

CHAPTER 394

THE INSURANCE ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 394

THE INSURANCE ACT

An Act to make provision relating to the carrying on of insurance business and for related matters.

[1st March, 1997]

[G.N. No. 74 of 1997]

Acts Nos.

18 of 1996

9 of 2000

10 of 2001

PART I

PRELIMINARY PROVISIONS (ss 1-4)

[PCh394s1]1. Short title

This Act may be cited as the Insurance Act.

[PCh394s2]2. Application

(1) this Act shall extend to Tanzania Zanzibar as well as to Mainland Tanzania.

(2) This Act applies to every insurer, broker or agent or every class of insurance business other than an insurer, broker or agent or class of insurance business which is exempted from these provisions by a statutory instrument made by the Minister under section 117.

(3) Where an insurer, broker or agent or class of insurance business is exempted by an instrument under section 117 from some but not all of the provisions of this Act, the provisions other than the provisions in respect of which the exemption is made shall apply to that insurer, broker or agent or that class of insurance business, as the case may be.

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

(a) any person registered in terms of any law relating to benefit societies, subject to the provisions of section 15; or

(b) a person or class of persons declared by the Minister by regulation to be exempt from the provisions of this Act; or

(c) a class of insurance business carried on by the Government of Tanzania or the Revolutionary Government of Zanzibar; or

(d) the Government of Tanzania or the Revolutionary Government of Zanzibar in respect of the collection and payment of insurance premiums governed by Part IX of this Act; or

(e) the Deposit Insurance Fund established by Part V of the Banking and Financial Institutions Act *.

[PCh394s3]3. Interpretation

In this Act, unless the context requires otherwise—

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

"adopted child" means a child adopted in accordance with the provisions of the Adoption of Children Act *, and reference in this Act to adoption shall be construed accordingly;

"agent" means the same as "insurance agent" described in this Act;

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

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

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

"associate" in relation to an applicant for registration as an insurer or broker includes—

- (a) the spouse or minor son or daughter of that person;
- (b) any company of which that person is a director;

- (c) any person who is an employee or partner of that person; or
- (d) if that person is a company–
 - (i) any director of that company;
 - (ii) any subsidiary of that company;
 - (iii) any director or employee of that subsidiary;

"association of underwriters" means the association of underwriters registered as such by the Commissioner under this Act;

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

"bankruptcy" and "insolvency" has the meaning assigned to it by the Bankruptcy Act * or the relevant law applicable in Tanzania Zanzibar;

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

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

"child" includes a child born out of wedlock, a step child or an adopted child or in accordance with any enactment, whether within or outside Tanzania, in relation to the adoption of children;

"commencement" or "effective date" means the date on which this Act comes into operation;

"Commissioner" means the Commissioner of Insurance appointed under section 5(2);

"Companies Act" includes the Companies Decree of Zanzibar *;

"contingent obligation dependent on a human life" means—

(a) an obligation to pay to a particular person a certain sum of money or to provide for a particular person certain other benefits—

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

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

(b) an obligation assumed—

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

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

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

(a) a Managing Director or Chief Executive of the applicant or of a body corporate of which the applicant is a subsidiary; or

(b) a person in accordance with whose directions or instructions the directors of the applicant or of a body corporate of which the applicant is a subsidiary are accustomed to act; or

(c) a person who either alone or with an associate or associates is entitled to exercise, or control the exercise of, one third or more of the votes at any general meeting or of any body corporate of which the applicant is a subsidiary;

"Controller", of a person or body corporate, other than in relation to an applicant for registration or as an insurer or broker means—

(a) a Managing Director or Chief Executive of a body corporate which is a subsidiary of the person or body corporate;

(b) a person in accordance with whose directions or instructions the directors of a body corporate which is a subsidiary of the person or body corporate are accustomed to act; or

(c) a person who either alone or with an associate or associates is entitled to exercise, or control the exercise of, 15 percent or more of the votes at any general meeting of, or of a subsidiary of, a person or body corporate.

"court", means any court having jurisdiction under the Act;

"days of grace" means the period defined by section 116;

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

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

"deposit administration policies" means a contract whereby—

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

"director" includes an individual occupying the position of director or alternate director of an association or persons or a member or alternate member of a committee of management or of any other governing body of an association of persons, by whatever name he may be called;

"financial institution" means a bank registered as such under the Banking and Financial Institutions Act *;

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

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

association or the collecting of contributions or subscriptions from its members towards the funds of the association;

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

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

(b) the payment of a sum of money in addition to the provision of a funeral or the grant of some non-monetary benefit;

"general business" has the meaning assigned to it under section 36;

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

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

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

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

bring together, with a view to the insurance or reinsurance of risks, persons seeking insurance or reinsurance undertaking, carry out work preparatory to the conclusion of contracts of insurance or reinsurance, and, where appropriate, assists in the administration and performance of the contracts, in particular in the event of a claim;

"insurance business" means the business of assuming the obligation of an insurer in any class of insurance whether defined in this section or not, which is not declared to be exempt from the provisions of this Act in terms of section 2(4)(c) and includes assurance and reinsurance and reinsurance;

"insurer" means a person carrying on an insurance business otherwise than as a broker or agent, and includes an association of underwriters who is not exempt from the provisions of this Act in term of section 2(2);

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

"life insurance fund" means the fund established under section 76 to which the receipts of an insurer in respect of his life insurance business are carried;

"life policy" means any contract of insurance made or agreed to be made by an insurer classified under section 36 as transacting long term business;

"long term business" has the meaning assigned to it under section 36;

"management expenses" means expenses incurred in the administration of an insurer which are not commission payable and, in the case of general insurance business, are not

incurred in claims paid, claims outstanding, expenses for settling claims and expenses for settling claims outstanding;

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

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

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

"Minister" means the Minister responsible for finance;

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

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

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

"prescribed" means prescribed by regulations made in accordance with the provisions of this Act;

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

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

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

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

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

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

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

"underwriter's liabilities", in relation to a member of an association of underwriters, means the liabilities of the insurance business of the member calculated in accordance with formulae fixed by the responsible body vested with the administration of the relevant insurance law.

[PCh394s4]4. Administration of the Act

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

(2) In the performances of his functions under subsection (1) and generally under this Act, the Minister shall establish and maintain a system of close consultation and co-operation with the Minister of Finance in the Revolutionary Government of Zanzibar with a view to ensuring the evolution of an effective and sound administration of insurance business in the United Republic.

PART II

ADMINISTRATION (ss 5-6)

[PCh394s5]5. Appointment and qualification of Commissioner Act No. 9 of 2000 s. 33

(1) There shall be established an agency of the government to be known as the Insurance Supervision Department which, subject to the general supervision of the Minister, shall be charged with the responsibility to coordinate policy and other matters relating to insurance in the United Republic.

(2) The agency shall be a body corporate with perpetual succession and a common seal and shall, subject to this Act, be—

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

(3) There shall be appointed by the Minister a person who has adequate knowledge and experience or matters relating to the insurance industry, to be a Commissioner of Insurance who shall be the head and Chief Executive of the department referred to in subsection (1).

(4) The Commissioner shall, subject to any direction of the Minister, be responsible for the general administration of this Act.

(5) A person shall not be qualified to be appointed as the Commissioner or if already appointed shall become disqualified if—

(a) he or his spouse or dependent child is or becomes a director, officer, employee or own more than one percent of the issued shares, whether directly or indirectly, of a Tanzanian registered insurer, broker or agent; or

(b) he is adjudicated bankrupt, applied to take the benefit of any law for the relief of a bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit.

(6) Notwithstanding subsection (3), no act or omission by the Commissioner done or omitted bona fide for the purposes of or in pursuance of this Act shall be invalidated by reason only of any defect in his appointment.

(7) The Minister shall, after consultation with the Minister for Finance of the Revolutionary Government of Zanzibar, appoint a Deputy Commissioner who shall, subject to any general or specific directions of the Minister and after such consultations as may be

necessary perform in Zanzibar on behalf of the Commissioner the functions and duties of the Commissioner.

(8) There shall be appointed such other staff as may be necessary for the efficient administration of this Act.

(9) The expenses of and incidental to the administration of this Act shall be paid out of moneys provided by Parliament for that purpose or moneys derived from levies on premiums and commissions as the Commissioner may prescribe.

(10) The Commissioner may, in relation to any particular function or matter or class of functions or matters, by writing under his hand, delegate any of his powers and functions under this Act (except his power of delegation), so that the delegated powers and functions may be exercised by the delegate with respect to the function or matter or class of functions or matters specified in the instrument of delegation.

(11) Every delegation under subsection (9) shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Commissioner.

(12) No legal proceedings shall be instituted in any court against the Minister or Commissioner or any person authorised by the Minister or the Commissioner for anything done or intended to be done in good faith under this Act.

[PCh394s6]6. Functions and duties of the Commissioner

(1) subject to the provisions of this Act, the functions and duties of the Commissioner shall include—

(a) the registration and superintendence of the conduct of insurers, insurance brokers and agents;

(b) the formulation and enforcement of standards in the conduct of the business of insurance with which a member of the insurance business must comply;

(c) to recommend to the Minister regulations for the carrying out of Government policies relating to insurance;

(d) affording guidance to insurers to—

(i) the standardisation of contracts of compulsory insurance;

(ii) the deletion or amendment of obscure or ambiguous terms in contracts of insurance;

(iii) the deletion or amendment of items and conditions in contracts of insurance which are unfair or oppressive to policyholders;

(iv) the simplification or clarification of terms and conditions in contracts of insurance;

(e) performance of such other functions which are assigned to the Commissioner by this Act or any other duties which the Minister may by regulations prescribe.

(2) The Minister shall by notice published in the Gazette establish a National Insurance Board whose function shall be—

(a) to provide advice and assistance to the Commissioner generally in the regulation and supervision of insurance business in the country;

(b) to provide advice to the Commissioner generally in the performance of his functions and duties under this Act;

(c) to consider and advise the Commissioner on any application for registration or any other case submitted to the Board by the Commissioner or the Minister;

(d) to advise the Commissioner on any measures to be taken in any case of contravention of this Act;

(e) to consider and advise the Minister in relation to any application for exemption made under section 117.

(3) The members of the Board shall be not less than five and not more than seven and at least two of whom shall be persons who hail from either part of the United Republic, and in appointing them, the Minister shall ensure that at least two members have knowledge and experience in matters pertaining to insurance, law, finance, banking or social security.

(4) The Commissioner shall, as soon as reasonably practicable after each year ending on the thirty-first day of December, furnish to the Minister a report on the working of the Act during that year together with copies or summaries and documents deposited with him under Parts IV and V during that year, and the Minister shall lay the report before the National Assembly as soon as practicable.

