



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**REGULATION OF INSURANCE INDUSTRY
(AMENDMENT) ACT, No. 3 OF 2011**

[Certified on 07th February, 2011]

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Regulation of Insurance Industry (Amendment)
Act, No. 3 of 2011

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L.D.—O. 13/2010

AN ACT TO AMEND THE REGULATION OF INSURANCE INDUSTRY
ACT, No. 43 OF 2000

BE it enacted by the Parliament of the Democratic Socialist
Republic of Sri Lanka as follows:—

- 1.** This Act may be cited as the Regulation of Insurance Industry (Amendment) Act, No. 3 of 2011. Short title.
- 2.** Section 4 of the Regulation of Insurance Industry Act, No. 43 of 2000 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:— Amendment of section 4 of Act, No. 43 of 2000.

 - (1) in subsection (1) of that section, by the repeal of paragraph (c) of that subsection and the substitution therefor of the following paragraph:—

“(c) the Registrar-General of Companies ; ”; and
 - (2) in subsection (3) of that section, by the substitution for the words “of the Schedule to this Act”, and for the words “members its of the Board,”, of the words “of the First Schedule to this Act” and of the words “members of the Board,”, respectively.
- 3.** Section 5 of the principal enactment is hereby amended as follows:— Amendment of section 5 of the principal enactment.

 - (1) by the insertion immediately after paragraph (b) of that section of the following new paragraph:—

“(bb) register persons as loss adjusters;” and

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- (2) by the insertion immediately after paragraph (d) of that section, of the following new paragraph:—

“(dd) enter into any bi-lateral or multi-lateral memorandum of understanding pertaining to the sharing of information, with any local or foreign person;”.

Amendment of section 6 of the principal enactment.

4. Section 6 of the principal enactment is hereby amended in subsection (2) of that section, by the repeal of paragraph (b) of that subsection and the substitution thereof of the following paragraph:—

“(b) all such sums of money as shall be paid as registration fees under sections 14, 81, 83 and 89c of this Act;”.

Amendment of section 12 of the principal enactment.

5. Section 12 of the principal enactment is hereby amended as follows :—

- (1) by the insertion immediately after subsection (1) thereof, of the following new subsection:—

“(1A). Notwithstanding the provisions contained in subsection (1), the National Insurance Trust Fund Board established by the National Insurance Trust Fund Act, No. 28 of 2006 shall be deemed to be:—

- (a) a person registered under this Act to carry on insurance business in Sri Lanka ; and
(b) an Insurer registered under the provisions of this Act to carry on insurance business from the date of coming into operation of this Act.”;

- (2) in subsection (2) thereof, by the substitution for the words “for long term insurance business or for both general and long term insurance business.” of the words “for long term insurance business.”;

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- (3) in subsection (3) thereof by the substitution for the words and figures “the Social Security Board established by the Social Security Board Act, No. 17 of 1996 and the National Insurance Trust Fund Board established by the National Insurance Trust Fund Act, No. 28 of 2006.” of the words and figures “the Social Security Board established by the Social Security Board Act, No. 17 of 1996.”.

6. Section 13 of the principal enactment is hereby amended in subsection (1) of that section, as follows:—

Amendment of section 13 of the principal enactment.

- (1) in paragraph (b) thereof, by the substitution for the words “less than the prescribed amount;”, of the words “less than such amount as determined by the Board by rules made in that behalf;”; and
- (2) by the insertion immediately after paragraph (b) thereof, of the following new paragraph:—

“(bb) has in its Board of Directors persons who are not subject to any one or more of the disqualifications specified in the Second Schedule to this Act;”.

7. Section 14 of the principal enactment is hereby amended in subsection (1) of that section, as follows:—

Amendment of section 14 of the principal enactment.

- (1) in paragraph (h) thereof, by the substitution for the words “section 13; and”, of the words “section 13;”;
- (2) in paragraph (i) thereof, by the substitution for the words “three years.”, of the words “three years; and”; and
- (3) by the addition immediately after paragraph (i) thereof, of the following new paragraph:—

“(j) such other documents and information as may be determined by the Board.”.

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Insertion of new section 15A in the principal enactment.

