees of his estate in bankruptcy who is entitled to a part of the

Partial realisation and partial

realisable value of the policy may, if he is in possession of the policy, deliver it to the insurer who is liable under the policy for the purposes of the payment to him of the sum to which he is entitled.

conversion of policies

- (2) If a judgement creditor or trustee referred to in subsection (1) is not in possession of the life policy to which the provisions of that subsection relate, the holder or any other person in possession of the policy shall, at the request of the judgement creditor or trustee, deliver it to the insurer who is liable under the policy for the purposes of the payment to the judgement creditor or trustee of the sum to which he is entitled.
- (3) On receipt of a life policy delivered to him in terms of subsection (1) or (2), the insurer shall-
 - (a) at the request of the judgement creditor or trustee referred to in subsection (1), pay to him a sum equal to the part of the realisable value of the policy to which he is entitled; and
 - (b) at the request of the holder of the policy, issue to him a new policy of the same class, but for a sum insured equal to the difference between-
 - (i) the full sum insured under the old policy, including any bonus which may have accrued in connection with it; and
 - (ii) an amount which bears the same ratio to the full sum insured under the old policy, including any bonus, as the amount paid by the insurer to the judgement creditor or trustee referred to in subsection (1) bears to the full realisation value of the old policy.
- (4) when and insurer had made the payment and issued a new life policy as provided in subsection (3), the old life policy shall lapse.

89. If a person who-

- (a) has effected or **ceded** a life policy for the benefit of his or her spouse or for a spouse and children; or
- (b) holds a life policy in trust for any other person and is obliged to pay the premiums on the policy; is or has been unable to pay the premiums, that person may, with the consent of each person who has an interest in the policy or; if any such person is a minor, with

Provisions where life policy assigned or cannot be kept up

the consent of his guardian or the Registrar of the High Court, agree with the insurer liable under the policy-

- (i) to exchange the policy for a paid-up life policy of a value equal to that of the original policy according to the insurer's current tariff, payable at the time and in the manner stipulated in the original policy to the person or persons entitled to the sum insured by the original policy;
- (ii) to borrow from the insurer upon the security of the policy such sums as may be necessary to keep the policy in force or revive it; or
- (iii) to apply any bonus which may have accrued in connection with the policy to a temporary or permanent reduction of premiums or to the payment of any premiums which have fallen due.
(as amended by Act No.26 of 2005)

90. (1) Notwithstanding anything contained in or incorporated in a life policy, a life policy shall not be avoided by reason only of an incorrect statement made in a proposal or other document on the faith of which the policy was issued or reinstated by the insurer, unless the statement was material to the risk of the insurer and was made in the knowledge that it was untrue or with no reasonable belief that it was true.

Incorrect statements in proposals for life policy

(2) When an agent or servant of an insurer writes or fills in, or has written or filled in, any particulars in a proposal for a policy of insurance with the insurer, then, notwithstanding any law and any agreement to the contrary between the proposer and the insurer, a policy issued in pursuance of the proposal shall not be avoided by reason only of an incorrect or untrue statement contained in the particulars so written or filled in, unless the incorrect or untrue statement was in fact made by the proposer to the agent or servant or the purposes of the proposal; and the burden of providing that the statement was so made shall lie upon the insurer.

91. (1) Nothing in this part shall be construed as derogating from the power of a competent court to set aside, under the law relating to bankruptcy, any **cession** of a life policy made with intent to benefit someone at the expense of a creditor.
(as amended by Act No.26 of 2005)

Life policies intended to defraud creditor

(2) If a premium upon a life policy was paid with intent to benefit a person at the expense of a creditor of the person making the payment, a competent court may order the holder of the policy to pay a sum equal to the aggregate of all premiums so paid, with interest at such rate as the Minister may, by statutory instrument, prescribe, on the amount each premium so paid from the date of its payment to the person to whose detriment the premium was or the premium were paid or, if the person has been adjudged or otherwise declared bankrupt, to the trustee of his estate in bankruptcy.

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

92. If-

Proof of age

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

any written statement made in the proposal of application for the policy as to the age or date of birth of the insured person shall be accepted, for the purposes of the claim, as the correct or date of birth of the insured person, made at the instance of the insurer, within the period of three years to in paragraph (a) or in any other manner.