PART III

CAPITAL AND OTHER REQUIREMENTS OF INSURERS OTHER THAN ASSOCIATIONS
OF UNDERWRITERS (ss 7-12)

[PCh394s7]7. Application of Part III

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

[PCh394s8]8. Insurer to be a resident company in Tanzania Acts Nos. 8 of 1998 s. 44; 9 of 2000
s. 32

(1) No insurer may, after the coming into operation of this Act, be registered as an insurer in Tanzania unless he is a body corporate incorporated under the Companies Act * or any other law in the United Republic and is deemed to be resident in Tanzania and at least one third of the controlling interest, whether in terms of shares, paid up capital or voting rights are held by citizens of Tanzania, or at least one third of the members of the board of the company in question are citizens of Tanzania.

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

[PCh394s9]9. General and long-term insurance business

(1) An individual insurer may transact either or both general and long term insurance business.

(2) Where an insurer carries on both general and long term insurance business, all the receipts of each of those classes of insurance business shall be entered in separate and distinct accounts.

[PCh394s10]10. Separation of insurance and brokerage

(1) No Tanzanian insurer shall register the transfer of more than five percent of his issued shares to—

(a) any person who owns or controls more than ten percent of the issued shares of any Tanzanian registered broker; or

(b) any body of persons directly or indirectly owned or controlled by a Tanzanian registered insurance broker.

(2) No Tanzanian registered insurance broker shall register the transfer of more than five percent of the issued shares to—

(a) any person who owns or controls more than ten percent of the issued shares of any Tanzanian insurer; or

(b) any body of persons, directly or indirectly owned or controlled by a Tanzanian insurer.

(3) No person, company or body of persons who has a legal or equitable interest in or who owns, controls, or is employed by—

(a) any Tanzanian registered insurance broker; or

(b) any Tanzanian insurer,

shall be employed as the manager, controller, director or principal officer of a Tanzanian insurer or registered broker respectively or enter into any management agreement with that person, company or body of persons.

(4) Where at the coming into force of this Act an insurer or broker is in contravention of any of the provisions of subsections (1), (2) and (3) that insurer or broker may, notwithstanding the contravention, be registered under this Act for a period not exceeding two years.

(5) The Commissioner may, by notice published in the Gazette, grant specific exemption to the provisions of this section under any terms and conditions where he decides that it is in the interests of the insurance industry and the public in general.

[PCh394s11]11. Capital requirement

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

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

(3) Every insurer shall transfer from its net profits of each year, before any dividend is declared and after the provision has been made for taxation, a sum not less than twenty percent—

(a) to the paid-up share capital of the insurer; or

(b) to a Capital Reserve Account which account may be reduced only for the purpose of increasing the paid-up share capital of the insurer.

(4) An insurer shall not be required to transfer any part of its net profits if the aggregate of the paid-up capital and the Capital Reserve Account exceeds any sum prescribed by the Minister.

(5) The Capital Reserve Account shall be wholly utilised not less frequently than every five years to increase the paid-up share capital of the insurer.

(6) Any registered insurer who permits its paid-up share capital to be reduced to a level below that prescribed by the Minister or fails to increase capital in accordance with the requirements of subsection (3) commits an offence and shall in addition to any other penalty prescribed by this Act be liable to have its registration cancelled.

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

[PCh394s12]12. Margin of solvency

(1) No insurer may carry on business as an insurer unless he maintains in Tanzania at all times while he so carries on insurance business, a margin of solvency of not less than the amount which the Minister shall by regulations published in the Gazette prescribed.

(2) The Regulations made under subsection (1) may prescribe the method of calculating the assets and liabilities of an insurer for the purposes of this section.

(3) Any insurer acting in contravention of this section commits an offence and shall in addition to any penalty prescribed by this Act be liable to have its registration cancelled.

(4) This section shall not apply to the National Insurance Corporation and the Zanzibar Insurance Company until after the expiration of two years from the commencement of this Act.

PART IV

PROVISIONS CONCERNING INSURERS OTHER THAN ASSOCIATIONS OF UNDERWRITERS (ss 13-36)

[PCh394s13]13. Application of Part IV

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

[PCh394s14]14. Registration of an insurer

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

(2) An insurer resident in Tanzania carrying on insurance business immediately before the commencement of this Act may, within three months after the commencement, make an application for registration under this Act, and may, until the grant or refusal of his application, continue to carry on his insurance business.

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

(4) Subject to the provisions of this Part, no person resident in Tanzania shall carry on reinsurance business unless he is registered as a reinsurer under this Act and in accordance with sections 17 and 22 of this Act.

[PCh394s15]15. Exclusion of friendly societies

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

[PCh394s16]16. Application for registration

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

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

[PCh394s17]17. Registration requirements

(1) An insurer seeking registration shall satisfy the Commissioner that—

(a) it is a company registered under the Companies Act * or any other law in the United Republic;

(b) it has a principal office in Tanzania;

(c) its controller, manager, principal officer and director who handle the day to day management of the company are all resident in Tanzania, and that;

(d) its controller, manager and principal officer are persons with sufficient business and insurance knowledge and experience.

(2) The provisions of subsection (1) of this section shall apply, mutatis mutandis to the reinsurers.

[PCh394s18]18. Restriction on insurers whose officers are deemed unsuitable

No insurer may employ as its manager controller or principal officer any person who—

(a) has been adjudged an undischarged bankrupt in any country;

(b) has made an assignment to or arrangement or composition with creditors which has not been rescinded or set aside;

(c) has been convicted by a court in any country of an offence involving dishonesty;

or

(d) is in the opinion of Commissioner an unfit person to hold the office.

[PCh394s19]19. Grant of registration

(1) If the Commissioner is satisfied that—

(a) the class or classes of insurance business in respect of which the application is made will be conducted in accordance with sound insurance principles; or

(b) the relevant capital requirements for insurers are adequate having regard to any regulations made in relation to them under section 11, have been complied with by the applicant; or

(c) the margin of solvency of the insurer is adequate having regard to any regulations made in relations to it under section 12; and

(d) the applicant complies with the requirements of Part III and IV of this Act,

he may grant the application for registration as an insurer and issue the prescribed registration certificate.

(2) The Commissioner, in exercising his registration powers under subsection (1) in relation to any applicant intending to carry on insurance business in Tanzania Zanzibar, shall through the Minister, consult with the Minister responsible for Finance in the Revolutionary Government of Zanzibar.

(3) If the Commissioner is not satisfied as to the matter referred to in subsection (1) on which he is required to be satisfied before granting an application he shall notify the applicant in writing of his intention to refuse to grant the application.

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

(5) A copy of the certificate of registration issued under subsection (1) shall be conspicuously displayed to the public at each office of the insurer.

[PCh394s20]20. Cancellation of registration

If the Commissioner is satisfied that—

(a) the insurance business of the insurer is not being conducted in accordance with sound insurance principles; or

(b) the insurer has ceased to carry on insurance business in Tanzania; or

(c) the insurer has applied for and been granted exemption in terms of section 14(3);

or

(d) the insurer has required in writing the cancellation of the registration; or

(e) a final judgment obtained in any court in Tanzania against the insurer remains unsatisfied for thirty days after the date of judgement; or

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

he may give notice in writing to the insurer of his intention to—

(i) cancel the registration certificate of the insurer; or

(ii) cancel the registration in any of the classes of insurance business carried on by him in Tanzania.

[PCh394s21]21. Prohibition after registration

No insurer shall effect any new insurance policy or renew any expiring insurance policy after the expiration of a period of three working days from the date of receipt of the Commissioner's notification in writing of the cancellation of the registration of that insurer, or after the expiration of the extended time, not exceeding—

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

in a special case in writing approve.

[PCh394s22]22. Retentions and reinsurances

(1) The Commissioner may by stipulating in writing to the insurer set limits within which a registered insurer may accept insurances of all or any class by—

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

(2) The carrying on of all arrangements for reinsurance and the insurance business in accordance with subsection (4) of section 14 shall be subject to the control of the Commissioner.

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

(a) the amount of premium and commission to be paid or the manner in which the amount of premium and commission are to be ascertained, are not specified in the contract of reinsurance;

(b) in the opinion of the Commissioner the retention limits are too low or too high; or

(c) in the opinion of the Commissioner the arrangements for reinsurance in respect of which persons, property or interest are or are to be insured by the insurer in the course of carrying on insurance business are not favourable to the economy or the insurance industry or are not in the public interest.

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

[PCh394s23]23. Amalgamation, sale, and transfer

(1) No transfer, sale, amalgamation, takeover or other similar arrangements of the insurance business or of majority ownership or of majority control of a Tanzanian registered insurer may be entered into without the prior written approval of the Commissioner.

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

(3) A special consideration contained in section 73 shall apply to insurers transacting long term business requiring approval under subsection (1) of this section.

[PCh394s24]24. Records and preservation of records

(1) All entries in the books and accounts of an insurer shall be in English or Kiswahili or in both of these languages.

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

(a) in the case of a life policy, after the maturity, and cancellation of all records relating to insurance transaction inside and outside Tanzania undertaken by him;

(b) in all other cases after the maturity, and cancellation or realisation of the policy or date of loss.

[PCh394s25]25. Amendment of accounts, etc.

(1) If, in the opinion of the Commissioner, an account or balance sheet furnished by a registered insurer under section 30 is incorrect or is not prepared as prescribed, the Commissioner may, by notice in writing, call upon the insurer to amend that account or balance

sheet and to furnish a current account or balance sheet, or, as the case may be, an account or balance sheet prepared as prescribed under section 30.

(2) If a registered insurer fails to comply with a notice referred to in subsection (1) to the satisfaction of the Commissioner, the Commissioner may himself either amend the account or balance sheet giving the insurer particulars of the amendments, or he may reject the account or balance sheet.

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

[PCh394s26]26. Audit of accounts of insurers

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

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

[PCh394s27]27. Commissioner's powers in relation to commissions and deposit of funds and management expenses

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

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

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

(a) by notice published in the Gazette require insurers to limit their management expenses to an amount contained in the notice;

(b) by notice in writing to an insurer allow dispensation from the provisions of paragraph (a) to any other amount and for any period which the Commissioner shall consider reasonable except that any period shall not exceed two consecutive years.

[PCh394s28]28. Valuation of assets and liabilities

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

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

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

[PCh394s29]29. Change of financial year

The financial year of an insurer may be changed by the insurer with the approval of the Commissioner.

[PCh394s30]30. Annual returns

(1) An insurer shall, within four months after the end of each financial year furnish to the Commissioner in the prescribed forms—

- (a) an audited balance sheet;
- (b) an audited profit and loss account;
- (c) an audited income and expenditure statement for each category of insurance underwritten;
- (d) an audited statement of solvency;
- (e) an audited statement of all admissible and inadmissible assets; and
- (f) all other information which the Commissioner requires.

(2) The Commissioner may, at his discretion, extend the time within which the insurer should comply with the provisions of subsection (1) by three months:

Provided that an insurer shall be liable to pay to the Commissioner a penalty of twenty-five thousand shillings for every day during which he is in default beyond the extended time granted by the Commissioner.

(3) Where the insurer fails to furnish the required documents and information within the extended time or fails to pay the penalty, the insurer shall be regarded as having failed to comply with the provision of subsection (1) of this section.