8. The following new section is hereby inserted immediately after section 15 of the principal enactment and shall have effect as section 15A of that enactment:—

“Insurer to be listed on a licensed stock exchange. 15A. Every insurer shall be required within three years of being issued with a licence under section 15 of this Act, to have itself listed on a licensed stock exchange.”.

Repeal of section 17 of the principal enactment.

9. Section 17 of the principal enactment is hereby repealed.

Amendment of section 18 of the principal enactment.

10. Section 18 of the principal enactment is hereby amended in subsection (1) of that section, as follows:—

- (1) in paragraph (g) thereof, by the substitution for the words “direction given by the Board”, of the words “direction given or determination made by the Board ”; and
- (2) in paragraph (h) thereof, by the substitution for the words “in its, application for registration;”, of the words “in its application for registration or in any information or document submitted to the Board;”.

Repeal of section 28 of the principal enactment.

11. Section 28 of the principal enactment is hereby repealed.

Insertion of new section 31A in the principal enactment.

12. The following new section is hereby inserted immediately after section 31 of the principal enactment and shall have effect as section 31A of that enactment:—

“No person be appointed a director of an insurer or continue as a director in certain circumstances. 31A. A person shall not be appointed, elected or nominated as a director of an insurer or continue as a director of an insurer, if such person is subject to any one or more of the disqualifications specified in the Second Schedule to this Act.”.

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13. Section 32 of the principal enactment is hereby amended by the insertion immediately after subsection (1) of that section, of the following new subsection:—

Amendment of section 32 of the principal enactment.

“(1A) The disqualifications specified in the Second Schedule to this Act, shall *mutatis mutandis*, apply to and in relation to a person employed as a specified officer under subsection (1).”.

14. The following new sections are hereby inserted immediately after section 33 of the principal enactment and shall have effect as sections 33A, 33B, 33C, 33D and 33E of that enactment:—

Insertion of new sections 33A, 33B, 33C, 33D and 33E of the principal enactment.

“Conditions relating to the appointment of directors of an insurer. 33A. (1) A director or an employee of an insurer shall not be appointed, elected or nominated as a director of another insurer, except where such insurer is a subsidiary company or an associate company of the first mentioned insurer.

(2) An employee of an insurer may be appointed, elected or nominated as a director of that insurer, subject however to the condition that the number of employees that may be so appointed, elected or nominated as directors, shall not exceed one-third of the total number of members of the Board of Directors of that insurer.

Insurer to inform Board of proposed appointment, nomination or election of directors. 33B. (1) Every insurer shall submit to the Board along with the Form required to be filed with the Registrar-General of Companies, a notice in such form and manner as shall be determined by the Board, giving information about each person sought to be appointed, elected or nominated as a director of the insurer, prior to the making of such appointment, election or nomination, as the case may be, and obtain the Boards approval for the same.

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(2) Where the Board receives a notice from an insurer under subsection (1) informing it of a proposed appointment, election or nomination of a person as a director of such insurer, the Board shall within thirty days of receipt of such notice and having regard to the provisions of section 33A, and to the disqualifications specified in the Second Schedule to this Act, approve or refuse to approve such appointment, election or nomination, as the case may be, and inform the insurer of its decision along with its reasons for reaching such decision. It shall also be the duty of the insurer to communicate to the person concerned, who is sought to be appointed, elected or nominated, as a director, the decision of the Board.

(3) Any person aggrieved by a decision given by the Board under subsection (2), may submit an appeal against such decision to the Board which shall be referred by the Board to a Panel of Review, consisting of three persons appointed by the Minister, from among persons who have experience and shown capacity in the field of insurance, financial management or law. The Panel of Review shall having considered the grounds on which the appeal is being made and any other matters which in its opinion merits consideration, make a decision either confirming the refusal or approving the appointment, election or nomination, as the case may be, of such person as a director of the insurer concerned.

Appointments,
elections or
nominations
of directors
of an insurer
to be
approved by
the Board .

33c. (1) An insurer shall not appoint, elect or nominate as a director of such insurer a person whose appointment, election or nomination has not been approved by the Board under section 33B of this Act.