(as amended by Act No.26 of 2005)

93. (1) if, after the issue of a life policy, it is proved that the policy is

Age incorrectly stated in life

based upon an incorrect statement of the age of the whose life is insured, the sum insured and other benefits under the policy shall, subject to the provisions of subsection (2), be the same as those which the premiums payable under the policy would have secured had the policy been based upon a correct statement of the persons age.

policy

(2) If the Registrar is satisfied that the actual nature of life policies of any particular kind is such as to render the application of the provisions of subsection (1) inequitable, he may direct an insurer to apply, in relation to policies of that kind, such other method of making adjustments in respect of incorrect statements of age as may appear to the Registrar to be equitable.

94. (1) **No life policy in which it is provided that the policy shall be void in the event that the insured, whether sane or insane, dying by the insured's own act shall be void for that reason if the insured died by the insured's own act after the expiration of that period.**

Death of insured by his own act of beneficiary

(2) **A life policy in which no provision such as is referred to in subsection (1) shall not be void by reason of the insured, whether sane or insane dying by the insured's own act at any time after the issue of the policy; and**

(3) Where a person who is a beneficiary under a life policy is responsible for the death of the insured, that person's benefit under that policy shall be void.

(as amended by Act No.26 of 2005)

95. (1) If a life policy is lost or destroyed and the loss or destruction is proved and advertised in the manner prescribed by regulations made under this Act, the insurer liable under the policy shall, at the request of the holder of the policy and on payment by that holder to the insurer of the prescribed fee, issue to the holder-

Lost or destroyed life policies

(a) a correct and certified copy of the policy, in which shall be inscribed any endorsement, made by the insurer on the original policy after its issue; and

(b) a correct and certified copy of any record in the possession of the insurer of any dealings with the policy after its issue.

(2) A certified copy of a life policy issued under subsection (1)

shall for all purposes-

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

96. (1) any life policy issued after the commencement of this Act maybe cancelled be cancelled by the holder within thirty days of the receipt of the policy by the holder.

Cancellation of life policy

- (2) in the event of a cancellation under this section, all premiums paid shall be refunded to the holder.

Provided that the insurer shall be entitled to deduct an appropriate amount in respect of expenses and the amount of any medical fee incurred, all of which shall be tabulated and brought to the attention of the holder in writing.

97. (1) No insurer shall make, or permit to be made, any discrimination in respect of the rate prohibited or the rate of premiums charged or the rate of bonuses 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

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

- (a) are re-insurance contracts;
- (b) are for large sums at preferential rates in accordance with the current tariff of the insurer concerned;
- (c) insure at preferential rates the lives of employees of one employer or a combination of employers or members of the families of such employees or the lives of a group of persons carrying on the same occupation; or
- (d) are of a class prescribed.

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

- (a) a promissory note, bill of exchange or other negotiable instrument, not being a cheque payable on the date of issued; or
- (b) an acknowledgement of debt, not being a stop order; in favour of the insurer or any other person has been given for the first year's premium or any part thereof.

98. (1) An insurer carrying on life insurance business shall not issue any

Premium rates on life policies

life policy of insurance, unless the rate of premium chargeable under the policy is a rate which has been approved by an actuary as suitable for the class of policies to which that policy belongs and that rate and the actual bases therefore, together with the actuary's certificate, have been filed with the Registrar at least thirty days before giving effect to the rate.

(2) The Registrar may require the insurer to obtain and to furnish to him, within such time as he may specify, a report by an actuary as to the suitability of the rate of premium chargeable under any class of policy issued by the insurer and, if the actuary considers that the rate is not suitable, a report as to the rate of premium which the actuary approves as suitable in respect of that class of policy.

(3) Where a requirement is made under subsection (2) in respect of the rate of premium chargeable under any class of policy, the insurer shall not issue, after the expiry of the period specified by the Registrar, any policy of that class until the insurer has, in accordance with the requirement, obtained the approval of the actuary to the rate of premium and notified the Registrar that, that approval has been obtained.

(4) An actuary, when approving a rate of premium in respect of a class of policy under this section, shall have regard to the maximum rate of commission or rebate prescribed in respect of that class of policy.

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

(6) A person who contravenes any of the provisions of this section shall be guilty of an offence.

PART X

ADMINISTRATION

99. (1) The Registrar shall have the functions and powers conferred on him by or under this Act or any other written law.

Functions and
duties of
Registrar

(2) **In the performance of functions under this Act the**

Registrar-

(a) shall be subject to the direction of Pensions and Insurance Authority Board;

and

(b) Shall at all times have regard to the need to protect the rights, benefits and other interests of policy holders and any beneficiaries of policies of insurance.