[PCh394s31]31. Publication of authorised capital

An insurer shall not publish or issue a document on which is printed a statement—

(a) of its authorised share capital unless the statement also sets forth the amount of its subscribed capital and of its paid-up capital; or

(b) of its subscribed capital, unless the statement also sets forth the amount of its paid-up capital.

[PCh394s32]32. Powers, restriction and instruction on insurers

(1) The Minister may by regulations—

(a) prohibit an insurer from making investments of a specified class or description;

(b) require an insurer to realise the whole or part of a particular investment within a specified period;

(c) require an insurer or all insurers to invest any percentage of the insurance funds of any insurers or insurer, as the case may be, accruing in respect of their or its insurance business in Tanzania in any Tanzanian securities and any other securities in Tanzania, as may be specified.

(2) An instrument made under subsection (1) may prescribe different percentages of the insurance funds to be so invested according to the class or description of an insurer.

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

(4) An insurer may—

(a) borrow any money, whether secured or unsecured;

(b) guarantee or bind himself as surety for the discharge of any debt or obligation of any person or body of persons or issue any bond, guarantee or undertaking unless it is registered to carry on that guarantee business and the guarantee or undertaking is incorporated in a guarantee policy, except that where he mortgages or charges assets—

(i) exceeding fifteen percent of the aggregate of its paid up share capital and Capital Reserve Account in the case of an insurer other than an insurer carrying on long term insurance business in order to secure for himself temporary loans or bank overdrafts; or

(ii) exceeding twenty percent of the aggregate life insurance funds or four times the aggregate of its paid up share capital and Capital Reserve Account, whichever is less, in the case of the insurer carrying on long term insurance business in order to secure loans for himself,

he shall notify the Commissioner in writing within one month of doing and shall provide the Commissioner with any information which he may require relating to him.

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

[PCh394s33]33. Trusteeship of assets

(1) The Commissioner may, at any time before or during the course of an investigation in terms of section 119, require an insurer to transfer all or a specified portion of his assets into a trust to be administered by a person nominated by the Commissioner.

(2) Except with the prior consent of the Commissioner the assets subject to trusteeship in subsection (1) shall not be mortgaged, pledged or otherwise encumbered in any manner in favour of any other person.

[PCh394s34]34. Preferred creditors of an insurer

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

(a) the owners of life policy and other classes of long term business issued by the insurer shall have preference against all other creditors of the insurer in respect of the life insurance and long term business funds maintained by him; and

(b) the owners of all other policies issued by the insurer shall rank before any other creditor of the insurer in the distribution of the assets of the insurer which remain after the claims, if any, by owners of the life policies and other classes of long term business against the estate which have been discharged.

[PCh394s35]35. Insurers code of practice

(1) The Minister may by regulations set out a code of practice as a guide for insurers in the conduct of their business.

(2) The principal officer of each insurer shall ensure that all directors, managers and employees of the insurer are made aware of, and comply with, the provisions of the code of practice described in subsection (1).

[PCh394s36]36. Classification

(1) For the purposes of this Act insurance business consists of long term business and general business, and—

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

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

(2) For the purposes of this Act, the effecting and carrying out of a contract whose principal object is within one class of insurance business, but which contains related and subsidiary provisions within another class, or classes, shall be taken to constitute the carrying on

of insurance business of the first mentioned class, and no other, if subsection (3) or (4) applied to the contract.

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

(4) This subsection applies to a contract whose principal object is within one of the classes of general business but which contains subsidiary provisions within another of those classes, not being general classes 14 or 15.

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

PART V

ASSOCIATION OF UNDERWRITERS REGISTERED AS INSURERS (ss 37-42)

[PCh394s37]37. Application of Part V

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

[PCh394s38]38. Commissioner to determine conditions for registration

(1) The Commissioner may determine the conditions of registration of an association of underwriters.

(2) Notwithstanding the generality of subsection (1) the powers shall include, inter alia, the determination of the necessity and amount of—

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

(f) the appointment of a legal representative in Tanzania upon whom full legal service may be made; and

(g) any additional requirements and conditions considered necessary by the Commissioner.

[PCh394s39]39. Association of underwriters liable to premium tax

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

[PCh394s40]40. Association of underwriters to deposit sums or securities

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

[PCh394s41]41. Premium received to be held in trust

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

[PCh394s42]42. Audit of accounts of an association of underwriters

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

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

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

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

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

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

PART VI

THIRD PARTY (RIGHTS AGAINST INSURERS) (ss 43-45)

[PCh394s43]43. Third party rights against insurers on bankruptcy

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

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

(b) in the case of the insured being a company, in the event of a winding up order being made, or a resolution for a voluntary winding up being passed, with respect to the company, or of a receiver or manager of the company's business or undertaking being duly

appointed, or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge,

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

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

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

(4) Upon transfer under subsection (1) or (2) of this section the insurer shall, subject to the provisions of section 45 of this Act be under the same liability to the third party as he would have been to the insured but—

(a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Part shall affect the rights of the insured against the insurer in respect of the excess; and

(b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this part shall affect the rights of the third party against the insured in respect of the balance.

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

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

[PCh394s44]44. Duty to give necessary information to third parties

(1) It shall be the duty of any person becoming insolvent or bankrupt or making a composition or arrangement with his creditors, to give at the request of any person claiming any information when it is reasonably required by him for the purpose of ascertaining whether any rights have been transferred to and vested in the person claiming by this Part and any contract of insurance and any other information which may reasonably be required to assist the person claiming.

(2) If the information given to any person in pursuance of subsection (1) of this section discloses reasonable grounds for supposing that there have or may have been transferred to him

under this Part rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by subsection (1) of this section on the persons mentioned in it.

(3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies of them to be taken.

[PCh394s45]45. Settlement between insurers and bankrupt persons of no effect

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

PART VII

REGISTRATION REQUIREMENTS OF INSURERS, BROKERS, INSURANCE AGENTS AND AGENTS FOR BROKERS (ss 46-64)

[PCh394s46]46. Insurance brokers, agents and agents for brokers to be registered

(1) No person shall act in Tanzania as in insurance broker, insurance agent or agent for an insurance broker unless he is registered as such in accordance with the provisions of this Part.

(2) Nothing in subsection (1) shall apply to a person who has acted in Tanzania as an insurance broker on or after the commencement of this Act if—

(a) immediately before that commencement he was acting in Tanzania as an insurance broker; and

(b) within twelve months after the commencement, he applies for and is granted a licence as a registered insurance broker.

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

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

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

(a) accept over the counter insurance business at the permanent office of that agent without being registered:

Provided that the compensation of such employee is not related to the volume of business so handled;

(b) accept insurance business elsewhere than at the permanent office of the agent without being registered:

Provided that employee carries an identity card issued in accordance with the provisions of section 49(3) and he accepts only that insurance as permitted in terms of the agency agreement of his principal.

[PCh394s47]47. Agents to act for one principal only

(1) No insurance agent may act for more than one insurer registered under this Act:

Provided that an insurance agent may act for one insurer transacting general insurance business and one insurer transacting long term insurance business but not two or more insurers transacting the same class or insurance business.

(2) No agent for an insurance broker may act for more than one broker registered under this Act.

(3) No insurance agent or agent for a broker may act outside the terms of an approved agency agreement.

[PCh394s48]48. Insurer's and broker's responsibilities for agents

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

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

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

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

[PCh394s49]49. Registration of agents

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

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

(3) Every insurer and broker shall issue to each agent and each employee of an agent identity cards of a type approved by the Commissioner stating the name of the insurer or broker, the class or classes of business the agent or employee of the agent is empowered to transact,

whether he is empowered to effect insurance cover and collect premiums, and the name, address and a photograph of the agent, or employee of an agent approved by the insurer or broker as eligible to undertake business as defined under section 46(5)(b).

(4) Insurers and brokers shall maintain—

- (a) records of all agency agreements issued in accordance with subsection (2); and
- (b) duplicate copies of all identity cards issued in accordance with subsection (3).

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

[PCh394s50]50. Broker's application for registration

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

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

[PCh394s51]51. Restriction on broker's officers

No insurance broker may employ as its manager, controller or principal officer any person who—

- (a) has been adjudged an undischarged bankrupt in any country;

(b) has made an assignment to or arrangement or composition with creditors which has not been rescinded or set aside;

(c) has been convicted by any court in any country of an offence involving dishonesty; or

(d) is in the opinion of the Commissioner an unfit person to hold the office.

[PCh394s52]52. Registration requirements of insurance brokers

An insurance broker seeking registration shall satisfy the Commissioner–

(a) if it is a limited company, that–

(i) it is a company registered under the Companies Act *;

(ii) it has a principal office in Tanzania;

(iii) its controller, manager, principal officer and directors who handle the day to day management of the company are all resident in Tanzania; and

(iv) its controller, manager and principal officer are persons with sufficient business and insurance knowledge and experience;

(b) if he is an individual person that–

(i) he has a permanently established office in Tanzania;

(ii) he will be resident in Tanzania for more than two hundred days per calendar year; and

(iii) he is a person with sufficient business and insurance knowledge and experience.

[PCh394s53]53. Grant of broker's application

If the Commissioner is satisfied that—

(a) the relevant security deposits and capital requirements for the insurance broker are adequate having regard to any regulations made in relation to them under section 54;

(b) the relevant trust accounts will be operated in a satisfactory manner in accordance with section 57;

(c) insurance necessarily required under section 55 have been obtained by the applicant; and

(d) the applicant complies with the requirements of Part VII of this Act,

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

[PCh394s54]54. Broker's capital requirements

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

(2) The Minister shall, in respect of a limited company, prescribe the minimum paid-up capital to be maintained by a broker, and any broker who permits its paid-up capital to be reduced to a level below that prescribed by the Minister commits an offence and shall in addition to any other penalty prescribed by this Act be liable to have its registration cancelled.

[PCh394s55]55. Broker's responsibility and insurance requirements

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

Provided that where the Commissioner is satisfied that insurance cannot be obtained to cover against all staff he may exempt the broker from effecting that insurance and instead require the broker to increase the security if any, deposited by him under section 54 by any sum which the Commissioner may consider reasonable.

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

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

Provided that where the first amount payable cannot be reduced to the sum as the Commissioner considers appropriate he may exempt the broker from effecting that insurance and instead require the broker to increase the security, if any deposited by him under section 54 by any sum which the Commissioner may consider reasonable.

[PCh394s56]56. Broker's records and right of access

(1) All entries in the books and accounts of a broker shall be in English or Kiswahili or in both of these languages.

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

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

Provided that no person shall be entitled either than upon the order of a competent court, to take copies of any documents or correspondence without the consent of the broker.

(4) a broker shall not alter, amend, remove or destroy records required to be maintained under subsection (2) relating to insurance transactions.

[PCh394s57]57. Broker's responsibility

(1) A broker shall be liable to a Tanzanian insurer for all premium collected for by him and all premium due to the insurer by virtue of insurance effected at the instruction of the broker.

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

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

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

(4) Trust accounts required by virtue of subsection (3) shall be maintained with a financial institution in a manner and form approved by the Commissioner.