(2) Notwithstanding the provisions of subsection (1), a person whose name has been submitted to the Board for approval under subsection (1) of section 33B, may be appointed, elected or nominated as a director of the insurer, pending the receipt of the decision of the Board. However, where the Board refuses to grant approval and the insurer communicates to the person concerned, the decision of the Board, such person shall from the date of such communication, cease to hold office as a director of the insurer, subject to any decision the Board may reach upon any objections that may have been tendered by the person concerned, under subsection (3) of section 33B, against the decision of the Board refusing to grant approval.

(3) It shall be the duty of an insurer to inform the Board forthwith of every appointment, election or nomination of a director, whose appointment, election or nomination, as the case may be, was approved by the Board.

Removal of a director who is ineligible to hold office as a director.

33D. (1) An insurer shall, immediately upon becoming aware that a director of such insurer has become subject to any one or more of the disqualifications specified in the Second Schedule to this Act or has become ineligible to continue to hold office as a director of the insurer, inform the Board of such fact.

(2) Where the Board receives any information under subsection (1) about a director or where the Board becomes aware at any time that a person appointed, elected or nominated as a director of an insurer has thereafter become disqualified under any one or more of the disqualifications specified in the Second Schedule to this Act or has otherwise become ineligible to continue to

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hold office as a director of an insurer, the Board shall—

- (a) direct the insurer concerned, in writing, to remove such person from the office of a director within such period as may be specified in such direction; and
- (b) in writing, notify the person who is to be removed of the fact of such removal, with a copy of the direction issued to the insurer regarding the same annexed to such notification.

(3) The insurer to whom a direction is issued under subsection (2) shall, within the period specified in the direction—

- (a) remove the person from the office of director; and
- (b) take such steps as are necessary to inform the shareholders of the insurer and the Registrar-General of Companies of such removal.

(4) The removal of a director in accordance with a direction issued under paragraph (a) of subsection (2) shall, notwithstanding the Articles of Association of the insurer, take effect from the date of receipt by the director of the notification of removal sent by the insurer.

(5) Any person who is aggrieved by the removal of such person from the office of a director under subsection (3) of this section, may within fourteen days of being notified of such removal, appeal therefrom to the Court of Appeal. The Court of Appeal may on appeal made under this section, confirm, revise, modify or set aside the decision against which the

appeal is made and may make such order as the interests of justice may require.

Failure to
comply to be
an offence.

33E. An insurer who fails to comply with any direction given under paragraph (a) of subsection (2) of section 33D within the period specified in such direction and a director who has been served with a notice under paragraph (b) of that subsection who continues to function as a director thereafter, shall each be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred thousand rupees and shall in addition be liable—

- (a) in the case of the insurer, to a further fine of one hundred thousand rupees, for each day that the insurer continues to commit such offence after conviction; and
- (b) in the case of a director of the insurer, to a further fine of rupees one hundred thousand for each day such director continues to function as director, after conviction.”.

15. Section 35 of the principal enactment is hereby repealed.

Repeal of
section 35 of the
principal
enactment.

16. Section 37 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:—

Amendment of
section 37 of the
principal
enactment.

“(1) For the purpose of examining whether the interests of the policy holders are being adequately safeguarded every insurer shall be required to file with the Board:—

- (a) all policy forms to be issued by such insurer, prior to its issue;

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- (b) any amendments to be made to any policy forms already issued; and
- (c) where required to do so by a notice in writing, copies of any policy forms already issued.”.

Amendment of section 47 of the principal enactment.

17. Section 47 of the principal enactment is hereby amended as follows:—

- (1) in subsection (1) of that section, by the substitution for the words “by the Board by rules made in that behalf.”, of the words “by the Board.”; and
- (2) in subsection (2) of that section, by the substitution for the words “required by the rules made by the Board in that behalf,”, of the words “required by the Board.”.

Amendment of section 48 of the principal enactment.

18. Section 48 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution, from all the words from “in accordance with rules” to the words “as the Board may determine.”, of the words “in such manner and within such period after the close of the financial year, as the Board may determine.”.

Amendment of section 49 of the principal enactment.

19. Section 49 of the principal enactment is hereby amended in paragraph (b) of that section, by the substitution for the words “return containing such information as may be determined by the Board by rules made in that behalf.” of the words “return containing such information and during such periods of time, as may be determined by the Board.”.

Amendment of section 55 of the principal enactment.