(3) The **Board** shall as soon as reasonably practicable after each year ending on 31st December, furnish to the Minister a report on the working of this Act during that year.

(as amended by Act No.26 of 2005)

100. **Repealed**

(as amended by Act No.26 of 2005)

Delegation by Registrar

101 (1) In this section “member” means a **person regulated under this Act.**

Power to call for information and production of books or papers

(2) The Registrar may, by notice in writing, require a member to supply him with information relating to his insurance business and that person shall comply with the requirement within such period after receipt of the notice as may be specified therein failing which he shall be deemed to have failed to comply with the provision of this Act.

(3) The information supplied under this section shall be certified by a principal officer of the member of the insurance industry in question and, if the notice so requires, also by an auditor.

(4) The Registrar may by notice in writing-

(a) require a member, to produce, at such time and place as he may specify, such books or documents as he may specify;
or

(b) authorised any person, on producing, if required to do so evidence of his authority to require a member to produce to him any books or documents which that person may specify.

(5) Where by virtue of subsection (3) the Registrar or a person authorised by him has power to require the production of books or documents from a member, the Registrar or that person shall have the same power to require production of those books or documents

from any person who appears to him to be in possession of them.

- (6) where any person from whom production of a document is required claims a lien on the document produced by him, the production shall be without prejudice to the lien.
- (7) The power conferred by or virtue of subsections (3) and (4) to require a member or other person to produce books or documents shall include power-
 - (a) if the books or documents are produced-
 - (i) to take copies of them or extracts of or from them;
 - and
 - (ii) to require that person, or any other person who is
 - a present or past director of, auditor of, or is
 - or
 - was at any time employed by, the member
 - in
 - (b) if the books or documents are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(8) A person who in purported compliance with requirement imposed under this section furnishes information which he knows to be false in a material particular, or who recklessly furnishes information which is false in a material particular, or who, having been required to produce a book or document for examination, alters, mutilates, damages, destroys, conceals or removes it without the written consent of the Registrar, shall be guilty of an offence and liable to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding twelve months or both.

- (9) **For the purposes of checking and verifying any information supplied to the Registrar under this Act or regulation made thereunder, the Registrar or any person authorised by the registrar in writing may examine the books, vouchers, receipts and such other documents, as the Registrar may consider necessary, of a member.**

- (10) As a result of an examination carried out under subsection (9), the Registrar may cause such investigation as the Registrar considers necessary to be carried out into the affairs of a member and such investigations may include a special audit by an auditor named by the Registrar.
- (11) The officers or agents of the member shall cause the books of the member to be available for examinations or investigations so far as it is in their power.
- (12) The Registrar shall cause a summary of the conclusions arrived at as a result of an investigation carried out under this section to be sent to a member concerned.
- (13) The Registrar may recover from the member concerned all expenses necessarily incurred in connection with an investigation carried out under subsection (10) where such investigation reveals that the member supplied false or fraudulent information.
- (14) Where an examination or investigation carried out under this section reveals that the information supplied by a member was fraudulent or false, the registrar shall dismiss such information.
(as amended by Act No.26 of 2005)

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| <p>102. (1) The Registrar may</p> <p style="padding-left: 40px;">(a) call upon an insurer to submit for his examination at his office all reinsurance treaties and other re-insurance contracts entered into by the insurer; and</p> <p style="padding-left: 40px;">(b) by notice in writing, require and insurer to supply him with copies of any of the documents referred to in paragraph (a) certified by a principal officer of the insurer</p> <p>(2) The Registrar shall not approve a reinsurance treaty if examination of a document referred to in subsection (1) the Registrar considers that any reinsurance treaty, contract or arrangement or any terms or conditions there in are not favourable to the insurer or are not in the interest of the economy or the or the insurance industry or in the public interest.</p> | <p>Examination and approval of reinsurance treaties</p> |
| <p>103. The Board shall, within six months after the end of each calendar year, submit to the Minister a report on the Authority's activities in relation to this Act, and on the state of the insurance industry, during that year.
(as amended by Act No.26 of 2005)</p> | <p>Annual report</p> |
| <p>104. Repealed
(as amended by Act No.26 of 2005)</p> | <p>Establishment of council</p> |
| <p>105. Repealed
(as amended by Act No.26 of 2005)</p> | <p>Functions of Council</p> |
| <p>106. The Board shall constitute a Holders Protection Committee which shall consist of-</p> <p style="padding-left: 40px;">(a) a representative of the ministry responsible for finance and national planning who shall be the chairperson;</p> <p style="padding-left: 40px;">(b) one representative from the Zambia Institute of certified Accountants;</p> <p style="padding-left: 40px;">(c) one person nominated by an organisation which is representatives of the insurers;</p> <p style="padding-left: 40px;">(d) one person nominated by an organisation which is representative of the insurance brokers; and</p> | <p>Establishment of board</p> |

(e) two persons representing policy holders.

