

CHAPTER 349

THE INSURANCE (VESTING OF INTERESTS AND REGULATION) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 349

THE INSURANCE (VESTING OF INTERESTS AND REGULATION) ACT

An Act to take over shares in the National Insurance Corporation and to make provision for the protection of policy holders.

[12th February, 1967]

[s. 1(2)]

Acts Nos.

4 of 1967

18 of 1996

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh349s1]1. Short title

This Act may be cited as the Insurance (Vesting of Interests and Regulation) Act.

[PCh349s2]2. Interpretation

(1) In this Act unless the context requires otherwise—

"approved securities" means securities issued by the United Republic and such other securities as the Minister shall by notice in the Gazette approve;

"contingent obligation dependent on human life" means—

(a) an obligation to pay to a particular person certain sums of money at specified intervals or a certain sum of money or to provide for a particular person a certain other benefit—

(i) on the occurrence of the death of a particular person or on the occurrence of the birth of a child to a particular person at any time or within a specified period; or

(ii) in the event of a particular person continuing to live throughout a specified period or specified periods; or

(b) an obligation assumed—

(i) until the occurrence of the death of a particular person; or

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

"Corporation" means the National Insurance Corporation of Tanzania Limited;

"insurance business" means the business of assuming the obligations of an insurer in any class of insurance business but does not include re-insurance business.

"insurer" means a person, firm, company or association of brokers, carrying on insurance business;

"life insurance business" means the business of assuming the obligations of an insurer under life policies;

"life policy" means a policy whereby the insurer assumes, in return for the payment, or the promise of payment of a sum or sums of money or the promise of a periodical payment of a

certain premium, a contingent obligation dependent on human life and includes any contract of insurance customarily regarded as a life insurance contract;

"Minister" means the Minister responsible for finance;

"policy" means a valid insurance contract whatever the form in which the rights and obligations of the parties to the contract are expressed or created;

"Treasury Registrar" means the corporation sole established under that name by the Treasury Registrar (Powers and Functions) Act *.

(2) For the purposes of this Act, an association of individuals with no share capital established for the purpose of rendering aid to the members or their dependants, commonly called a friendly society, which does not at any time after the commencement of this Act employ or remunerate a person for inducing persons to become members of the association or for collecting from members of the association contributions or subscriptions, shall be deemed not to be an insurer.

PART II

VESTING OF SHARES AND COMPENSATION (ss 3-6)

[PCh349s3]3. Vesting of shares

All the shares in the Corporation, of shares other than those already vested in the Treasury Registrar, shall, by virtue of this section and without further assurance, vest, free of any trust,

mortgage, charge lien, interest or any other encumbrance, in the Treasury Registrar and shall be deemed to have so vested upon the effective date.

[PCh349s4]4. Effect of reduction in member ship of the Corporation

Every provision in any written law or in the Articles of Association of the the Corporation providing for any consequences to follow, or requiring any act or thing to be done, or entitling any person to do any act or thing or to take any action as a result of a reduction in the number of the members of the Corporation below a certain number, shall be of no effect in relation to the Corporation.

[PCh349s5]5. Construction of instruments affecting shares

Any power of attorney or other instrument—

- (a) which is executed before the effective date; and
- (b) which operates in relation to any of the shares vested in the Corporation by virtue of section 3,

shall have the like operation in relation to the right to payment of compensation in respect of the acquisition of the shares in relation to which that power of attorney or other instrument relates.

[PCh349s6]6. Compensation

(1) The United Republic shall pay full and fair compensation in respect of the shares taken over under section 3.

(2) When the amount of compensation payable to any person entitled to it by virtue of subsection (1) has been determined, the Minister shall issue to that person a certificate setting out such amount and that amount shall constitute a charge on and be paid out of the Consolidated Fund:

Provided that the said amount of compensation shall be payable in the manner and in instalments which the Minister, after consultation with the person entitled, shall determine.

(3) Nothing in this Act shall be construed so as to affect in any way the rights of the holder of a certificate issued under the Tanzania Investment Act *.