20. Section 55 of the principal enactment is hereby amended by the substitution for the words “the provisions of section 162 of the Companies Act, No. 17 of 1982”, of the words “the provisions of section 173 of the Companies Act, No. 7 of 2007,”.

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21. Section 56 of the principal enactment is hereby amended by the substitution for the words “abstracts as may be determined by the Board by rules made in that behalf.”, of the words “abstracts as may be determined by the Board and within such period as the Board may determine.”.

Amendment of section 56 of the principal enactment.

22. Section 60 of the principal enactment is hereby amended in the proviso to that section, by the substitution for the words “any particular insurer, unless the insurer has”, of the words “any particular insurer or broker, unless the insurer or the broker has”.

Amendment of section 60 of the principal enactment.

23. Section 61 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replacement of section 61 of the principal enactment.

“Publishing of returns submitted to the Board. 61. An insurer may with the prior written approval of the Board, publish any return submitted to the Board under this Act or a true and accurate abstract of such return, for purpose of publicity.”.

24. Section 78 of the principal enactment is hereby amended as follows:—

Amendment of section 78 of the principal enactment.

(1) in subsection (1) of that section, by the substitution for the words “an individual” and for the words “all individuals”, of the words “any person” and of the words “all persons”, respectively ; and

(2) in subsection (5) of that section, by the substitution for the words “any individual”, of the words “any person”.

25. Section 80 of the principal enactment is hereby amended as follows:—

Amendment of section 80 of the principal enactment.

(1) in paragraph (c) of subsection (1) of that section, by the substitution for the words “a policy or policies of insurance”, of the words “policies of insurance”; and

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- (2) in paragraph (b) of subsection (2) of that section—
 - (a) by the substitution in sub-paragraph (i) of that paragraph, for the words “specified officer”, of the words “the principal officer”; and
 - (b) in sub-paragraph (ii) of that paragraph, for the words “an associated or subsidiary company”, of the words “an associate, subsidiary or a holding company”.

Amendment of section 81 of the principal enactment.

26. Section 81 of the principal enactment is hereby amended as follows:—

- (1) in sub-paragraph (iii) of paragraph (c) of that section, by the substitution for the words “paragraph (d) of section 80;”, of the words “paragraph (d) of subsection (1) of section 80;”; and
- (2) in paragraph (h) of that section, by the substitution for the words “a certified copy of the professional indemnity insurance policy or policies issued”, of the words “a certified copy each of the professional indemnity policies of insurance issued”.

Amendment of section 83 of the principal enactment.

27. Section 83 of the principal enactment is hereby amended as follows:—

- (1) by the substitution for the words “on an application being made in that behalf to the Board”, of the words “on an application being made in that behalf to the Board not more than three months but not less than two months prior to the date of expiry of its registration”;
- (2) in paragraph (a) of that section, by the substitution for the words “a professional indemnity policy of insurance for the ensuing period”, of the words

“a certified copy each of the professional indemnity policies of insurance for the ensuing period issued by two or more insurers”; and

- (3) in paragraph (d) of that section, by the substitution for the words “such other documents”, of the words “such other documents and information ”.

28. Section 84 of the principal enactment is hereby amended as follows :—

Amendment of section 84 of the principal enactment.

- (1) in subsection (1) of that section—

- (a) by the repeal of paragraph (b) of that subsection, and the substitution therefor of the following paragraph:

“(b) the broker has failed to comply with or acted in contravention of any directions issued by the Board under this Act;”;

- (b) by the insertion immediately after paragraph (b) of that subsection, of the following new paragraph:—

“(bb) the broker has ceased to be of good financial standing;”;

- (c) by the repeal of paragraph (c) of that subsection, and the substitution therefor of the following paragraph:—

“(c) (i) a director or the principal officer of the broker; or

- (ii) a director or the chief executive officer of an associate, a subsidiary

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or a holding company of such
broker,

becomes a director, a shareholder or an
employee of an insurer;

(d) by the insertion immediately after paragraph
(c) of that subsection, of the following new
paragraphs:—

“(cc) the broker becomes a shareholder of any
insurer;

(ccc) the broker has contravened any
provision of this Act or any regulation
or rule made or any condition imposed
by the Board, under this Act;” and