(2) The Vice-Chairperson of the committee shall be appointed by the minister from among the members referred to in paragraphs (b) and (e) of subsection (1).

(3) subject to subsection (4) a member of the Committee shall hold office for a period of two years from the date of appointment but may be eligible for re-appointment for a further term of two years.

(4) The office of a member shall become vacant –

(a) if that member is absent without reasonable excuse from three consecutive meetings of the committee of which the member had notice;

(b) upon the member's death

(c) if the member is adjudged bankrupt

(d) if the member becomes mentally and physically incapable of performing the duties of a member of the committee; or

(e) the member is convicted of an offence under any written law and sentenced therefor to imprisonment for a term exceeding six months

(5) Where a vacancy occurs in terms of subsection (4), the Board may appoint a new member in accordance with subsection (1), to hold office for the unexpired part of that members term.

(6) A member of the Committee shall be paid such allowances as the Board may, with the approval of the Minister, determine

(7) The committee shall meet for the transaction of business at least once in every three months at such places and such times as the chairperson may determine

(8) The quorum at any meeting of the committee shall be four of the members of the committee;

(9) There shall preside at any meeting of the committee

(a) the Chairperson;

(b) in the absence of the chairperson the Vice chairperson; or

(c) in the absence of both the chairperson and the Vice Chairperson, such member as the members present may elect from their number for

the purpose of that meeting

(10) The determination of any matter before the Committee shall be according to the votes of the majority of the members present and considering the matter.

(11) The committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the committee but such person shall have no vote.

(12) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee.
(as amended by Act No.26 of 2005)

107. The Committee shall-

**(a) subject to the direction of the Board be responsible for the administration of the Fidelity Fund and for the settlement of claims against that fund;
and**

(b) have such other functions as may be conferred on it by the Board.

(as amended by Act No.26 of 2005)

Functions of
the Board

108. Repealed

(as amended by Act No.26 of 2005)

Insurance
Administration
fund

PART XI

THE INSURANCE FIDELITY FUND

109. The Minister shall, by statutory instrument, establish an Insurance Fidelity Fund for the purpose of indemnifying or otherwise protecting policy holders and other persons interested in the policies prejudiced by the inability of an insurer carrying on business in Zambia to meet its liabilities.

Establishment
of fidelity fund

110. The Fidelity Fund shall consist of-
(a) all moneys paid to the **Authority** by way of annual or other periodic licence fees charged under this Act;

Constitution of
Fidelity fund

(b) all moneys recovered by, or on behalf of, the Registrar by the exercise of any right action conferred by this Part;
and

(c) all other moneys accruing to the Fund.

(as amended by Act No.26 of 2005)

111. (1) The Fidelity Fund shall be held and applied on such terms and conditions as the Minister may **on recommendation of the Board**, by regulation determine, for the purpose of compensating persons who suffer pecuniary loss occasioned by any default of an insurer or broker licensed under this Act or any employee of such an insurer or broker in the course of, or in connection with, any insurance brokerage or related business.

Purpose of Fidelity fund

(2) Such amounts standing to the credit of the Fund as are not immediately required for the purposes of the Fund may be invested, **by the Board** in Government-issued securities or in any manner authorised by law for the investment of trust funds.