PART III

DUTY OF THE CORPORATION (s 7)

[PCh349s7]7. Duty of Corporation to provide adequate insurance services

As from the effective date and notwithstanding any provision which may be contained in the Memorandum of Association or the Articles of Association of the Corporation, it shall be the duty of the Corporation—

(a) to provide, in accordance with the conditions appropriate in the normal and proper conduct of insurance business, adequate and proper insurance services and facilities throughout Tanzania;

(b) to conduct its business without discrimination, except upon any grounds as are essential in the normal and proper conduct of insurance business.

PART IV

LIFE INSURANCE (ss 8-11)

[PCh349s8]8. Corporation may carry on life insurance business Act No. 18 of 1996 s. 140

(1) The Corporation may carry on life insurance business in Tanzania.

(2) For the purposes of subsection (1)–

(a) insurance business shall be carried on in Tanzania if in the course of that business an insurance contract is concluded, whether in the United Republic or elsewhere, under which–

(i) provision is made for the payment of a premium in Tanzania or in Tanzanian currency; or

(ii) provision is made for the payment of a benefit in Tanzania or in Tanzanian currency; or

(iii) the proper law of the policy is the law of the United Republic;

(b) the collection of premiums, adjustment and satisfaction of claims and other servicing of subsisting policies and the assuming of new obligations pursuant to a term of a group policy subsisting on the effective date shall not constitute the carrying on of life insurance business.

(3) Any person who contravenes the provisions of subsection (1) commits an offence and upon conviction is liable to a fine not exceeding twenty thousand shillings.

[PCh349s9]9. Subsisting life policies

Nothing in this Act shall be construed so as to affect in any respect the validity or the terms of, or the conditions or obligations contained in, any life policy which is subsisting on the effective date.

[PCh349s10]10. Investment of premium income

(1) The Minister may, by notice in the Gazette, direct that a person, who before the effective date carried on life insurance business in Tanzania shall in the course of a period of twelve months specified in the said notice invest in approved securities or deposit with the National Bank of Commerce within Tanzania a specified proportion of the premium income received by that person during the said period in respect of his subsisting obligations under his former life insurance business in Tanzania.

(2) Any notice issued under subsection (1) shall express the specified proportion referred to in that subsection as a percentage of the net premium income remaining after the deduction from the total premium income received of the legitimate relevant business expenses of the person concerned during the specified period and all payments made in respect of claims under or surrenders of life policies or loans made on the security of life policies.

(3) Except as may be authorised by the Minister and subject to any conditions which the Minister may impose and subject to subsection (4)–

(a) no investment or deposit, or interest in it, made by any person pursuant to subsection (1) may be realised, pledged, mortgaged or otherwise used as a security, sold, transferred or otherwise disposed of or dealt with;

(b) the income deriving from the investment or deposit shall be and remain invested or deposited as if it were premium income required to be invested or deposited under subsection (1);

(c) any return of capital or other capital payment relating to or deriving from the an investment or deposit shall be and remain invested or deposited as if it were premium income required to be invested or deposited under subsection (1).

(4) When the assets of a person, who before the effective date carried on life insurance business in Tanzania, which are invested in approved securities or deposited within Tanzania and are set aside and freely available only for the purpose of meeting liabilities arising from that person's former life insurance business in Tanzania, exceed one hundred and ten percent of a valuation of the liabilities in respect of the whole of that person's former life insurance business in Tanzania made by an actuary approved by the Minister, the provisions of this section, shall not apply to premium income or other assets so in excess.

(5) When the liabilities of a person who before the effective date carried on life insurance business in Tanzania have been satisfied no obligation shall attach under this section to any remaining assets on such person.

(6) Any person who contravenes or fails to comply with any or the provisions of this section commits an offence and upon conviction is liable to a fine not exceeding one hundred thousand shillings.

[PCh349s11]11. Policies payable in foreign currency

(1) For the purposes of section 10, in reckoning premium income no account shall be taken of, and no liability shall attach under that section in respect of, the investment of premium income received on account of any life policy the benefit under which is expressed in it to be payable in a currency other than Tanzanian shillings.

(2) For the purposes of section 10, in reckoning a person's liabilities in respect of the whole of that person's former life insurance business in Tanzania on account shall be taken of liabilities under a life policy the benefit under which is expressed in it to be payable in a currency other than Tanzanian shillings.