(e) by the repeal of paragraph (e) of that
subsection, and the substitution thereof of
the following paragraph:—

“(e) the broker has furnished false,
misleading or inaccurate information
or has concealed or failed to disclose
material facts in the application for
registration or renewal of registration,
as the case may be, or in any statement
or document submitted to the Board.”;
and

(2) by the insertion immediately after subsection (1) of
that section, of the following new subsection:—

“(1A) The provisions of subsections (2), (3), (4),
(5), (6) and (7) of section 18 of this Act shall, *mutatis
mutandis*, apply to and in relation to the
cancellation or suspension of a registration under
this section.”; and

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- (3) in subsection (2) of that section, by the substitution for the words “of this Act shall apply”, of the words “of this Act shall, *mutatis mutandis*, apply”.

29. The following new section is hereby inserted immediately after section 84 of the principal enactment and shall have effect as section 84A of that enactment:—

Insertion of new section 84A in the principal enactment.

“Board may direct certain measures to be taken in lieu of acting under section 84.

84A. Notwithstanding the provisions of section 84, the Board may in lieu of taking any action under that section on any one or more grounds referred to therein, and where the nature of the act or omission is not of such gravity as to warrant taking action under that section, direct the broker to take such measures that the Board may consider appropriate, to—

- (a) rectify and set right any consequence resulting from such act or omission ; and
- (b) comply with the provisions of this Act or any regulation or rule made thereunder or any conditions imposed or any directions given by the Board, under this Act.”.

30. Section 85 of the principal enactment is hereby amended as follows:—

Amendment of section 85 of the principal enactment.

- (1) in subsection (1) of that section, by the substitution for the words “two or more registered insurers approved by the Board”, of the words “two or more insurers,” ;
- (2) in subsection (2) of that section and in the proviso to that subsection, by the substitution for the words “such policy” and for the words “the policy”, of the words “such policies” and of the words “the policies” respectively ; and

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(3) in subsection (3) of that section—

(a) by the substitution for the words “The policy obtained” and for the words “in either-” of the words “The policies obtained” and of the word “of-”, respectively: and

(b) by the substitution in paragraph (b) of that subsection, for the words “by the Board.”, of the following words “by the Board, whichever is higher.”

Amendment of section 86 of the principal enactment.

31. Section 86 of the principal enactment is hereby amended as follows: —

(1) by the repeal of subsection (3) of that section, and the substitution therefor of the following subsection:—

“(3) Every broker shall furnish to the Board, returns, containing such information and within such period of time as may be determined by the Board.”; and

(2) by the addition at the end of that section, of the following new subsection:—

“(6) Every broker shall submit to the Board annually a certified copy each of the professional indemnity policies of insurance issued by two or more insurers as required by section 83 of this Act.”.

Amendment of section 88 of the principal enactment.

32. Section 88 of the principal enactment is hereby amended by the substitution for the words “paid by an insurer to a broker or insurance agent,”, of the words “paid by an insurer to a broker or an insurance agent or by a broker to an insurance agent,”.

33. The following new Part is hereby inserted immediately after section 89 of the principal enactment and shall have effect as PART VIIIA of that enactment:—

Insertion of Part VIIIA in the principal enactment.

“PART VIIIA

REGISTRATION OF LOSS ADJUSTERS

Prohibition against acting as a loss adjuster without a Certificate of Registration. 89A. (1) No person shall act or hold out as a loss adjuster to any insurer, unless such person is the holder of a Certificate of Registration as a loss adjuster, issued by the Board under this Act.

(2) Notwithstanding the provisions of subsection (1), a person who is not a resident of Sri Lanka and who has obtained the necessary legal recognition as a loss adjuster from the relevant authority in the country where such person is resident, is permitted to function as a loss adjuster within Sri Lanka, provided such function is being carried on with a person in Sri Lanka who has been duly registered as a loss adjuster under the provisions of this Act.

Qualifications for registration. 89B. No person shall be eligible to be registered as a loss adjuster under this Act, unless such person possesses such qualifications and experience as may be determined by the Board by rules made in that behalf.

Application for registration and issue of certificate. 89C. (1) An application for registration as a loss adjuster shall be made to the Board in such form as shall be provided for that purpose by the Board and be accompanied by such documents, information and fee as shall be determined by the Board by rules made in that behalf.