[PCh394s58]58. Broker's accounts

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

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

(3) The auditor shall audit trust accounts maintained by the broker in accordance with the provisions of section 57(3) and shall state in the accounts whether in his opinion they comply with the provisions of the Act.

(4) Where the Commissioner has accepted a guarantee in lieu of the maintenance of a trust account in accordance with the provisions of section 57(3) the broker shall ensure that a separate record is maintained of all money received from or for a client.

[PCh394s59]59. Cancellation of registration

If the Commissioner is satisfied that—

(a) any business of any insurance broker or agent is not being conducted in accordance with sound business principles; or

(b) any broker or agent has ceased to carry on insurance broking business or insurance agency in Tanzania; or

(c) any broker or agent has requested in writing the cancellation of the registration; or

(d) any broker or agent is acting or has acted in contravention of any of the provisions of this Act,

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

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

- (i) misappropriation of premium collected;
- (ii) under banking of premium collected;
- (iii) forgery in banking of the premium collected;
- (iv) late or delay in banking of the premium collected;
- (v) non-accounting of receipts;
- (vi) issuance of agents own cheque or banking in lieu of cash or cheque collected from clients;
- (vii) moneys banked with fake tellers banked stamps;
- (viii) non-submission or late submissions of weekly returns;
- (ix) presenting unpaid (dishonoured) cheques;
- (x) defrauding such as backdating of cover notes or any other forms of colluding with clients;
- (xi) cover issued without receipt of premium unauthorised credit facility;
- (xii) any form of contravention of the provisions of this Act.

A copy of the certificate of registration issued under section 53 shall be conspicuously displayed to the public at each office of the insurance broker.

[PCh394s61]61. Financial year of broker

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

[PCh394s62]62. Broker's amalgamation, sale and transfer

(1) No transfer, sale, amalgamation, take over of the ownership of or business of a broker or other similar arrangement in respect of it, may be entered into by an insurance broker without the prior written approval of the Commissioner.

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

(3) The Commissioner may, as a condition of the granting of his approval, require that any amendments which he may recommend shall be made to the transfer, sale amalgamation, take over or other similar arrangement.

[PCh394s63]63. Broker's annual returns to the Commissioner

(1) An insurance broker shall, within four months after the end of his financial year, furnish to the Commissioner in the prescribed form—

(a) an audited balance sheet;

- (b) an audited profit and loss account;
- (c) an audited premium income and other income and expenditure statement; and
- (d) all other information which the Commissioner may require.

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

Provided that a broker shall be liable to pay to the Commissioner a penalty of twenty-five thousand shillings for every day during which he is in default beyond the extended time granted by the Commissioner.

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

[PCh394s64]64. Insurance broker's code of conduct

(1) The Minister may by regulations set out a code of conduct as a guide for insurance brokers in the conduct of their business.

(2) The principal officer of each broker shall ensure that all directors, managers, agents and employees of the broker are aware of, and comply with the provisions of the code of conduct described in subsection (1).

(3) A copy of the code of conduct described in subsection (1) shall be conspicuously displayed in areas of access to the public at each office of the broker.

PART VIII

MANDATORY REINSURANCE CESSIONS (ss 65-69)

[PCh394s65]65. Reinsurance with international organisation

(1) Any insurer shall on or after the commencement of this Act, offer to place with—

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

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

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

(3) Nothing in subsection (1) shall prevent any insurance or reinsurance institution from entering into direct reinsurance arrangement with ZEP-RE and Africa-Re in respect of the whole or part of the risks undertaken by that institution or from making any other arrangements which are mutually acceptable to ZEP-RE and that other institution.

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

[PCh394s66]66. Acceptance or decline of business the by ZEP-RE

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

[PCh394s67]67. Appeal by ceding institution

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

[PCh394s68]68. Liability to cease on refusal

Where reinsurance cession is refused under this Part any liability of the insurer concerned under this Act in respect of reinsurance cession shall cease.

[PCh394s69]69. Failure to comply

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

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

(3) If the offence is committed by a body corporate, then notwithstanding the imposition of any penalty, the commission of the offence shall constitute sufficient grounds whereby the

Commissioner may apply to the court for the winding up of that body corporate if it is incorporated in Tanzania.

PART IX

SPECIAL PROVISIONS RELATING TO LONG TERM (LIFE) AND OTHER POLICIES (ss 70-107)

[PCh394s70]70. Establishment of the National Reinsurance Corporation

The President may cause, where he deems necessary, by order published in Gazette to be established a National Reinsurance Corporation in which every Tanzanian insurer shall reinsure a proportion of each policy of insurance issued or reinsured in Tanzania by that insurer in any proportion and manner specified in the order or in which every insurer shall place with the corporation any proportion of its reinsurance business from Tanzania placed in the international market in any proportion and manner as prescribed in the order.

[PCh394s71]71. Life insurance tables or statements

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

(a) a copy of every printed standard policy document and standard endorsement and every table or statement of the rates of premium which he ordinarily charges and of the benefits including paid up and surrender value which the insurer ordinarily undertakes to grant in respect of policies insuring normal lives; and

(b) a report from an actuary approved by the Commissioner that any table or statement submitted by virtue of paragraph (a) is actuarially sound.

(2) No insurer shall make use of any policy document, table or statement in the conduct of its long term business referred to in subsection (1) unless an actuary approved by the Commissioner has reported that it is actuarially sound.

(3) No insurer shall make use of any policy document, table or statement in the conduct of his long term business referred to in subsection (1) if—

(a) the basis of payment to or remuneration of the insurer other than by a charge upon the relevant life insurance fund or the management costs actually incurred together with a proportion of any established surplus as provided in section 80 from that life insurance fund to such insurer; and

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

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

[PCh394s72]72. Insurance interest for life insurance

(1) Subject to the provisions of this Act and of section 110 no policy of life insurance shall be issued on the life or lives of any person or persons other than as provided in subsection (2).

(2) An insurable interest shall be deemed to be had by—

- (a) a parent of a minor or the guardian of minor but only to the extent as provided by section 82;
- (b) a husband on the life of his wife;
- (c) a wife on the life of the husband;
- (d) any person on the life of another upon whom he is wholly or in part dependent for support or education;
- (e) a company or other person, on the life of an officer or employee; and
- (f) a person who has a pecuniary interest in the duration of the life of another person in the life of that person to the extent only of that pecuniary interest at the outset.

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

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

[PCh394s73]73. Amalgamation and transfer of long term business

(1) If it is intended to sell or transfer the long term business of any insurer or to amalgamate the long term business of two or more insurers, any one of whom is an insurer registered under this Act, the principal officer of each Tanzanian insurer shall prior to application to the Commissioner under the terms of section 23 of the Act–

(a) publish in the Gazette notice of his intention to make application to the Commissioner;

(b) post to the registered or last known address of each member or policyholder in Tanzania–

(i) an abstract containing the material facts embodied in the agreement under which the amalgamation, sale or transfer is proposed to be effected;

(ii) copies of the actual reports upon which the agreement under subparagraph (1) is founded including a report by an actuary previously approved by the Commissioner; and

(iii) a printed pro-forma letter addressed to the Commissioner by completing it with his policy number and name, and a policyholder or member can indicate whether he approves or disapproves the proposed amalgamation, sale or transfer;

(c) open for inspection, at the office of the insurer in Tanzania; by policyholders and shareholders for a period of one month after publication in the Gazette the full text of the agreement of amalgamation, sale or transfer.

(2) The Commissioner shall not sanction the agreement of amalgamation, sale or transfer if within two months from the date of publication in the Gazette as required by subsection (1)(a),

policyholders or members representing one third or more of the total number insured by any of the insurer intending to amalgamate, sell or transfer their long term business indicate their disapproval of the said amalgamation, sale or transfer by forwarding the pro-forma letter to the Commissioner.

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

[PCh394s74]74. Transfer powers of Commissioner for long term business

(1) where an insurer carrying on long term insurance business has not issued a new policy for a period of 12 months from the date of the issue of the last policy, the Commissioner may direct the insurer to frame proposals for transfer or amalgamation of his business to or with another insurer.

(2) Where an insurer fails to comply with a direction under subsection (1), of this section or if the proposals framed by the insurer are in the opinion of the Commissioner unsatisfactory, the Commissioner may himself frame a scheme for the transfer of the business to another insurer either nominated by the first mentioned insurer and approved by the insurer selected by the Commissioner.

(3) Where an insurer fails to implement a scheme framed by the Commissioner under subsection (2) above and the Commissioner considers the continuance in business of that insurer is likely to lead to insolvency or is otherwise contrary to the interest of the policyholder he may—

(a) order an investigation of that insurer under section 119 of this Act; or

(b) apply to the court for winding up the business of the insurer in terms of section 130 of this Act.

[PCh394s75]75. Periodic actuarial investigation

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

(a) once in every three years or at any shorter intervals which may be prescribed or required by the Commissioner; and

(b) prior to an insurer wishing to distribute profits or transfer sums from the life insurance fund other than payment and investments under long term business or management costs actually incurred.

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

Provided that the insurer shall, unless the Commissioner in his sole discretion decides otherwise, be liable to a penalty of twenty thousand shillings for every day of any extended time granted by the Commissioner.

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

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

(5) An actuary conducting an investigation undertaken in accordance with the provisions of this section shall submit to the Commissioner within three months of the completion of his investigation an abstract in the prescribed form and content.

[PCh394s76]76. Establishment of statutory life insurance fund

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

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

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

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

(a) to establish, maintain and appropriately name one or more separate funds in respect of any class or classes of long term insurance business carried on by him;

(b) to maintain an account in respect of each of those classes of long term insurance business;

(c) to maintain separate life and annuity funds within the limits which he shall from time to time advise.

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

(5) Where, at any time—

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

(b) a particular policy ceases to be included in the part of the long term insurance business of the insurer in respect of which one of the life insurance funds is maintained (in this subsection referred to as "the first fund") the insurer shall—

(i) transfer from the first fund to the second fund assets equal to the liability on the policy at that time ascertained by an actuary approved by the Commissioner; and

(ii) transfer from the assets of the insurer to the second fund an amount equivalent to that amount by which the assets accruing to that policy from the first fund are less than the liability on policy.

(6) The income arising from the investment of the assets of a life insurance fund shall be carried to and form part of that fund.

(7) The assets of each life insurance fund shall be kept distinct and separate from all other assets of the insurer.

(8) An insurer carrying on long term insurance business shall maintain books of account and other records which are necessary for identifying—

(a) the assets representing each life insurance fund maintained by each of those classes of long term insurance business;

(b) liabilities attributable to that class or as the case may be each of those classes of long term insurance business.

[PCh394s77]77. Application of assets of insurer with long term business

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

(a) be applicable only for the purposes of that business; and

(b) not be transferred so as to be available for other purposes of the company except when the transfer constitutes reimbursement of expenditure borne by other assets in the same or the last preceding financial year in discharging liabilities wholly or partly attribute to long term business.