(as amended by Act No.26 of 2005)

112. Subject to this Part, there shall be paid out of the Fidelity Fund as and when required and in such order as the Board consider proper-

Disbursements from Fidelity Fund

- (a) the amount of all claims, including costs, allowed by the Board.
- (b) all legal and other expenses incurred in investigating or defending claims made under this Act or incurred in relation to the Fidelity Fund or in the exercise by the Board of the rights, powers and authorities vested in it by this Act in relation to the Fund
- (c) all premiums payable in respect of contracts of insurance or indemnity entered into by the Board;
- (d) the expenses incurred or involved in the administration of the Fidelity Fund; and

- (e) all other moneys lawfully payable out of the Fund in accordance with the provisions of this Act or regulations made under this Act.
113. The Ministry may **on the recommendation of the Board** make regulations prescribing all such matters and things as are necessary or expedient to be prescribed for or with respect to the administration, management and application of the Fidelity Fund. (as amended by Act No.26 of 2005) Management of Fidelity Fund
114. Payment from the Fidelity Fund shall be limited, in respect of each insurer or broker in default, to such amount as the Minister may, by statutory instrument, prescribe. Liability of Fidelity Fund to be Limited
115. Any disbursement from the Fidelity Fund that is accountable to the default of any licensee, or employee of any licensee, under this Act shall be a debt due to the Fund from the licensee concerned. Recovery of disbursements from defaulters

PART XII

APPEALS

116. Any person aggrieved by the decision of the Registrar Appeals against decisions of the registrar
- (a) to refuse the grant, renewal or amendment of a licence under this Act;
 - (b) to suspend or cancel a licence under this Act;
 - (c) as to the conditions to be imposed at any time on a licence under this Act;
 - (d) to take any disciplinary action under part VIII; or
 - (e) to refuse to consent to any transfer or amalgamation under Part V;

may, within thirty days after being notified of the decision, appeal to the Minister.

117. Lodgement of an appeal under this Part does not stay the effect of the Registrar's decision against which the appeal is made: Effect of lodgement of appeal
 Provided that in the case of an appeal against a variation of the

conditions attached to a licence, the variation shall have no effect until the appeal is determined.

118. (1) The Minister shall determine any appeal made to him under this Part, having regard to the provisions of this Act, the circumstances of the case and the public interest. Determination of appeal
- (2) A determination of the Minister under this section may include such directions to the Registrar as the Minister thinks fit for the disposal of the matter, and the Registrar to give effect to any such directions.
119. Whenever that Registrar make a decision against which an appeal lies by virtue of this part, the licensee or applicant affected by the decision shall be informed by notice in writing of the decision and of the reasons therefore; and any such notice shall inform the person so notified of his rights of appeal. Notification of decisions

PART XIII

GENERAL PROVISIONS

120. (1) All assets, liabilities and interests situated in Zambia shall be insured with insurers licensed under this Act.
- (2) Notwithstanding subsection (1), where a particular type of insurance is not available locally, the Registrar shall approve the placing of such insurance outside Zambia on such terms and conditions as the Registrar shall think fit.
- (3) This section shall not apply to reinsurance business.
- (4) Any person who fails to comply with the provisions of this section shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding fifty thousand penalty units or imprisonment for a term not exceeding three months or both.
121. (1) Every document furnished to the Registrar by an insurer or other licensee in accordance with a requirement under this Act- Documents to be signed and copies supplied
- (a) in the case of a document in a prescribed form, shall be signed by the persons specified in the form; and
- (b) in the case of a document furnished by a company, shall be signed-
- (i) by the Chairman and one other director of the company; and

(ii) by the chief executive officer of the company and

(c) in any other case, by such persons as required by regulations made under this Act, to sign or certify the document.

(2) where a document furnished as referred to in subsection (1) is a copy of a document, it shall be certified, the manner prescribed by regulations made under this Act, to be a true copy of the document.

(3) A person who has furnished the Registrar with any document as referred to in subsection (1) shall, at the request of the Registrar, furnish such copies of that document as the Registrar may reasonably require.

122. (1) Any person may, on payment to the Registrar of the fee prescribed by regulations made under this Act, inspect and copy any document furnished to the Registrar under this Act.

Inspection of documents etc

(2) The Registrar shall, on payment of the prescribed fee prescribed by regulations made under this Act, furnish any person with a certified copy of, or abstract from, any document furnished to the Registrar under this Act.

(3) At the request of any person, the Registrar shall furnish the person, without charge, with the address of the principal office in Zambia of any licensed insurer or licensed broker and the name of its chief executive officer.

123. Any document purporting to be certified by the Registrar to be a document furnished to him under this Act shall, in any legal proceedings, be taken to be a document so furnished, until the contrary is proved.

Certified documents as evidence

124. (1) **The Board may if the Board** considers it to be in the public interest, require every licensed insurer to display at all times when open for business, in a conspicuous place in every place in Zambia in which he carries on business, such information or particulars as he may determine.