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(2) On receipt of an application under subsection (1), the Board shall, having considered the particulars stated therein and where it deems necessary having given the applicant an opportunity of being heard, inform the applicant by written notice whether the applicant is eligible to be registered as a loss adjuster or not. Upon registration of any person as a loss adjuster, such person shall be issued with a Certificate of Registration and be subject to such terms and conditions as shall be specified in the certificate.

(3) A Certificate of Registration issued by the Board shall authorize its holder to carry on such activity as specified therein and a Certificate issued shall not be transferred to any other person nor be used for the benefit of any other person.

(4) Any transfer or use of a Certificate of Registration by the holder thereof in contravention of the provisions of subsection (3), shall be null and void, and the Board shall have the power to revoke such registration with immediate effect.

(5) The Board may at any time add to, vary or revoke any term or condition specified in a Certificate of Registration issued to a loss adjuster or add any new terms or conditions thereto.

Revocation
of
registration.

89D. (1) The Board may revoke a Certificate of Registration issued to a loss adjuster, where the Board is satisfied that such loss adjuster —

- (a) has acted in contravention of any provisions of this Part of this Act, or any rules or regulations made thereunder;

- (b) has acted in breach of any term or condition specified in the Certificate of Registration issued by the Board under this Act;
- (c) has made any statement in any application, account, written information or document submitted to the Board by such loss adjuster, which was later found to be false, inaccurate or misleading or it is discovered that the loss adjuster has concealed or failed to disclose some material facts that would have affected the decision of the Board in assessing his suitability as a loss adjuster; or
- (d) has since the grant of the Certificate of Registration, been found to be disqualified for the grant of such registration.

(2) A loss adjuster who is aggrieved by the decision of the Board under subsection (1) may appeal therefrom to the Court of Appeal and the provisions of section 19 of this Act shall *mutatis mutandis* apply to and in relation to such an appeal.

Board to grant opportunity to show cause before a rejection.

89E. (1) An application made under this Act for registration as a loss adjuster shall not be rejected by the Board without giving notice in writing to the applicant to show cause within such period as shall be specified in such notice, as to why such application should not be rejected.

(2) Where any applicant for a registration—

- (a) fails to show cause within the time specified in the notice issued under subsection (1); or

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(b) fails to show sufficient cause acceptable to the Board,

the application made shall be rejected by the Board.”.

“Amendment of section 90 of the principal enactment.

34. Section 90 of the principal enactment is hereby amended by the substitution for the word “Company” wherever such word appears in the section, of the word “person”.

Insertion of a new section 92A in the principal enactment.

35. The following new section is hereby inserted immediately after section 92 of the principal enactment and shall have effect as section 92A of that enactment:—

“Carrying on the function of a loss adjuster without being duly registered, to be an offence.

92A. Any person who acts or holds out as a loss adjuster without being duly registered under this Act, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to a fine not less than fifty thousand rupees or to imprisonment for a term not less than one year or to both such fine and imprisonment.”.

Amendment of section 93 of the principal enactment.

36. Section 93 of the principal enactment is hereby amended by the substitution for the words “or any rule made under this Act;”, of the words “or any regulation, rule or order made under this Act or any conditions imposed or determinations made by the Board under this Act;”.

Amendment of section 94 of the principal enactment.

37. Section 94 of the principal enactment is hereby amended as follows:—

- (1) in subsection (1) of that section, by the substitution for the words “and appoint as its principal officer”, of the words “and with the approval of the Board, appoint as its principal officer;”; and

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- (2) by the insertion immediately after subsection (1) of that section, of the following new subsection:—

“(1A) The disqualifications specified in the Second Schedule to this Act, shall *mutatis mutandis* apply to and in regard to the disqualifications applicable to a person employed as a principal officer under subsection (1).”.

- 38.** The following new section is hereby inserted immediately after section 94 of the principal enactment and shall have effect as section 94A of that enactment:—

Insertion of a new section 94A in the principal enactment.

“Board to be informed of any alteration in the particulars submitted with an application for registration.