(2) Where the value of the assets mentioned in subsection (1) is shown by an actuarial investigation to exceed the amount of the liabilities attributable to the company's long term business the restriction imposed by that subsection shall not apply to so much of those assets as represents the excess.

(3) Subsection (2) shall not authorise a transfer or other application of assets by reference to an actuarial investigation at any time after the date of commencement of the investigation and before thirty days after the date when the abstract of the actuary's report required under the terms of section 75 of this section has been deposited with the Commissioner.

(4) Nothing in subsection (1) shall preclude an insurer from exchanging at fair market value, assets representing a life insurance fund maintained by the company in respect of its long term business for other assets of the company or a company connected with it.

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

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

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

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

(9) No insurer to which this Part of the Act applies and no company of which an insurer is subsidiary shall declare a dividend at any time when the value of the assets representing the life insurance fund or funds maintained by the insurer in respect of its long term business as determined in accordance with any applicable valuation regulations, is less than the amount of the amount of the liabilities attributable to that business as so determined.

[PCh394s78]78. Restriction on transaction with connected person

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

(a) at a time when the aggregate of the value of the assets and the amount of the liabilities attributable to the transaction already entered into by the insurer and its subordinate companies exceeds the prescribed percentage of the total amount standing to the credit of the insurer's life insurance funds; or

(b) at any other time when the aggregate of the value of those assets and the amount of those liabilities would exceed that percentage if the transaction were entered into.

(2) This section applies to any transaction entered into by any insurer mentioned in subsection (1) whether or not himself is a subordinate company of another company being a transaction under which—

(a) a person connected with the insurer will owe it money;

(b) the insurer acquired shares in a company which is a person connected with it; or

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

(3) Without prejudice to subsection (2), this section applies to any transaction entered upon by a subordinate company of any insurer mentioned in subsection (1) being a transaction under which—

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

(b) the subordinate company acquires shares in the insurer or in a company which is a person connected with the insurer; or

(c) the subordinate company has undertaken a liability to meet an obligation of the insurer or of a person connected with that company or to help the insurer or that person to meet an obligation,

but where the subordinate company is itself an insurer as is mentioned in subsection (1), this section shall not by virtue of this subsection apply to that transaction if the right to receive the money would constitute a long term assets of the subordinate company or the acquisition is made out of its insurance funds or the liability would fall to be discharged out of those funds, as the case may be.

(4) In this section "subordinate company" in relation to any insurer mentioned in subsection (1) means—

(a) a company having equity share capital some or all of which is held by the insurer as part of its long term assets where the share capital so held by the insurer—

(i) amounts to more than half in nominal value of share capital; and

(ii) confers on the insurer the power to appoint or remove the holders of all or a majority of the directorship of the company whose share capital it holds and more than one half of the voting power at any general meeting of that company;

(b) a company having equity share capital some or all of which is held by another company which is itself a subordinate company of the insurer where the share capital held by that other company—

(i) amounts to more than half in nominal value of that share capital; and

(ii) confers on that other company the power to appoint or remove the holders of all or a majority of the directorship of the company whose share capital it holds and more than one half of the voting power at any general meeting of that company,

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

(5) For the purposes of this section a person is connected with insurer mentioned in subsection (1) if that person is not a subordinate company of the insurer but—

(a) controls, or is a partner of a person who controls, the insurer;

(b) being a company is controlled by the insurer or by another person who also controls the insurer; or

(c) is a director of the insurer or the wife or husband or a minor son or daughter of a director,

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

(6) For the purposes of this section the value of any assets and the amount of any liabilities shall be determined in accordance with any applicable valuation regulations.

(7) In this section—

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

"insurer" includes any body corporate;

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

"liability" includes a contingent liability;

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

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

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

"son" includes step-son;

"daughter" includes step-daughter.

(8) This section shall not be construed as making any transaction unenforceable as between parties to it or as otherwise making unenforceable any rights or liabilities in respect of property.

[PCh394s79]79. Reinsurance contracts of long term insurance

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

[PCh394s80]80. Allocations to policyholders

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

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

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

the insurer shall not by virtue of section 72(2) transfer or otherwise apply assets representing any part of the surplus mentioned in paragraph (a) of this subsection unless the insurer has either allocated to policyholders of that category in respect of that surplus an amount not less than ninety percent or complied with the requirements of subsection (2) and made to those policyholders any allocation of which notice is given under paragraph (a) of that subsection.

(2) The requirements of this subsection are that the insurer—

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

(b) has published a statement approved by the Commissioner in the Gazette and that a period of no less than two months has elapsed since the date or the last date, on which the company has published the statement mentioned in paragraph (b) as required by or under that paragraph.

(3) In this section—

"established surplus" means an excess of assets representing the whole or a particular part of the life insurance fund or funds maintained by the insurer in respect of its long term business over the liabilities or a particular part of the liabilities, of the company attributable to that business as shown by an investigation to which section 75 applies.

(4) For the purposes of this section an amount is allocated to policyholders, only if—

(a) bonus payments are made to them; or

(b) reversionary bonuses are declared in their favour or a reduction is made in the premium payable by them, and the amount of the allocation is, in a case within paragraph (a) of this subsection, the amount of the payment and, in a case within paragraph (b) the amount of the liabilities assumed by the insurer in consequence of the declaration or reduction.

(5) For the purposes of this section the amount of any bonus payments made in anticipation of an established surplus shall be treated as an amount allocated in respect of the next established surplus in respect of which amount is allocated to eligible policyholders generally, and for the purposes of subsection (2), the amount of any surplus in respect of which that allocation is made shall be treated as increased by the amount of that payment.

(6) Subsection (1) shall not authorise the application for purposes other than those mentioned in section 77(1) of assets representing any part of the surplus mentioned in subsection (1)(a) of this section which the insurer has decided to carry forward unappropriated and for the purposes of section 77(2), the amount of any surplus shall be treated as reduced by any part of it which the company has decided to carry forward as aforesaid.

(7) For the purposes of subsection (1) policyholders shall be taken to be eligible to participate in an established surplus in any case where they would be eligible to participate in a later established surplus representing it if it were carried forward unappropriated.

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

(1) Other than as approved by the Commissioner under the provisions of section 76(3)(b)–

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

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

(2) For the purposes of this Act, any alternation to the value of any holding of a unit or units, or other beneficial interest, shall be known as the "adjusted unit value".

[PCh394s82]82. Life insurance of minors

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

Provided that–

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

(ii) the total sums payable against all life insurance policies outstanding at that time of the life of a minor who dies before he attains the age of sixteen years shall not exceed one million or the sum of the total of the premium paid under that policy, whichever is greater, and there are more policies than one outstanding at that time where a contribution shall be due against each

policy to make up the total sum of one million shillings or any greater sum as the case may be in proportion to the sum for which the policy is effected;

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

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

(3) For the purposes of this section the Commissioner may by notice in writing to each insurer direct procedures to be undertaken in the processing of claims against insurers on the death of minors.

[PCh394s83]83. Value of certain assets

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

[PCh394s84]84. Life policy effected by married persons

(1) Notwithstanding any provision of any law to the contrary, and subject to the provisions of this Part a married woman shall have the same right as a man, or after reaching the age of maturity, to—

- (a) effect and own a life policy;
- (b) hold by way of gift or otherwise acquire from or dispose of to any person including the other spouse any interest in the life policy;
- (c) hold any moneys paid by the insurer in respect of any interest held in life policy or any assets acquired with those moneys;
- (d) hold any moneys or assets acquired in respect of the disposal of any interest held in a life policy or any assets acquired with those moneys; and
- (e) dispose of to any person, including the other spouse, by way of a gift or otherwise, any moneys or assets referred to in paragraphs (c) and (d).

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

- (a) a life policy effected prior to marriage;
- (b) any interest in a life policy acquired prior to marriage;
- (c) any moneys due or paid prior to marriage in respect of a life policy under paragraph (a), or any interest in a life policy under paragraph (b), or acquired prior to marriage in respect of the disposal of any interest in a life policy; and

(d) any assets acquired prior to marriage with money under paragraph (c) as if the policy, interest, moneys or assets were effected or paid or acquired or became due during marriage.

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

(4) Where a married man or woman has effected a life policy to marriage, the responsibility to continue to pay any premium due after marriage shall remain with that person.

[PCh394s85]85. Life policy on own life: Protection afforded during life

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

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

(b) becomes part of that person's estate in insolvency and of the joint estate of the insolvent and surviving spouse during the lifetime of that person,

the proceeds or 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 that attachment or insolvency.

(2) The protection afforded by the provisions of subsection (1) in respect of a life policy referred to in that provision shall—

(a) extend to so much of the proceeds on realisation of the policy which does not exceed an amount of two million five hundred thousand shillings; and

(b) subject to the provisions of paragraph (a), extend, if the policy is pledged, to so much of the proceeds on realisation of the policy which exceeds the amount of the liability, the payment of which the pledge secures, but no further.

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

(a) are attached in execution of a judgment or order of any court at the instance of a creditor or a person by whom the policy was effected; or

(b) become part of the estate in the insolvency of the person by whom the policy was effected and of the joint estate of the insolvent and the surviving spouse the moneys due or paid under the policy or the proceeds on realisation of the assets shall, to the extent specified in subsection (4) be protected against that person's creditors and against any claim in connection with the attachment or the insolvency.

(4) The protection afforded under subsection (3) in respect of moneys or assets of a person referred to in that subsection shall—

(a) extend to those moneys or to the proceeds on realisation of those assets in so far as those moneys and proceeds together with—

(i) all other moneys due or paid to that person under life policies under subsection (1);

(ii) the value of all other existing assets of that person acquired with moneys paid under life policies under subsection (1) or with those moneys and other moneys; and

(iii) the realisable value of all life policies under subsection (1) of which that person is the owner which exceed two million five hundred thousand shillings.

(b) subject to the provisions of paragraph (a), extend in the case of an asset which is pledged or mortgaged, to so much of the proceeds on realisation of the assets which exceeds the amount of the liability the payment of which the pledge or mortgage secures, but no further; and

(c) not extend to any moneys due or paid under a life policy under subsection (1) 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 a consideration for the new policy; and

(b) a life policy which an insurer issued under section 95 shall be regarded as having been effected on the date on which the old life policy for which it was substituted was issued.

[PCh394s86]86. Life policy on own life: Protection afforded on death

(1) For the purposes of this section "beneficiary" means—

(a) the surviving spouse of an owner;

(b) a dependant under the will of an owner; or

(c) a dependant by right of succession on intestate; or

(d) a dependant under or by virtue of an order made in accordance with the provisions of any enactment in Tanzania relating to inheritance or succession.

(2) If—

(a) a beneficiary has on the death of the owner a claim—

(i) under a life policy; or

(ii) to moneys or assets in respect of which protection is afforded under section 88; and

(b) the life policy moneys or assets referred to in paragraph (a)—

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

(ii) become part of the deceased owner's estate in insolvency and of the joint estate of the deceased insolvent and the surviving spouse, the beneficiary shall in respect of his claim enjoy the protection afforded under section 88.