Display of certain information

(2) An insurance agent shall, in respect of a licensed insurer for which he is an agent, maintain a record of the information required under subsection (1) to be displayed by an insurer for whom he acts and shall, on request, make the information available for inspection by any person without charge.

(as amended by Act No.26 of 2005)

125. (1) Every licensed insurer and licensed broker shall lodge with the Registrar copies of all standard policy forms and proposal forms respectively used by them.

Insurance forms subject to approval

(2) The Registrar may, on grounds which appear to him sufficient, prohibit the use of any form lodged with him under this section unless the form is amended in accordance with his directions.

(3) an insurer, broker or insurance agent who uses any form prohibited by the Registrar under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units.

126. (1) No licensed insurer or broker shall change his name without the consent of the Registrar .

Change of name of insurer or broker

(2) The Registrar shall withhold the consent to change the name under subsection (1) if he considers that the change would be contrary to the public interest.

(3) The Registrar shall cause notice of a change in the name of any licensed insurer or broker to be published in the *Gazette*.

127. The Registrar may alter any form prescribed under this

Act, for the purpose of adapting the form to meet the circumstances of any person licensed under this Act or who has applied for a licence under this Act.

Adaptation of prescribed forms

128. If a person issues a document referred to in this Act which is false in any material particular, that person and every other person who, knowing of its falsity, took part in the preparation or issue of the document, or signed it, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or both.

False statements etc.

129. (1) Except with the consent of the Registrar, no person other than a person licensed under this Act shall use in the description or title under which the person is carrying on business in Zambia

Certain titles
not to be used

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

(2) The Registrar -

- (a) may give any consent under this section conditionally or unconditionally; and
- (b) may vary or withdraw his consent, or may impose new or additional or alternative conditions.

130. (1) A person who, by -

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

Misleading
advertisements,
etc., prohibited

induces or attempts to induce another person to enter into or offer to enter into a contract, transaction or arrangement with a licensee under this Act relating to insurance business, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both

(2) For the purposes of this section, and advertisement, statement, promise or forecast issued by a person on behalf of or to the order

of another person shall be treated as advertisement, statement, forecast or promise issued by that other person.

(3) A person who, in the ordinary course of his business, issues an advertisement, statement, promise or forecast on behalf of, or to the order of, another person, being an advertisement, statement, promise or forecast the issue of which by that other person constitutes an offence under subsection (1), shall not himself guilty of the offence:

Provided that nothing in this subsection shall prevent the Prosecution of any person for aiding or abetting the commission of Such an offence.

131. A person who-

- (a) contravenes a provision of this Act; or
- (b) neglects or fails to comply with a direction given by the Registrar under this Act;

General
penalty

For which no penalty is expressly provided shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

132. (1) The Minister may **on recommendation of the Board**, by statutory instrument, make Regulations for, or with respect to, any matter that by this Act is required or permitted to be prescribed, or that is necessary or expedient to be prescribed for carrying out or giving effect to this Act.

Regulations

(2) without limiting the generality of subsection (1), Regulations may be made for or with respect to-

- (a) the making of any application under this Act, and fees to be paid in connection therewith;
- (b) requisite qualifications and experience for persons licensed under this Act or who are managers or employees of

companies licensed under this Act;

- (c) prescribing standards of conduct for persons engaged in any business in respect of which licences are issued under this Act, and regulating or prohibiting any prescribed business practices or methods;
- (d) the imposition of annual or other periodic licence fees to be paid by persons holding licences under this Act; and
- (e) any form that is required to be prescribed under this Act.

(as amended by Act No.26 of 2005)

133. Repealed

(as amended by Act No.26 of 2005)

Association of
insurers or
brokers

134. (1) Every licensed insurer shall be a member of the **Insurers Association of Zambia** and shall subscribe to conform with the Association's Code of Conduct.

Membership of
professional
body

(2) Every licensed broker shall be a member of the Insurance Broker's Association of Zambia and shall subscribe and conform With the Association's Code of Conduct.

(3) An insurer or broker who refuses, neglects or fails to join the Association referred to in subsection (1) or (2) may be suspended by the Registrar from transacting insurance business for a period of not less than one year and if the refusal, neglect, failure or default continues after the suspension, it shall constitute a ground for revocation of a licence.

(as amended by Act No.26 of 2005)

135. The Insurance Act is hereby repealed

Repeal of
Cap.392

SCHEDULE
(Section 106, 108)

Repealed

(as amended by Act No.26 of 2005)