94A. Where after the registration of any person as an insurer, broker or loss adjuster, as the case may be, any alteration or a change is made in the information or particulars contained in an application made by that person under section 14, section 81 or section 89C of this Act, it shall be the duty of such insurer, broker or the loss adjuster, as the case may be, to forthwith furnish to the Board a full authenticated statement of such alteration or change.”.

- 39.** The following new section is hereby inserted immediately after section 95 of the principal enactment and shall have effect as section 95A of that enactment:—

Insertion of new section 95A in the principal enactment.

“Board to require increase of paid-up share capital.

95A. The Board shall have the authority by rules made in that behalf, to require the paid up share capital of insurers and brokers to be increased and it shall be the duty of all insurers and brokers, as the case may be, to comply with such requirement.”.

- 40.** The following new sections are hereby inserted immediately after section 96 of the principal enactment and shall have effect as section 96A and section 96B of that enactment:—

Insertion of new sections 96A and 96B in the principal enactment.

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“Board to give directions.” 96A. The Board may with a view to safeguarding the interests of policy holders and potential policy holders, issue directions to insurers, brokers and loss adjustors, as the case may be, and it shall be the duty of every such insurer, broker and loss adjustor, as the case may be, to comply with any directions so issued.

Determination made to be communicated forthwith. 96B. Any determination of the Board which is not required to be made by rules made in that behalf and which relates to insurers, brokers or loss adjustors, as the case may be, shall immediately upon such determination being made, be communicated to all such insurers, brokers and loss adjustors, as the case may be, to whom such determination relates.”.

Amendment of section 97 of the principal enactment.

41. Section 97 of the principal enactment is hereby amended by the substitution for the words “served on any insurer,”, of the words “served on any insurer or broker,”.

Amendment of section 98 of the principal enactment.

42. Section 98 of the principal enactment is hereby amended as follows:—

- (1) by the substitution for the words “policy of long term insurance business”, of the words “policy of long term insurance business or general insurance business”; and
- (2) in the marginal note to that section, by the substitution for the words “arising under long term insurance business”, of the words “arising under long term or general insurance business”.

Amendment of section 99 of the principal enactment.

43. Section 99 of the principal enactment is hereby amended as follows:—

- (1) by the repeal of subsection (3) of that section ; and

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- (2) in subsection (4) of that section, by the substitution for the words “means a document inviting” and for the words “includes any document which contains information”, of the words “means an invitation appearing in any media, including by any electronic means, inviting” and of the words “includes any information”, respectively.

44. Section 100 of the principal enactment is hereby repealed and the following section is substituted therefor:—

“Prohibition against carrying on business other than those for which a licence or registration is issued.

100. No insurer or broker shall without the prior written approval of the Board, carry on any insurance business other than, in the case of an insurer, the specified class or sub-class of insurance business or in the case of a broker, the class of insurance business, in respect of which such insurer or broker has obtained from the Board under this Act a licence or registration, as the case may be.”.

Replacement of section 100 of the principal enactment.

45. Section 102 of the principal enactment is hereby amended in subsection (3) of that section, by the substitution for the words “in accordance with the guidelines issued” to the end of that subsection, of the words “in accordance with the rules pertaining to takeovers and mergers made under the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987, wherever applicable.”.

Amendment of section 102 of the principal enactment.

46. Section 113 of the principal enactment is hereby amended in subsection (3) of that section, by the substitution for the words “he or she shall,”, of the words “such insurer shall.”.

Amendment of section 113 of the principal enactment.

47. Section 114 of the principal enactment is hereby amended as follows:—

- (1) in the definition of the expression “insurance agent”, by the substitution for the words “an individual”, of the words “a person”;

Amendment of section 114 of the principal enactment.

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(2) in the definition of the expression “insurer” by the substitution for the words “company registered” in that definition of the words “person registered”;

(3) by the insertion immediately after the definition of the expression “licensed commercial bank”, of the following new definition:—

“licensed stock exchange” means a stock exchange licensed under the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987;”;

(4) by the insertion immediately after the definition of the expression “local authority security”, of the following new definition:—

“loss adjuster” means a person who has specialized knowledge in investigating and who is assessing losses arising from insurance claims and registered as a loss adjuster under the provisions of this Act.