[PCh394s87]87. Protection afforded in respect of life policy insuring the spouse or children

(1) If—

(a) before or during marriage a man effects or cedes for the benefit of his wife or his wife and children, including children to be born to him and wife, or any of them;

(b) before or during marriage, a woman effects or cedes for the benefit of her husband; or

(c) a person effects or cedes for the benefits of his or her children, including children to be born to him or her,

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

(i) be liable to be attached in execution of a judgment or order of any court at the instance of a creditor of the person by whom the policy was effected or ceded; or

(ii) form part of the estate in insolvency of the person by whom the policy was effected or ceded and of the joint estate of the insolvent and the surviving spouse.

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

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

[PCh394s88]88. Protection afforded in respect of life policy insuring spouse

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

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

(b) becomes part of an estate in insolvency the proceeds on realisation of the policy shall to the extent specified in section 85(2) be protected against creditors and against any claim in connection with the attachment or the insolvency.

(2) The provisions of subsections (2), (4) and (5) of section 85 and of subsections (2) and (3) of section 87 shall mutatis mutandis apply to a life policy under subsection (1) or moneys due or paid by the insurer or any assets acquired with those moneys or with those moneys and other moneys.

[PCh394s89]89. Selection of life policies in respect of which protection is afforded

If—

(a) two or more life policies or assets in respect of which protection is afforded by the provisions of sections 85, 86 and 88, being the property of one person are attached in execution of a judgment or order of any court at the instance of a creditor; or

(b) the owner of two or more life policies or assets in respect of which protection is afforded by the provisions of sections 85, 86 and 88 is adjudged or otherwise declared insolvent and part only of the aggregate realisable value of the policies or assets is protected,

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

[PCh394s90]90. Partial realisation and partial conversion of life policies

(1) A judgment creditor of the owner of a life policy or the trustee of his estate in insolvency who is entitled to a part of the realisable value of the policy may, if he is in possession of the conversion of policy deliver it to the insurer who is liable under the policy for the purpose of the payment to him of the sum to which he is entitled.

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

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

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

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

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

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

[PCh394s91]91. Provisions in case premium on life policy ceded or trust policy cannot be maintained

If a person—

(a) has effected or ceded a life policy for the benefit of his spouse and additionally or alternatively, child including unborn children, or any of them; or

(b) holds a life policy in trust for any other person and is obliged to pay the premium on the policy, is or has been unable to pay the premiums, that person may with the consent of each person who has an interest or if that person is a minor, with the consent of his parent or guardian or the high court, agree with the insurer liable under the policy—

(i) to exchange the policy for a paid-up life policy of a value calculated in accordance with the table furnished to the Commissioner under section 71 in the case of normal lives and in any other case calculated by reference to the said table and approved by an actuary, payable at the time and in the manner stipulated in the original policy to the person entitled to the sum insured by the original policy;

(ii) where the policy so permits, to borrow from the insurer upon the security of the policy any sums which may be necessary to keep the policy in force or to revive it; or

(iii) to apply any bonus which may have accrued in connection with the policy to a temporary or permanent reduction of premium or to the payment of any premiums which have fallen due.

[PCh394s92]92. Life policy ceded or premium paid with intent to benefit someone at the expense of creditor

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

(2) 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 court may order the owner of the policy to pay a sum equal to the aggregate of all premium so paid, with interest at a prescribed rate per annum on the amount of each premium so paid from the date of its payment, to the person to whose detriment the premium was to be paid or if the person has been adjudged or otherwise declared insolvent, to the trustee of his estate insolvency.

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

[PCh394s93]93. Power to pay into court

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

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

[PCh394s94]94. No deduction in respect of other life policies

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

[PCh394s95]95. Proof of age

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

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

(3) If an insurer declines to accept the proof of age tendered in respect of a life insurance policy whether issued on or after the coming into force of this Act, the policyholder may apply to the Commissioner for an order directing the insurer to accept the proof rendered and if the Commissioner after giving the insurer reasonable opportunity of being heard, makes any order in writing to the applicant and the insurer, that order shall be binding on the insurer.

(4) The preceding provisions of this section shall not apply to any life insurance policy issue before the coming into force of this Act or to any paid-up policy or certified copy of a

policy issued on or after the coming into force of this Act, where the life insurance policy issued replaces a life insurance policy issued before the coming into force of this Act.

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

(6) If—

(a) a claim is made for a benefit under life policy which has been insured for a period of three years from the date of the payment of the first premium;

(b) the age or date of birth of insured has not been admitted by the insurer liable under the policy; and

(c) the person claiming the benefit shows that, owing to circumstances beyond the control and through no default either of himself or of the person by whom the policy was effected, there was, at no time after the date of the payment of the first premium under the policy, either in existence or available, any documentary evidence affording reasonable proof of the age or date of birth of the insured,

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

[PCh394s96]96. Age incorrectly stated

(1) A life insurance policy shall not be avoided by reason of mis-statement of the age of the life insured, and where—

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

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

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

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

Provided that, where the correct age is found to be beyond the limits within which the insurer, according to his published prospectus issued, the type of policies in question, shall be

void ab initio and the insurer shall refund to the insured all the premiums received on the policy after deducting the commission payments and expenses incurred by him on the policy; but nothing in this provision shall apply to annuities and other policies where the insured has already received any payment under the policy.

(2) The provisions of subsections (4) and (5) of section 101 shall mutatis mutandis apply to this section.

[PCh394s97]97. Suicide

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

(a) in respect of any period that exceeds two years from the issue of the policy notwithstanding any policy conditions to the contrary; or

(b) if the insured dies by his own act or suffers capital punishment after the expiration of that stipulated period or after two years from the issue of the policy, whichever is sooner.

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

[PCh394s98]98. Military service

(1) A life policy in which it is stated that the policy shall be void in the event of the insured dying in the course of or as a result of any military service which he performs under the Government of Tanzania in any military action against a common enemy shall be void.

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

(3) This section shall not apply to any life policy under which—

(a) the lives of a group of persons are insured; and

(b) the insurer may—

(i) amend any of policy's provisions; or

(ii) cancel the policy.

[PCh394s99]99. Lost or destroyed life policy

(1) If a life policy is lost or destroyed and the loss or destruction is proved, the insurer liable under the policy, shall, at the request of the policy owner and upon payment by the policy owner to the insurer of the prescribed fee, issue to the policy owner—

(a) a correct and certified copy of the policy upon 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
 - (b) be the sole evidence of the contract made by the policy.

(3) From the date upon which this Act comes into force an insurer shall maintain a register of all copies of life policies issued in accordance with subsection (1) and shall allow any member of the public showing reasonable cause, access to relevant parts of the register.

(4) The register referred to in subsection (3) shall contain—

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

[PCh394s100]100. Life policy may include subsidiary benefits

(1) If an insurer by notice in writing—

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

(i) on the total or partial permanent disability of the person whose life that policy insures; or

(ii) on the death of the person whose life that policy insures as a result of an accident or particular disease;

(b) requests the Commissioner that the policies referred to in paragraph (a) be treated for the purposes of this Act as life policies only,

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

(2) A policy referred to in subsection (1)(a) shall not be treated for the purposes of this Act as a life policy only if the value of the benefits provided in subsection (1)(a) and subparagraphs (i) and (ii) does not exceed in the aggregate—

(a) a waiver of claims to any premium under the policy in respect of the period of disability; and

(b) (i) a monthly benefit, payable during the period of disability of the person whose life the policy insures but not extending beyond the date of termination of the risk of the life insurance properly effected by the policy, amounting to two percent of the sum payable under the policy on the death of the person;

(ii) a lump sum equal to the sum payable under the policy on the death of the person whose life the policy insures; or

(iii) in the case of a deferred annuity policy, monthly benefits payable during the period of the disability of the person whose life the policy insures but not extending beyond

the date as from which the annuity will become payable amounting to one twelfth of the annual annuity;

(c) a life policy providing benefits that are described in subsection (1)(a) which cannot by reason of the provisions of subsection (2) be treated for the purposes of this Act as a life policy shall, for the purposes of this Act, be treated as both a life policy and a personal accident or personal accident and sickness policy.

[PCh394s101]101. Discrimination between life policies, etc., prohibited

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

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

(a) are reinsurance contracts;

(b) are for large sums in excess of fifty million shillings or any larger sum which the Minister may by regulation decide, at preferential rates in accordance with the current tariff of the insurer concerned;

(c) insure at preferential rates the lives of employees of one employer or a combination of employers or members of the families of the employees or the lives of a group of persons carrying on the same occupation; or

(d) are of a class prescribed.

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

- (a) a rebate of the premiums payable on a life policy;
- (b) an advantage in the nature of a rebate of the premium payable on a life policy;
- (c) preferential treatment in connection with bonus or other benefit under a life policy.

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

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

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

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

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

[PCh394s102]102. Non-forfeiture of life policies in certain cases on non-payment of premiums

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

- (a) not less than three years' premiums have been paid in cash on the policy; and
- (b) the surrender value of the policy (calculated as at the day immediately preceding that on which the overdue premium falls due) exceeds the sum of the amount of the debts owing to the insurer under, or secured by the policy, and the amount of the overdue premium.

(2) The insurer may, until payment of the overdue premium, charge compound interest on it on terms not less favourable to the policyholder than the terms which are set out in the table furnished to the Commissioner under section 71.

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

(4) Without affecting the generality of subsection (1) of this section, a life policy on which less than three years' premiums have been paid in cash shall not be forfeited by reason

only of the non-payment of a premium unless, on or after the day on which the premium fell due, the insurer liable under the policy serves a notice on the policyholder stating—

(a) the amount due or payable to the insurer at the date of the notice in respect of the policy; and

(b) that the policy will be forfeited at the expiration of one month after service of the notice if a sufficient sum is not paid to the insurer in the meantime.

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

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

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

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

(d) in the event of a policy on which not less than three year's premiums have been paid in cash is forfeited by reason of non-payment of any premium, the insurer shall, without

requiring any application from the policyholder, grant a paid-up policy for an amount not less than that calculated in accordance with tables approved under section 71; such paid-up policy shall be payable upon the happening of the contingency upon which the amount insured under the original policy would have been payable.

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

[PCh394s103]103. Paid-up policies

(1) A policyholder who desires to discontinue further premium payments on a life policy on which not less than three years' premiums have been paid in cash shall, on application to the insurer, be entitled to receive, in lieu of that policy, a paid-up policy for an amount not less than that determined in accordance with the tables approved under section 71.

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

[PCh394s104]104. Surrender of policies

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

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

(3) For the purposes of this section the surrender value of a policy shall be the amount calculated in accordance with the tables furnished in the Commissioner under section 71.

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

[PCh394s105]105. Cancellation of life policy within limited penalty

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

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

(3) For the purposes of this section, a policy shall be deemed to have been returned with an objection or statement, as the case may be, if the policy and objection or statement are posted for transmission to the insurer by registered post.