PART V

INSURANCE OTHER THAN LIFE INSURANCE (ss 12-15)

[PCh349s12]12. Application of Part IV

This Part shall have no application to the carrying on of life insurance business.

[PCh349s13]13. Repealed

[Repealed by R.E. Cap. 394 s. 140.]

[PCh349s14]14. Subsisting policies

Nothing in this Act shall be construed so as to affect in any respect the validity or the terms of or the conditions or obligations contained in any subsisting insurance contract.

[PCh349s15]15. Minister may restrict insurance business in interim period

(1) The Minister may, if in his discretion he considers it necessary for the protection of existing or prospective policy holders; by Order published in the Gazette prohibit an insurer from continuing to carry on insurance business in Tanzania as from a date specified in the Order.

(2) If the Minister proposes to make an order under subsection (1), he shall first notify the insurer in writing of his intention to do so and in general terms his reasons for so doing and he shall invite the insurer to show cause why the order should not be made.

(3) Within seven days of the receipt of a notice given under subsection (2), an insurer may make submissions or representations in writing showing cause why an order should not be made under subsection (1) and the Minister shall not make that order until he has first considered any submissions or representations made within the time by or on behalf of the insurer.

(4) Any person who acts in contravention of an order made under subsection (1) commits an offence and upon conviction is liable to a fine not exceeding one hundred thousand shillings.

PART VI

GENERAL POWERS OF MINISTER FOR PROTECTION OF POLICY HOLDERS (ss 16-18)

[PCh349s16]16. Minister may require information

(1) The Minister may, by notice in writing, demand from an insurer, or from a person who in the case of life insurance business was an insurer prior to the effective date, any document, information or explanation relating to any matter connected with his business or transactions or otherwise.

(2) Any person who having been served with a demand under subsection (1) without lawful excuse neglects or refuses to comply with the demand commits an offence and upon conviction is liable a fine not exceeding ten thousand shillings.

(3) If a person who has been served with a notice under subsection (1) supplies to the Minister a document, information or explanation which is false in any material respect, that person and every other person who took part in the preparation or issue of or who signed the document, information or explanation, shall unless he proves, the onus of which shall lie on him, that he had no knowledge of the falsity when the document, information or explanation issued, commit an offence and upon conviction shall be liable to a fine not exceeding ten thousand shillings and in the case of an accused who is an individual in addition to the fine is liable to imprisonment for a term not exceeding two years.

[PCh349s17]17. Minister may require deposit of securities

(1) The Minister may where he considers it necessary for the protection of existing or prospective policy holders, by notice in writing require that an insurer, or a person who in the case of life insurance business was an insurer prior to the effective date, shall deposit with the Minister any approved securities, securities and other assets which the Minister shall deem sufficient to meet the liabilities of that insurer or other person's insurance business in Tanzania.

(2) Any person upon whom a notice has been served under subsection (1) who without lawful excuse neglects or refused to comply with that notice commits an offence and upon conviction is liable to a fine not exceeding twenty thousand shillings.

[PCh349s18]18. Minister may appoint receiver

(1) The Minister may, where he considers it necessary for the protection of policy holders, by order published in the Gazette, appoint a receiver of the assets and liabilities of an insurer or a former insurer.

(2) The Minister may make regulations prescribing the powers and duties of receivers appointed under subsection (1) and these regulations may prescribe penalties not exceeding ten thousand shillings for offences against the regulations.

PART VII

MISCELLANEOUS PROVISIONS (ss 19-20)

[PCh349s19]19. Responsibilities of directors, managers, etc.

Where an offence under this Act committed by a company, co-operative society or other body of persons corporate or unincorporate, is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of any director, chairman, manager, secretary or other officer of the company, co-operative society or other body of persons he, as well as that company, co-operative society or other body of persons, is deemed to be guilty of the offence and is liable to be proceeded against and punished accordingly.

[PCh349s20]20. Regulations

The Minister may make regulations for carrying out or giving effect to the purposes and provisions of this Act and those regulations may prescribe penalties not exceeding ten thousand shillings for offences against the regulations.