(5) by the repeal of definition of the expression “Registrar of Companies”, and the substitution therefor of the following definition:—

“Registrar-General of Companies” means a person by name or by office appointed to be or to act as the Registrar-General of Companies under section 471 of the Companies Act, No. 7 of 2007 and includes any Deputy-Registrar General or Assistant Registrar-General appointed under that section;” and

(6) in the definition of the expression “Securities Exchange Commission of Sri Lanka” by the substitution for the words “Securities Exchange Commission” wherever those words appear in that definition, of the words “Securities and Exchange Commission of Sri Lanka”.

48. The Schedule to the principal enactment is hereby amended by the re-numbering of that Schedule as the First Schedule to that enactment.

Amendment of the Schedule to the principal enactment.

49. The following new Schedule is hereby added immediately after the re-numbered First Schedule to the principal enactment and shall have effect as the Second Schedule to that enactment:—

Addition of new Schedule to the principal enactment.

“SECOND SCHEDULE [Section 31A]

DISQUALIFICATIONS FOR BEING A DIRECTOR OF AN INSURER

A person shall not be eligible to be appointed, elected or nominated as a director of an insurer, if such person:—

- (a) does not possess academic or professional qualifications or have effective experience in insurance, finance, business or of any other relevant discipline;
- (b) has served as a member or an employee of the Board at any time during the period of three years prior to being appointed, elected or nominated as a director of the insurer;
- (c) has been convicted by any competent court in Sri Lanka or of any other country, for a crime committed in connection with financial management or of any offence involving moral turpitude;
- (d) has been declared an undischarged insolvent or a bankrupt under any law of Sri Lanka or of any other country;
- (e) has failed to satisfy any judgment or order given by any competent court in Sri Lanka or of any other country, pertaining to the repayment of a debt;
- (f) has been declared by a competent court in Sri Lanka or of any other country, to be of unsound mind;

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- (g) has been removed or suspended by an order of a regulatory or supervisory authority from serving as a director, chief executive officer or any other position of authority in any insurance company, broker, bank, financial institution or corporate body, within or outside Sri Lanka; or
- (h) has been a director, chief executive officer, principal officer, specified officer or held any other position of authority in any insurance company, broker, bank, financial institution or corporate body—
 - (i) whose licence or other authority granted for operating as an insurance company or broker or bank or financial institution, has been suspended or cancelled ; or
 - (ii) which has been wound up or is being wound up, or which is being compulsorily liquidated.

within or outside Sri Lanka.”.

Sinhala text to prevail in case of inconsistency.

50. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Registered brokers having a director or the chief executive officer of a holding company of such broker as a director, shareholder or an employee of an insurer.

51. Where on the date of the coming into operation of this Act, a director or the chief executive officer of a holding company of any broker registered under section 82 of the principal enactment, is a director, shareholder or an employee of an insurer, then, notwithstanding the amendment made to section 84 of the principal enactment by section 28 of this Act, the registration of such broker shall not be suspended or cancelled nor a renewal of such registration be refused, without the director or the chief executive officer concerned being granted by the Insurance Board of Sri Lanka, a reasonable period of time within which to dispose of the shares being held or relinquishing such directorship or employment, as the case may be.

52. (1) Every insurer who on the date of the coming into operation of this Act holds a valid licence issued under section 15 of the principal enactment, shall be required within five years from the date of the coming into operation of this Act, to have itself listed on a stock exchange licensed under the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 after having where so required to fulfill the segregation requirements specified in section 53 of this Act.

Insurers holding a licence to be listed on a licensed stock exchange.

(2) It shall be the duty of an insurer upon obtaining a listing on a stock exchange as required by subsection (1) of this section, to forthwith inform the Insurance Board of Sri Lanka of such fact by a written communication.

(3) A failure by an insurer to comply with the requirements imposed by this section may, notwithstanding anything to the contrary contained in any provisions of the principal enactment, be a ground for the suspension or cancellation of the licence issued to such insurer.

53. Where on the date of the coming into operation of this Act, an insurer is engaged in carrying on both long term insurance business and general insurance business in terms of a valid licence issued by the Insurance Board of Sri Lanka under the principal enactment, such insurer shall be required within four years from the date of the coming into operation of this Act, to segregate the long term insurance business and the general insurance business being carried on by it, into two separate companies.

Insurers to segregate their long term and general insurance business.

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