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

[PCh394s106]106. Publication of bonus rates and unit values

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

(a) there is either—

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

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

(b) an amount has been allocated to policyholders of that category in respect of a previously established surplus or adjusted until value in which, policyholders of that category were eligible to participate,

the allocation made shall—

(i) during the currency of the policy, be known for the purposes of this section as "the reversionary bonus"; or

(ii) in addition to any reversionary bonuses attaching to the policy, but only upon the death of the policyholder or upon the happening of some other future event resulting in the payment of benefit under the policy,

be known for the purposes of this section as "the terminal bonus".

(2) An insurer transacting long term business who allocates reversionary bonuses to policyholders by the application of a factor applied to the policy sum insured shall advise the Commissioner in writing and publish in the Gazette and in at least one national Tanzanian publication—

(a) within one month from the coming into force of this Act; or

(b) upon any alteration of the factor within one month of the date of the approval by the insurer's board of directors with the approval of the actuary,

the amount and effective date of that factor, and on what basis including what continuing basis policyholders eligible to participate are benefitted by it.

(3) An insurer transacting long term business who allocates reversionary bonuses to policyholders by amending the value of any holding of units, or other beneficial interest, under an investment unit policy shall advise the Commissioner in writing and publish in the Gazette and in at least one national Tanzanian publication—

(a) within one month from the coming into force of this Act; or

(b) upon any amendment of the value of the unit thereafter, within two weeks of the date of the amendment or at least monthly whichever is the more frequent,

the value of each unit and the effective date of each revaluation of the fund from which the unit value is calculated, and on what basis including what continuing basis policyholders eligible to participate are benefitted by it.

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

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

[PCh394s107]107. Advertisements and projected benefits

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

(2) The provisions of section 106(1) shall apply to this section.

(3) An insurer transacting long term business who allocates reversionary bonuses to policyholders by the application of a factor applied to the policy sum insured shall, when making any advertisement or projection of benefits, use only the last published factor and application of reversionary bonuses as required under the terms of section 106(2).

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

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

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

(ii) the unit value effective as at the first day of the month, sixty months previous to the month in which the advertisement or projection is made and of the eleven subsequent monthly unit value.

(b) use only those unit values for the purposes of paragraph (a) which shall be published in accordance with section 106(3); and

(c) include in the advertisement or projection if applicable the basis or formula required to be approved by the Commissioner under the provisions of section 71(3).

(5) When making an advertisement or projection under this section, an insurer shall—

(a) not include in the financial projection any reference to any terminal bonus or other distribution except that mention may be made to the existence of the possible provision; and

(b) prominently make mention in all advertisements and projections that the projections are not guaranteed and may vary both upwards and downwards from that stated in the advertisement or projection.

PART X

MISCELLANEOUS PROVISIONS (ss 108-141)

[PCh394s108]108. Restriction on insurance having no insurance interest

(1) Notwithstanding the provisions of section 72 from the effective date of this Act, no contract of insurance shall be made by any person on the life or lives of any person or persons, or on any other event or events in which the person for whose use, benefit or on whose account the insurance made shall have no insurance interest; and the insurance so made shall be null and void ab initio.

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

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

[PCh394s109]109. Time limit for payment of claim

Every insurer shall pay the claims within sixty days of the admission of liability; if the insurer is unable to settle the claim within that time he may apply to the Commissioner for extension and the Commissioner may grant an extra time within which the claim shall be settled.

[PCh394s110]110. Fatal accidents

Notwithstanding the provisions of any other enactment, in assessing damages in any action, whether commenced before or after the passing of this Act, there shall not be taken into account any sum paid or payable on the death of the deceased under any contract of insurance whether effected before or after the passing of this Act—

(a) voluntarily by the deceased person; and

(b) in respect of which the premiums paid were paid by or for the deceased from his personal resources.

[PCh394s111]111. Insurance to be held with Tanzanian insurers

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

(2) Where a class of insurance required to be placed with a Tanzanian insurer under subsection (1) is not available to a person seeking insurance, that persons may place that insurance with a non-resident insurer provided that—

- (a) he obtains the prior written approval of the Commissioner; and
- (b) he complies with the provisions of section 117.

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

[PCh394s112]112. Compulsory local brokerage

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

[PCh394s113]113. Unlimited indemnities prohibited

An insurer shall not, on or after a date to be specified by the Minister by regulations published in the Gazette, issue or renew a policy of insurance under which the insurer undertakes a liability the amount or maximum amount of which is uncertain at the time when the contract of insurance is entered into or renewed.

[PCh394s114]114. Commission only to brokers and agents

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

[PCh394s115]115. Time limit on payment of premiums

(1) The Commissioner may by notice published in the Gazette and by written notice to each insurer require insurance premiums due to Tanzanian insurers from Tanzanian residents, other than another Tanzanian insurer, to be paid within a specified time from the date the insurance was effected or renewed.

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

[PCh394s116]116. Days of grace

(1) No insurer shall extend insurance cover in respect of any policy of insurance effected in the course of its general business beyond a period of thirty days (to be known as the "days of grace"), commencing with the day following the last day of the previous insurance period unless specific instructions have been received prior to or during the days of grace to renew that insurance, and where those instructions are not received the policy cover shall be treated as having lapsed on the last day of the previous insurance period.

(2) Any notice that an insurer shall issue inviting the renewal of any policy shall include a statement indicating the time period during which insurance cover will remain operative prior to receipt of instructions to renew that policy.

[PCh394s117]117. Exemption

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

[PCh394s118]118. Extension of time

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

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

[PCh394s119]119. Production of documents, and information Act No. 10 of 2001 Sch.

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

(2) The Commissioner may institute an investigation into the activities of any insurer, broker or agent or of any applicant for registration.

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

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

(5) All expenses of, and incidental to, an investigation under this section shall where the insurer, broker, agent or an applicant for registration is found to have violated the provisions of this Act, be settled by such insurer, broker, agent or an applicant for registration, and if they are not paid by him, within a period of one month after the Commissioner makes a demand to him, shall constitute a civil debt recoverable summarily by the Commissioner.

[PCh394s120]120. Inspection of balance sheet by policyholder

(1) A policyholder may inspect the books of accounts of any insurer and shall be entitled to receive copies of them on payment of fees prescribed by the insurer.

(2) An insured shall be entitled to receive a copy of the latest audited accounts of any broker who has an agency agreement with that insurer:

Provided that an insurer shall not divulge any information so received to any person or body of persons and shall take all action which may be necessary to ensure the confidentiality of the said information.

(3) A person entitled to receive a balance sheet or audited accounts shall be entitled to receive that document on payment of fees and upon application during normal business hours at the principal office of the insurer or broker, as the case may be.

[PCh394s121]121. Restriction on use of words

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

[PCh394s122]122. No advertisement before registration

(1) No person or body of persons or body corporate shall advertise services requiring a licence under this Act until the licence has been issued to that person, body of persons or body corporate.

(2) Any person, body of persons or body corporate acting in contravention of this section shall be liable to a fine not exceeding one million shillings or to imprisonment of a term not exceeding three months, or to both the fine and imprisonment.

[PCh394s123]123. Service of process

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

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

[PCh394s124]124. Enforcement of rights of policyholders

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

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

[PCh394s125]125. Appeals from Commissioner's decision

(1) A person aggrieved by a decision of the Commissioner under this Act may, within one month from the date on which the decision is communicated to him, appeal by petition in writing, to the Minister who may, subject to any terms and conditions which he may consider necessary, uphold, reverse, revoke or vary that decision.

(2) Except as provided in this section the decision of the Minister on an appeal made under subsection (1) of this section shall be transmitted in writing within two months of receipt of the petition of appeal and shall, except on a question of law, be final and conclusive.

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

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

[PCh394s126]126. Commissioner's right of inspection of documents

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

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

(3) The failure to provide an information or documentation will constitute an offence under this Act rendering the person failing to do so liable to a fine exceeding two million five hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both the fine and imprisonment.

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

(5) If it appears from information produced in terms of subsection (1) or an investigation under subsection (2) that the person is carrying on the business of an insurer, broker or agent without being registered the Commissioner–

(a) shall inform the person concerned accordingly by notice in writing served by hand or sent by registered post; and

(b) may, if an application for registration in the case of an insurer or broker or an agent, is not received within one month of the date of posting of that notice—

(i) in the case of an insurer to proceed under section 130 and 136; or

(ii) in the case of a broker or agent, to proceed under section 136.

[PCh394s127]127. Commission of inquiry

For the purpose of an investigation made by him under this Act the Commissioner shall be deemed to be a Commissioner under the Commissions of Inquiry Act *.

[PCh394s128]128. Copies where documents produced to Commissioner

(1) For the purposes of sections 119 and 126—

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

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

(2) For the purposes of this section a document shall be deemed to be duly signed or certified if it is signed on behalf of the person being investigated by the principal officer in

Tanzania if the person investigated is an insurer, or is signed by a person approved in writing by the Commissioner.

[PCh394s129]129. Inspection of returns to the Commissioner

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

(a) from a Tanzanian registered insurer under section 30 and of any additional declarations required by regulation issued under section 26(2); and

(b) from a Tanzanian registered insurer under section 30 and of any additional declarations required by regulation issued under section 58(2).

(2) No fee shall be paid to the Commissioner for information supplied by him to the principal officer in Tanzania of a registered insurer or broker.

[PCh394s130]130. Insolvency and winding-up

(1) This section shall apply only to an insurer registered under this Act and to any person found, by the Commissioner under section 126 to be a person carrying on insurance business in Tanzania without being registered to do so.

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

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

(4) For the purposes of determining insolvency in terms of the Companies Act * an insurer shall be deemed to be unable to pay its debts if at any time the requirement to maintain a minimum solvency in terms of section 12 are not observed by the insurer.

(5) The Commissioner may, unless the insurer is already being wound up by the court, present an application to the court for the winding-up in accordance with the Companies Act * of an insurer under any of the following circumstances—

(a) in terms of section 74;

(b) on the ground that the insurer is unable to pay its debts within the meaning of the Companies Act *;

(c) on the ground that the insurer, having failed to comply with any requirements of this Act, has continued that failure, or having contravened for a period of six months after notice of failure or contravention has been given to the insurer by the commissioner;

(d) on the ground that the insurer is unable to fulfil the reasonable expectation of policyholders or potential policyholders; or

(e) on the ground that it is just and equitable on the interests of policyholders that the insurer should be wound up.

(6) The court may, after considering the petition presented by the Commissioner, order the winding up of the insurer if it is of the opinion that there are sufficient grounds and it is just and equitable for the insurer to be wound up.

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

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

(9) In any proceedings upon a petition to wind up an insurer presented by the Commissioner under subsection (5), evidence that the insurer was insolvent at the close of the period to which the accounts and balance sheet of the insurer last deposited under section 30 relate, or at any date as at which an investigation was last made under section 119 shall be evidence that the insurer continues to be unable to pay its debts, unless the contrary is proved.

(10) Rules made under the Companies Act * may regulate the procedure and the practice to be followed in proceedings with respect to the winding-up of insurers under this Act.

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

(a) the value of the assets and liabilities shall be ascertained in any manner and upon the basis which the liquidator thinks fit;

(b) the liabilities of an insurer in respect of the current policies of long term insurance business shall, as far as practicable, be calculated by the method and basis to be determined by an actuary appointed by the court;

(c) the liabilities of an insurer in respect of current policies of general insurance business shall, as far as practicable, be the portion of the last premium paid which is proportionate to the unexpired portion of the policy in respect of which the premium was paid.

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

[PCh394s131]131. Continuation of business of insurer in liquidation

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

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

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

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

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

[PCh394s132]132. Secondary companies

(1) For the purposes of and in consequence of section 130, where the insurance business is transferred to an insurer to whom this Act applies under an arrangement in pursuance of which the first-mentioned insurer (in this section called the "secondary company") or its creditors has or have claims against the insurer to whom the transfer was made (in this section called the "principal company") then, if the principal company is being wound up by or under supervision of the court, the court shall, subject to the provisions of this section, order the secondary company to be wound up by or under the supervision of the court and the court shall, subject to the provisions of this section, order the secondary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same person to be liquidator for the two insurers and make provision for any other matters which may seem to the court necessary, with a view to the insurer being wound up as if they were one insurer.

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

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

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

(5) An application may be made in relation to the winding-up of secondary company in conjunction with a principal company by any creditor of, or person interested in, the principal or secondary company.

(6) Where an insurer stands in the relation of principal company to one insurer, and in the relation of a secondary company to another insurer, or where there are several insurers standing in the relation of secondary of companies to one principal company, the court may deal with any

number of those companies together or in separate groups, as it thinks most expedient, upon the principles laid down in this section.

[PCh394s133]133. False documents

(1) No person shall, in any statement, return, report, certificate, balance sheet or other document required by or for the purposes of this Act, wilfully make a statement which is false in any material particular knowing that statement to be false or not believing it to be true.

(2) No person shall, with intent to defraud or deceive—

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

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

(3) Any person who contravenes the provisions of this section commits an offence and upon conviction is liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years or to both the fine and imprisonment.

[PCh394s134]134. Fees

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

[PCh394s135]135. Failure to remit premiums by employers

Any person who deducts any premium from any policy-holder's salary or emoluments and fails or delays to remit that premium for a period exceeding thirty days, commits an offence and upon conviction is liable to a fine not exceeding two times the amount of the premium remittance so delayed or to imprisonment for a term of six months or to both the fine and imprisonment.

[PCh394s136]136. Offences punishable by Commissioner

(1) The directors, managers, controllers and principal officers of an insurer or a broker acting in contravention of the provisions of section 10, 18, 21 or 24 shall each commit an offence and on conviction be liable to a fine not exceeding five million shillings to be imposed by and at the discretion of the Commissioner.

(2) Any person carrying on any insurance business without first being registered as an insurer commits an offence and on conviction is liable to a fine not exceeding five million shillings to be imposed by and at the discretion of the Commissioner, and, where the offender is a company or partnership, every director, manager, controller and principal officer of the company or every partner, manager controller or principal officer of the partnership shall each be personally liable as if he had himself committed the said offence.

(3) Any person carrying on the business of an insurance agent, broker or agent for a broker without first being registered as an insurance agent, broker or agent for a broker, as the case may be, commits an offence and is liable to a fine not exceeding five million shillings to be imposed by and at the discretion of the Commissioner, and, where the offender is a company or a partnership, every director, manager, controller or principal officer of the company or every

partner, manager controller or principal officer of the partnership shall each be personally liable as if he had himself committed the said offence.

(4) An insurance agent or agent for a broker acting in contravention of the provisions of section 47 shall, in addition to any offence for which he may be liable under any other law be liable to a fine not exceeding five million shillings to be imposed by and at the discretion of the Commissioner.

(5) Any insurer or broker who knowingly employs any person deemed unsuitable by virtue of sections 18 and 51 respectively commits an offence and shall be liable to a fine not exceeding two million five hundred thousand shillings to be imposed by and at the discretion of the Commissioner.

(6) For the purposes of subsection (5), where the facts which render a particular person unsuitable under those sections are either sufficiently notorious or facts that could have been ascertained very readily, the commissioner may presume that the insurer or broker employed that person knowingly.

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

(8) Notwithstanding any other action taken by the Commissioner under this Act, any fine imposed by him under the provisions of this section shall be recoverable as a fine imposed by a court under the provisions of the law relating to Criminal Procedure and Evidence, and an

affidavit sworn by the Commissioner shall be sufficient proof of the lawful imposition of the fine to enable the court to issue a warrant under those provisions:

Provided that no warrant shall be issued until an appeal under section 125 has been heard and disposed of or until the time within which an appeal may be made under it has expired.

[PCh394s137]137. Offences punishable by court

(1) Every insurer who—

(a) fails to comply with these provisions;

(b) acts in contravention of the provisions of section 78; and every broker who fails to comply with the provisions of section 58 or 74,

commits an offence.

(2) Every insurer guilty of an offence under this section or under the provisions of section 11, 12 or 77 shall be liable to a fine not exceeding twelve million five hundred thousand shillings and every director, manager, controller and principal officer or any insurer shall each be personally liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years or to both that fine and imprisonment unless the director, manager, controller or principal officer proves to the satisfaction of the court that he was unaware of the default and had taken all reasonable steps to keep himself informed of any possibility of the default.

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

[PCh394s138]138. General penalty

(1) Every person who acts in contravention of any of the provisions of this Act commits an offence and shall, where no punishment has been stipulated by any other section in this Act for that offence, be liable to a fine not exceeding T.shs. five million to be imposed by and at the discretion of the Commissioner.

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

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

(3) The provisions of section 136(8) shall apply to any fine imposed under this section.

[PCh394s139]139. Regulations and rules of court

(1) The Minister may, in consultation with the Commissioner and the Insurance Advisory Board, make regulations—

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

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

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

(d) generally for the purpose of giving effect to this Act.

(2) Regulations made under this section may make different provisions for different classes of insurers, brokers or agents and insurance business.

(3) The Chief Justice may after consultation with the Chief Justice of the High Court of Zanzibar make rules of court for regulating proceedings arising from this Act, and the rules shall apply in all courts throughout Mainland Tanzania and Tanzania Zanzibar.

[PCh394s140]140. Amendment of Cap. 349

[Amends the Insurance (Vesting of Interest and Regulation) Act.]

[PCh394s141]141. Repeal of R.L. Cap. 232

[Repeals the Life Assurance Ordinance.]

FIRST SCHEDULE

Number	Description	Nature of Business
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I	Life and annuity	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within Class III below.
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II	Marriage and birth	Effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.
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III	Linked long term	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life, where the benefits are wholly or partly to be determined by reference to the value of or the income from property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property and any description (whether or not so specified).
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IV	Permanent health	Effecting and carrying out contracts of insurance providing specified benefits against risks of persons, becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or indemnity, being contracts that—
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(a) are expressed to be in effect for a period of not less than five years, or until the normal retirement age for the persons concerned, or without limit of time; and

(b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.

V Tontines Effecting and carrying out tontines.

VI Capital redemption Effecting and carrying out of—

(a) capital redemption; or

(b) pure endowment and deferred annuity as defined in any law for the establishment and registration of retirement funds in Tanzania.

VII Deposit administration schemes and pension funds Effecting and carrying out—

(a) contracts to groups to maintain and manage deposit administration policies; or

(b) contracts of the kind mentioned in paragraph (a), that are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.

SECOND SCHEDULE

CLASSES OF GENERAL BUSINESS

Number	Description	Nature of Business
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1 Accident Effecting and carrying out contracts of insurance and providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of the person insured—

(a) sustaining injury as the result of an accident or of accident of a specified class;

(b) dying as the result of an accident or of an accident of a specified class; or

(c) becoming incapacitated in consequence of disease or of disease of a specified class, inclusive of contracts relating to industrial injury and occupational disease but exclusive of contracts falling within Class 2 below or within class IV in the First Schedule to this Act (permanent health).

2 Sickness Effecting and carrying out contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of the two) against risks of loss to the persons insured attributable to sickness or infirmity, but exclusive of contracts falling within Class IV in the First Schedule to this Act.

3 Land vehicles Effecting and carrying out contracts of insurance against loss of or damage to vehicles used on land, including motor vehicles, but excluding railway rolling stock.

4 Railway rolling Effecting and carrying out stock contracts of insurance against loss of or damage to railway rolling stock.

5 Aircraft Effecting and carrying out contracts of insurance upon aircraft or upon the machinery, tackle, furniture or equipment of aircraft.

6 Ships Effecting and carrying out contracts of insurance upon vessels used on the sea or inland water, or upon the machinery, tackle, furniture or equipment of such vessels.

7 Goods transit Effecting and carrying out contracts of insurance against loss of or damage to merchandise, baggage and all other goods in transit, irrespective of the form of transport.

8 Fire and natural forces Effecting and carrying out contracts of insurance against loss of or damage to property (other than property to which Classes 3 to 7 above relate) due to fire, explosion, storm, natural forces other than storm, nuclear energy or land subsidence.

9 Damage of property Effecting and carrying out contracts of insurance against loss of or damage to property (other than property to which Classes 3 to 7 above relate) due to hail or frost or to any event (such as theft) other than those mentioned in Class 8 above.

10 Motor vehicle liability Effecting and carrying out contracts of insurance against damage arising out of or in connection with use of motor vehicles on land, including third party risks and carrier's liability.

11 Aircraft liability Effecting and carrying out contracts of insurance against damage arising out of or in connection with the use of aircraft including third party risks and carrier 's liability.

12 Liability for ships Effecting and carrying out contracts of insurance against damage arising out of or in connection with the use of vessels in the sea or an inland water, including third party risks and carrier's liability.

13 General liability Effecting and carrying out contracts of insurance against risks of the persons insured incurring liabilities to third parties, the risks in question not being risks to which Class 10, 11 or 12 above relates.

14 Credit Effecting and carrying out contracts of insurance against risks of loss to the persons insured arising from the insolvency of debtors of theirs or from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due.

15 Suretyship Effecting and carrying out—

 (a) contracts of insurance against risks of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them;

 (b) contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or custom bonds or similar contracts of guarantee.

16 Miscellaneous Effecting and carrying out contracts of financial loss insurance against any of the following risks, namely—

 (a) risks of loss to the persons insured attributed to interruptions of the carrying on of business carried on by them as to reduction of the scope of business so carried on;

 (b) risks of loss to the persons insured attributable to their incurring unforeseen expense;

(c) risks neither falling within paragraph (a) or (b) above nor being of a kind such that the carrying on of the business of effecting and carrying out contracts of insurance against them constitutes the carrying on of insurance business of some other class.

17 Legal expenses Effecting and carrying out of contracts of insurance against risks of loss to the persons insured attributable to their incurring legal expenses (including costs of litigation).

18 Assistance Assistance for persons who get into difficulties while travelling, while away from home or while away from their permanent residence.